JUDICIAL COUNCIL OF THE NINTH CIRCUIT
COMPLAINT OF JUDICIAL MISCONDUCT
(Title 28 U.S.C. §372(c))

Complaint Form (Rule 2(a)) - (Taken from the Appendix to the Rules of the Judicial Council)

1. Complainant's name: RONALD BRANSON
   Address: *Omitted*
   Daytime telephone: *Omitted*

2. Judges complained about:
   MANUEL L. REAL, U.S. District Court, Central Dist. of California (Los Angeles)
   JOHN G. DAVIES, U.S. District Court, Central Dist. of California (Los Angeles)
   DOROTHY W. NELSON, U.S. Court of Appeals for the Ninth Circuit
   CYNTHIA HOLCOMB HALL, U.S. Court of Appeals for the Ninth Circuit

3. Does this complaint concern the behavior of the judge in a particular lawsuit or lawsuits?
   YES
   Court & Docket No. District Court No. CV 94-1932-R
   Court of Appeals No. 94-55951
   Are you a party or lawyer in the lawsuit? PARTY
   If a party, give the name, address, and telephone number of your lawyer: N/A
   Docket numbers of any appeals to the Ninth Circuit: (pending cases)
   No. 94-55951 Pending appeal and collateral recusal matter (Involved in this complaint)
   No. 94-55332 Pending appeal and setting of oral argument (**NOT** involved in this cmplt)

4. Have you filed any lawsuits against the judge?
   NO - not the ones complained of here.

5. On separate sheets of paper, not larger than the paper this form is printed on, describe the conduct ... that is the subject of this complaint. See rules 2(b) and 2(d). Do not use more than 5 pages (5 sides). Most complaints do not require that much.
   See attached declaration of Statement of Facts (Rule 2(b)).

6. You should either:
   (1) Check the first box below and sign this form in the presence of a notary public; or
   (2) Check the second box and sign the form. You do not need a notary public if you check the second box.
   ( ) I swear (affirm) that --
   (x) I declare under penalty of perjury --

I have read rules 1 and 2 of the Rules of the Judicial Council of the Ninth Circuit Governing Complaints of Judicial Misconduct or Disability, and the statements made in this complaint are true and correct to the best of my knowledge.

s/ Ronald Branson
(Signature)

Executed on 12-17-94
(Date)

Sworn and subscribed to before
me _____
(Date)
N/A

_____
(Signature of Notary Public)

My commission expires: _____

Effective April 13, 1993.

DECLARATION OF RONALD BRANSON OF STATEMENT OF FACTS SUPPORTING COMPLAINT OF JUDICIAL MISCONDUCT

Statement of Facts (Rule 2(b))

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, RONALD BRANSON, declare and say:

1. That the facts herein stated are personally known to me to be true and that I could competently testify thereto if called upon as a witness to do so. That other matters herein stated of a conclusory nature are based on my opinion, information, and belief; and as to those matters, I believe them to be true.

2. That I am the complainant herein, the plaintiff in USDC Case No. CV 94-1932-R, the appellant in USCA Case No. 94-55951, and the movant for recusal of the Ninth Circuit Court of Appeals in the aforementioned appeal.

3. That the matter which I bring to the attention of the Judicial Council of the Ninth Circuit Court of Appeals is not about any decisions made within the discretion of any court, but deals exclusively with the failure of the judges complained of to act within the scope of delegated authority, which failure is prejudicial to the effective and expeditious administration of the business of the courts.

4. That regarding MANUEL L. REAL, District Judge in Los Angeles, this complaint involves the criminal conduct in USDC Case No. CV 94-1932-R in direct, deliberate, and knowing contravention of Ninth Circuit precedent established by *Clinton v. Los Angeles County, et al.* (9th Cir.1970) 434 F.2d 1038, and *California Diversified Promotions, Inc. v. Musick* (9th Cir.1974) 505 F.2d 278, 281, 284, details of which are more fully set forth in my Affidavit to the U.S. Attorney General dated December 9, 1994, a copy of which accompanies this complaint.

5. That also regarding MANUEL L. REAL, this complaint is about his unauthorized interference in the clerical duties of the default clerk to enter the default of the non-appearing defendants in USDC Case No. 94-1932-R, more fully described in my opening brief on appeal in USCA Case No. 94-55951, at pages 31-32.

6. That regarding JOHN G. DAVIES, District Judge in Los Angeles, this complaint is about his unlawful, knowing, and deliberate refusal to exercise the discretion vested in him when deciding the disqualification of Judge Real, which details are set forth in the opening appellate brief at pages 28-30.

7. That regarding JOHN G. DAVIES, this complaint is also about his deliberate failure to prevent the disqualification of Judge Real by refusing to consider the procedural violations that had already amounted to criminal conduct on the part of Judge Real, and thereby joining in such conduct as more fully described in the accompanying Affidavit to the U.S. Attorney General.

8. That regarding DOROTHY W. NELSON and CYNTHIA HOLCOMB HALL, Circuit Judges of the U.S. Court of Appeals, Pasadena, California, this complaint is about the conduct described in my Exception to Order Filed December 9, 1994, and Motion for Rehearing of Recusal Motion, accompanying this complaint, regarding the failure to follow the mandatory requirements of Title 28 U.S.C. §455(a) in deciding my motion for recusal of the Ninth Circuit.

9. That I have suggested that Judge Trott, also named on the December 9th order, recuse himself as my personal friend, for the reasons set forth in my declaration supporting the Exception document herewith; that accordingly I do not, for friendship sake, include him in this complaint.

10. That it is my opinion and belief that the conduct described in the two documents accompanying this complaint meets the criteria under Title 28 U.S.C. §372(c) and the Rules of the Judicial Council of the Ninth Circuit. That I have read the commentary on Rule 1 "Advice to Prospective Complainants on Use of the Complaint Procedure" and have concluded in good faith that my complaint does not abuse this procedure.

11. That if the Judicial Council in considering this complaint has any doubts or confusion about the integrity of this complaint under the criteria set forth in the rules and according to the intention of Congress under Section 372(c) and related statutes, I stand ready, willing, and able to testify under oath regarding this matter and to provide whatever additional materials may be necessary for the Council's evaluation, and to otherwise assist in any way possible.

12. That by the compounded violations of judicial procedure and deliberate refusals to exercise vested authority and jurisdiction, I am being repeatedly blocked from access to the federal court processes to adjudicate the federal questions which I have presented and for which I have paid full fees and have cooperated with the rules.

13. That the reason I am bringing this matter to the attention of the Judicial Council is that I anticipate that the Ninth Circuit judges involved will disregard [the] motion for rehearing by denying it without comment and will continue its "avoidance maneuvers" by evading the facts and foreclosing this motion redress and request that the Judicial Council correct the problems before they are further compounded.

14. That besides the details set forth in the accompanying documents, the record on appeal in USCA Case No. 94-55951 to which I believe the Judicial Council has access, describes the background of this matter, fully documenting my allegations herein stated.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct according to my knowledge, information, and belief.

Executed this 17th day of December, 1994, at Los Angeles, California.

s/ _____
RONALD BRANSON, Complainant

Encls.

United States Court Of Appeals For The Ninth Circuit

Case No. 94-55951

RONALD BRANSON

Plaintiff and Appellant

vs.

BETTY B. FLETCHER, personal capacity; DIARMUID F. O'SCANNLAIN, personal capacity; ANDREW J. KLEINFELD, personal capacity; WILLIAM D. KELLER, personal capacity,

Defendants and Appellees

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

Honorable MANUEL L. REAL, District Judge

No. CV 94-1932-R

EXCEPTION TO ORDER FILED DEC. 9, 1994;
MOTION FOR REHEARING OF RECUSAL MOTION

RONALD BRANSON
Plaintiff/Appellant
<Address/phone omitted>

EXCEPTION TO ORDER FILED DEC. 9, 1994; MOTION FOR REHEARING OF RECUSAL MOTION

Appellant RONALD BRANSON excepts to the Order filed December 9, 1994, a copy of which is attached as "EXHIBIT A" and made a part hereof, and makes this motion for rehearing pursuant to Cir.Rule 27-10 of the motion for recusal of the Ninth Circuit for the following reasons: **(1)** There is no basis in law or fact for construing the "Declaration of Appellant Ronald Branson in Objection to Appearance by Appellees" as a motion for default judgment; **(2)** The question of appellees' standing to appear in this appeal is unaddressed and unresolved; **(3)** The conflict of interest with the Ninth Circuit is unaddressed and unresolved; **(4)** The court failed to identify and evaluate the facts stated in the motion that might reasonably cause an objective observer to question the impartiality of the Ninth Circuit; **(5)** Judge Trott should personally recuse himself from involvement on a separate basis from Ninth Circuit recusal.

MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF EXCEPTION TO THE ORDER AND MOTION FOR REHEARING

1. The court has shown no basis whatsoever to construe appellant's declaration as a motion for default judgment.

Appellant's first exception is to the court's "constru[ing]" the "Declaration of Appellant Ronald Branson" as a "motion for default judgment." [EXHIBIT A]. It is appellant's contention that the court is jurisdictionally barred from doing so. It is not within the purview of the facts of this case for the court to entertain "default judgment". Absent the ***entry of default*** there could be no "motion for default judgment". Such motion, in addition to being inappropriate, would also be frivolous under the circumstances. Such **misconstruing** of appellant's declaration has done a disservice to appellant and runs counter to appellant's intentions put forth by his declaration.

Furthermore, the declaration does not meet the criteria for motions according to FRAP Rule 27(a). It does not state grounds that would support a motion for default judgment nor does it set forth any relief being sought (certainly not for default judgment).

Appellant requests that the court cite the basis in law and fact for its decision to construe the declaration in objection to appearance by appellees as a "motion for default judgment."

2. <u>The court has not addressed or resolved the issue of standing of appellees to appear.</u>

Appellant's second exception is to the court's evasion of the issue of standing of the "appellees" to appear in this appeal, which evasion appears to be an intentional tactical maneuver of avoidance by the court's unfounded conversion of appellant's declaration, initially bringing the issue of standing to the court's attention, into what the court chose to label "a motion for default judgment" [EXHIBIT A]. As part of that apparent manipulation is the court's ordering by its Order filed Friday, December 9, 1994 that "[t]he briefing schedule established on November 10, 1994 [29 days earlier] shall remain in effect", while knowing, or reasonably being expected to know, that such schedule would be ***impossible*** to maintain since the earliest appellant would have become aware of said Order would be Monday, December 12th-- ***the very day appellant's Reply Brief would be due,*** thus depriving appellant the due process of proper notice. Nevertheless, on December 6th, appellant concluded his "Reply to Questionable Appearance of Defaulting Defendants/Appellees" by stating: "However, appellant reserves the right to address the arguments made in the purported 'Appellees' Brief' ***if and when appellees' standing to appear is determined by a disinterested court to be valid as a matter of law."*** (emph.added) [Reply 2:9-12] --bringing the issue of standing again squarely before the court; and the settlement of which any legal recognition of the so-called "Appellees' Brief" and hence, an opportunity to file a "Reply Brief" depends. Until that jurisdictional issue is decided by a disinterested court, the November 10th briefing schedule is moot by operation of law.

The question of standing of appellees is clearly before this court, **<u>first</u>** by appellant's declaration "in objection to appearance by appellees" as aforesaid; **<u>second</u>** by appellant's motion for

recusal directly referring to that declaration, stating in pertinent part "That I listed ten reasons for my objection, citing my opening brief and the record to show that the defendants failed to answer or otherwise defend in this action; that they have not appeared whatsoever in this litigation; that I requested entry of default, but Judge Real blocked entry of default by his arbitrary action described in the brief; that the failure to enter default is one of the issues on appeal; that under the circumstances, defendants (appellees) have no standing to [appear] and argue the matters on appeal, nor does the U.S. Attorney's Office have standing to do so on their behalf...." [Motion 10:14-20]; and **third**, by "Appellant's Reply to Questionable Appearance of Defaulting Defendants/Appellees" filed December 6, 1994, as aforesaid, which cites: "**1.** The challenge to the standing of appellees to appear is unopposed and unresolved" [Reply 1:4-5], referring to the motion for recusal then pending. Appellant quoted from the portion of the declaration at page 10 (as quoted above), pointing out that "appellant has received no opposition whatsoever to the Motion and accordingly, the facts stated therein are deemed admitted" [Reply 2:1-2]. "**2.** The purported 'Appellees' Brief' is moot and void" [Reply 2:4], stating "The record shows that the Court of Appeals has no personam jurisdiction over the appellees in default and out of court, as they have made no appearance since the inception of this case. The Motion pending before the appellate court is unopposed and still undecided. Accordingly, the purported 'Appellees' Brief' is moot and void as a matter of law and cannot be recognized. However, appellant reserves the right to address the arguments made in the purported 'Appellees' Brief" ***if and when appellees' standing to appear is determined by a disinterested court to be valid as a matter of law."*** (emph.added) [Reply 2:5-12].

The issue of **standing of the appellees in this appeal is jurisdictional** and must be evaluated by the court. Until it is, the purported "Appellees' Brief" cannot be recognized in this appeal. [Reply 2:8-9]. Appellant requests that the standing issue be determined by law.

3. The conflict of interest issue has not been addressed or resolved by the court.

Appellant's third exception to the Order is the court's failure to address the conflict of interest issue to which the motion for recusal of the Ninth Circuit was specifically directed. "This

motion is directed to the conflict of interest that exists with the Ninth Circuit." [Motion 1:17]. The conflict of interest issue has a direct bearing on the impartiality issue under §455(a). The conflicts of interest brought to the court's attention by the motion raise questions about the impartiality of the Ninth Circuit to hear this appeal and they must be discussed and evaluated by the court in accordance with the purpose of that statute.

One of the conflicts mentioned is the fact that three of the defendants are themselves Ninth Circuit judges. "This conflict of interest is even more pronounced with the Ninth Circuit since three of the four defendants are among 'their own' and despite the fact that Judge Real's similar conduct has been reversed at least twice before in previous cases, those cases didn't involve Ninth Circuit colleagues. Under the circumstances, to avoid any appearance of impropriety this case should be referred to another Circuit or certified directly to the U.S. Supreme Court." [Motion 3:5-10]. "...it is my judgment that the fact that Ninth Circuit judges are named as defendants in this case would ***alone*** be enough for the average person on the street to reasonably question the impartiality of the Ninth Circuit to fairly handle and decide this appeal." [Motion 8:25-28]. "That the conflict of interest goes beyond the named individuals themselves, but extends throughout the entity as fellow colleagues within that entity." [Motion 9:3-4]. "...the great distinction is that, unlike the previous cases, my case names as defendants Ninth Circuit judges in their personal capacity as individuals, which places the Ninth Circuit in an awkward position of having to rule against their own co-workers in order to uphold their own case precedent." [Motion 9:13-16]. Appellant requests that the conflict arising out of Ninth Circuit judges as defendants be addressed and resolved by the court.

Another conflict of interest brought to the court's attention involves the impropriety of the Ninth Circuit contacting the U.S. Attorney's Office and inviting it into this appeal on behalf of appellees. "...there appears to be, and I thereon believe there to be, actual acts of impropriety initiated by the court in reaching out to the U.S. Attorney's Office in an attempt to draw in opposing counsel into this appeal..." [Motion 2:3-5]. "...I have been prompted to file this motion for recusal since some administrative matters have taken place that, according to the facts of this case, are inappropriate and will invite further abuse of the judicial process in this appeal." [Motion 10:5-7]. "I

do not know how or why the U.S. Attorney's Office is just now becoming involved in this case; that I never notified that office about this appeal and can only conclude that they were contacted unilaterally by the court." [Motion 10:21-24].

Canon 3A(4), Code of Judicial Conduct, states "A judge should... except as authorized by law, neither initiate nor consider *ex parte* or other communications concerning a pending or impending proceeding. A judge, however, may obtain the advice of a disinterested expert [emph. added] ..." provided he give the parties notice, etc. By arranging for the U.S. Attorney's Office to appear for the first time on appeal representing these appellees who have never made an appearance in this litigation, the Ninth Circuit court gives the defendants (appellees) a "second bite of the apple" after having failed to defend at any time in district court, and now being allowed to present their defense for the first time at the appellate stage.

This court must address the conflict involving their impropriety of contacting the U.S. Attorney's Office in violation of the Code of Judicial Conduct and inviting it to appear.

A third conflict of interest is the fact that the judges of the Ninth Circuit, who would sit in judgment of this appeal, share the same legal counsel of the U.S. Attorney's Office, as do the defendants. "As to the U.S. Attorney's Office contacted by the court, I also believe that all judges in the Ninth Circuit share the very same and identical attorney/client relation as do the defendants in this appeal. Counsel for the judges herein and for the defendants are one and the same." [Motion 2:7-10]. "That I now foresee further abuse of the judicial process by the court and by the U.S. Attorney's Office; that I am aware that the U.S. Attorney's Office is legal counsel for all federal judges, including for the Ninth Circuit Court of Appeals; that accordingly I foresee the U.S. Attorney's Office taking advantage of their status to enter this case at this time in violation of due process of law, leading to an unfair decision-making process in this appeal; that I foresee the U.S. Attorney's Office providing the 'script' for their clients, the Ninth Circuit Court, to follow in deciding this appeal; that I foresee the Ninth Circuit Court being placed in a position of following orders from 'their legal counsel' in deciding this appeal." [Motion 11:5-12]. Appellant requests that the court address and resolve the conflict of interest involving the status of the U.S. Attorney's

Office as legal counsel for the appellees herein, being the same as that of the Ninth Circuit judges who would be the reviewing tribunal of this appeal --the court and appellees having the same legal counsel. Appellant requests that any other conflicts of interests that are mentioned in the motion, or even if not mentioned, be discussed and evaluated under §455(a).

4. The court failed to carry out the intent of Congress under 28 U.S.C. §455(a).

As cited in the Motion, the U.S. Supreme Court interpreted the intent of Congress in enacting Title 28 U.S.C. §455(a) by stating "The very purpose of §455(a) is to promote confi- dence in the judiciary by avoiding even the appearance of impropriety whenever possible. [citation]. Thus, it is critically important in a case of this kind to identify the facts that might reasonably cause an objective observer to question... impartiality." [emph. added] *Liljeberg v. Health Services Acquisition Corp.* (1988) 486 U.S. 847, 865. [Motion 4:9-13]. Appellant's fourth exception to the Order [EXHIBIT A] is the failure of the Ninth Circuit to carry out this "critically important" function. Unless it does so, **the court will be in violation of the statute and the intent of Congress as long as they participate in this case.**

Appellant has expressed doubt that the Ninth Circuit could carry out that function fairly: "Appellant points out ... that the conflict of interest here will unfairly affect the judgment of the Ninth Circuit ***in deciding this motion*** (emph.added). Appellant does not believe the Ninth Circuit can view the facts supporting this motion as a 'reasonable' **and disinterested** man, as a member of the 'general public.' (emph. in orig.) [Motion 4:25-28]. The real question is whether the Ninth Circuit is capable of "identify[ing] the facts" as an "objective observer." Appellant contends that the answer is a resounding **"NO"** --particularly after showing its hand in the way it has already handled the Motion in violation of §455(a). Appellant further contends that it is both likely and probable that the Ninth Circuit will disregard this motion for rehearing by denying it without comment; the court will continue its "avoidance maneuvers" by evading the facts and foreclosing this motion redress. The truth is that the Ninth Circuit court has ceased to function as an "umpire" and has become a "player in the field".

Unfortunately, there is no provision mandating that motions under §455(a) be decided by a disinterested tribunal which, in this case, is disastrous as the evidence shows! "Section 455 ... sets forth no procedural requirements. That section is directed to the judge, rather than the parties, and is self-enforcing on the part of the judge." *State of Idaho v. Freeman* (D.Idaho 1981) 507 F.Supp. 706, 726. The problem in the instant appeal is that there is no real distinction between "the judge(s)" and "the parties" (defendants). "Moreover, section 455 includes no provision for referral of the question of recusal to another judge; if the judge sitting on a case is aware of grounds for recusal under section 455, ***that judge has a duty to recuse himself or herself.***" (emph.added) *Id.* The problem here is that the Ninth Circuit is refusing to acknowledge any "aware[ness] of grounds for recusal under section 455." As appellant stated "...I have no reason to believe that the Ninth Circuit would not be in the same state of denial as the district judges. Based on what has taken place in district court with this case, I am of the opinion that the reasonable man would doubt that camaraderie would not overcome attention to the facts of this case and the law applicable thereto in order to act with impartiality in deciding this appeal. That I have found from my experience that members of judiciary jealously guard each other to the point of departing from established procedure and disregarding facts appearing on the face of the record." [Motion 9:26 - 10:4]. Appellant "rests his case" vis-à-vis the Order of December 9th. Appellant's suspicion is being proved to a "T".

Whether or not it can or will be done fairly, this court at a minimum **must** "identify the facts that might reasonably cause an objective observer to question impartiality." Appellant contends that the "objective observer" qualification creates an ***impossibility*** for the Ninth Circuit to perform that function in accordance with the intention and purpose of Congress under §455(a). The Supreme Court has established the standard of "avoiding even the appearance of impropriety" under §455(a). The procedure under the "appearance of partiality" approach is described as follows: "...[T]he motion [under §455(a)] would call certain facts to the judge's attention. He would then be called upon to evaluate all the relevant facts relating to the question of an appearance of partiality. In so doing, a judge is under the obligation to go beyond the actual facts alleged and determine whether a

reasonable, **disinterested observer** knowing all the facts would question the judge's appearance of impartiality." (emph.added) *State of Idaho v. Freeman (supra)* 507 F.Supp. at 727.

Accordingly, this court **must** follow those procedures which comport with the standard set forth by the Supreme Court in *Liljeberg (supra).* The Order of December 9th [EXHIBIT A] clearly does not meet the required criteria established for deciding a motion under §455(a).

5. Judge Trott should recuse himself personally on a separate basis from Ninth Circuit recusal.

In the case of *Branson v. City of Los Angeles,* the underlying case (the original case before Judge Keller, now a defendant here), it reads: "The original panel comprised Judges Hug, Hall, and Trott. **Judge Trott, who recused himself**, was replaced by Judge Nelson. The panel directed that case be argued before the new panel." 912 F.2d 334, 335 (fn.). (emph.added) (It appears quite doubtful that case will ever reach the point of "finality" the way things have been going since that time.)

The facts that existed for the recusal of Judge Trott then are the same now. Appellant knows Judge Trott as "Steve" --a personal friend and not as a judge. Appellant is confident that Steve should come to realize that he, of all people, should not be involved in this debacle. More is stated in the supporting declaration that follows.

Dated: December 15, 1994

s/ _____

RONALD BRANSON, Appellant

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DECLARATION OF RONALD BRANSON IN SUPPORT OF MOTION FOR REHEARING OF MOTION FOR RECUSAL

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, RONALD BRANSON, declare and say:

That I am the appellant in this appeal, Case No. 94-55951, and the movant for recusal of the Ninth Circuit Court of Appeals for the reasons set forth in my motion. That the facts herein stated are personally known to me to be true and that I could competently testify thereto if called upon as a witness to do so. That matters herein stated of a conclusory nature are based on my opinion, information, and belief, an as to those matters, I believe them to be true.

That I was greatly concerned when I saw the name "Trott" among the judges involved in the subject Order. That I have personally known Trott long before he became a judge, and I call him "Steve". That I find it awkward to refer to him as "Judge Trott". That I have always held Steve in the highest esteem and respect as a brilliant legal scholar and prosecutor, and even more importantly, as a friend who has been down to earth and one with whom I have had the pleasure of having "common sense" discussions. He is a musician, a magician, a linguist, a speed-reader, an entertainer, and he loves his family-- which are among many attributes that I personally know that could be said about his personal character and talents. That Steve knows that I am a man of principle and he has respected me as such. That I know Steve to be a very humble and condescending individual. That I believe that had Steve realized that I am the same person as in the earlier case in which he recused himself, he would not want to be involved here.

That I say all that to say this: That as difficult as this entire episode has been for me, it would be most egregious and regrettable if Steve would force me to involve him in any way. That there can be no question that the judicial proceedings have indeed become ugly, as can be seen from reading my opening appellate brief. That it is not anything I would want to see Steve become involved in, but that nevertheless I would painfully face up to it if I had to; that I remain committed in pursuing truth to whatever end is required. That I know that Steve knows that this endeavor is a

matter of conscience on my part and revolves around my faith in Jesus Christ and my love of country, freedom, and the Constitution. That Steve knows that I am not a quitter.

That regarding this motion for rehearing, the facts set forth in my motion for recusal speak for themselves. Clearly this court has **not** followed proper procedure in deciding the motion under §455(a). The named defendants (Ninth Circuit judges) didn't follow their own rules in the appeal of the underlying case; Judge Real didn't follow proper procedure in dismissing my complaint without notice and opportunity for me to respond first; Judge Real interfered in the proper procedure of the purely clerical responsibility of entering default; Judge Davies didn't follow proper procedure in deciding the matter of disqualification; and now the Ninth Circuit is joining the fray. It's all a matter of record!

That the U.S. Attorney (Everett) refers to a "Blue Brief" in the so-called "Appellees' Brief"; that I never sent that office, or any of the defendants, a **"Blue Brief". Where did they get it? There is only one unrefuted conclusion: It was given to them by the court, a violation of the Code of Judicial Conduct.** The only remaining question is, **WHY?**

That the improprieties of the court continue unbridled and unabashedly. That I have found that the judicial system just doesn't work. I have been repeatedly closed out, since the inception of my legal pursuits, from being able to adjudicate federal questions. That it is now a matter of suing the judges who **repeatedly violate procedure**. That it is continuing to happen in this proceeding. That I have about exhausted all judicial remedies and am forced to go to Congress for a remedy.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct according to my personal knowledge or upon my information and belief.

Executed this 15 day of December, 1994, at Los Angeles, California.

s/ _____

RONALD BRANSON, Appellant

F I L E D
DEC 9 1994
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RONALD BRANSON,	)	No. 94-55951
	)	
Plaintiff-Appellant,	)	DC# CV-94-1932-MLR
	)	Central California
vs.	)	
	)	
BETTY B. FLETCHER, et al.,	)	ORDER
	)	
Defendants-Appellees.	)	
_____	)	

Before: D.W. NELSON, HALL and TROTT, Circuit Judges

The "Declaration of Appellant Ronald Branson in Objection to Appearance by Appellees" is construed as a motion for default judgment. So construed, the motion is denied.

Appellant's motion to recuse the entire Ninth Circuit Court of Appeals from hearing this appeal is denied.

The briefing schedule established on November 10, 1994 shall remain in effect.

mocal/12.6.94/amr/6

EXHIBIT A