

State ex rel. Peter Stephenson a/k/a
Peter Rickmyer, Peter Rickmyer,

Court File: 27-cv-11-11012

v.

Tom Roy,¹ et al,

*****AMENDED*****
NOTICE OF MOTIONS AND
MOTIONS: *AMENDED*
JANUARY 3, 2012

Defendants.

PLEASE TAKE NOTICE that as soon as Plaintiff can be heard, he will move the district court (**Court staff: Plaintiff is IFP since 5/11**):

I. Motion to Disqualify Hennepin County Bench.

To the Honorable James T. Swenson, Chief Judge of the Fourth Judicial District, motion to recuse the entire Hennepin County Bench from any and all proceedings, including “administrative” matters, concerning the cases of Peter Rickmyer, Plaintiff:

- 27-cv-11-11012 (pending case, currently assigned to Judge Bush); and
- 27-cv-10-3378 (closed case, also assigned to Judge Bush)

in his Courtroom in the Hennepin County Government Center, 300 S. 6th Street, Minneapolis, MN 55487.

Plaintiff seeks an out-of-district judge assignment, and specifically requests

¹ The habeas corpus action was bifurcated and litigated in Anoka County.

that if the Supreme Court issues such order, that the order contain a 'no contact' order relating to Robert A. Blaeser, prohibiting Robert A. Blaeser from contacting any new judge on the file, directly or indirectly, via email, fax, Facebook, phone, Twitter, text message, memo, face to face or via intermediary (including any court clerk of staff) about these cases.

Plaintiff also objects to any public monies being used (such as for an Assistant Attorney General who is paid out of public coffers) to defend Robert A. Blaeser in any proceedings relating to this case, regardless of their nature. Plaintiff gives notice that any appearance by the Attorney General's Office on behalf of Robert A. Blaeser will be met with a motion to disqualify that attorney.

Plaintiff reserves the right to bring the following motions before a neutral tribunal:

II. Motion to Disqualify David Schooler & Briggs & Morgan from representations.

David Schooler has stated in this case that he does not represent John Hoff or Megan Goodmundson in the 11-case. Yet he has: 1) filed a Memorandum of Law in Support of "Defendants'" motion to Dismiss (dated October 5, 2011); and 2) written a letter to the Court which received judicial relief, on behalf of John Hoff. David Schooler and Briggs & Morgan should be disqualified from representing any defendants that he does not file a notice of appearance for and represent as Counsel of Record. Mr. Schooler and Briggs & Morgan can resolve this issue without need for

court resources, by agreeing not to take any actions or make any argument on behalf of John Hoff or Megan Goodmundson in this action.

III. Motion for Discovery.

Motion to permit discovery. Some (but not all) defendants have alleged 'immunity' per the Anti-SLAPP statute.² Plaintiff makes this motion to request the Court's permission to engage in discovery: i) for those defendants and/or claims that are not the subject of the Anti-SLAPP statute immunity claim; ii) because the Anti-SLAPP statute does not prohibit discovery by Plaintiff, either because the statute does not apply to this case (which alleges constitutional torts by defendants) , or the application pressed by some defendants would be an unconstitutional application of the statute; or iii) because this Court has denied the motions to dismiss on the basis of the Anti-SLAPP statute.

IV. Default Judgment against Defendant Hoff.

Plaintiff will move for a default judgment against Defendant Hoff, who was served, but has not answered. This motion reserves the right to seek expansion or modification of the law.

V. Motion to Strike and Anti-SLAPP Statute is unconstitutional as applied.

Once Plaintiff reviewed the motion to dismiss filed by Defendant Brown, he determined that it would be necessary to move to strike materials filed by Brown

² Minnesota Statute §554.02, Subdivision 2(1) states, "discovery must be suspended pending the final disposition of the motion, including any appeal; provided that the court may, on motion and after a hearing and for good cause shown, order that specified and limited discovery be conducted."

(purportedly in support of his Rule 12 motion), and that the Anti-SLAPP statute as Brown is attempting to utilize it, would result in an unconstitutional application. Plaintiff will move this Court to exclude or not consider materials filed with Defendant Brown's "Rule 12" motion, contends that the Anti-SLAPP statute is unconstitutional as Brown seeks to apply it, and/or moves for discovery before this Court would consider a Rule 56-type motion.

VI. Anti-SLAPP motion violates Separation of Powers doctrine.

The Legislature's passage of the Anti-SLAPP statute, which purported to govern judicial discretion by informing district judges that they must stay discovery whenever the Anti-SLAPP statute is alleged as a defense, violate Separation of Powers doctrine.

These motions will be made upon all of the affidavits, files, and oral argument herein.

Dated: January 3, 2011

ATTORNEY FOR PLAINTIFF

s/jillclark →

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³ to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.