

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Southern Division - Santa Ana)
CIVIL DOCKET FOR CASE #: 8:20-cv-00767-FMO-DFM**

Ben Eilenberg v. The City of Colton, et al
Assigned to: Judge Fernando M. Olguin
Referred to: Magistrate Judge Douglas F. McCormick
Related Case: [2:20-cv-06092-PA-DFM](#)
Cause: 28:1983 Civil Rights

Date Filed: 04/20/2020
Jury Demand: Defendant
Nature of Suit: 441 Civil Rights:
Voting
Jurisdiction: Federal Question

Plaintiff

Ben Eilenberg

represented by **Ben A Eilenberg**
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ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

Plaintiff

Ask A Ronald

represented by **Ronald William Ask**
(See above for address)
ATTORNEY TO BE NOTICED

V.

Movant

Wylmina E Hettinga

represented by **Wylmina E Hettinga**
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PRO SE

V.

Defendant

The City of Colton

represented by **Jeffrey V Dunn**
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ATTORNEY TO BE NOTICED

Defendant

Does

1 through 50, inclusive

Defendant

The State of California
TERMINATED: 10/13/2020

represented by **Gabrielle D Boutin**
CAAG - Office of the Attorney
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California Department of Justice
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Defendant

The County of San Bernardino, -

Date Filed	#	Docket Text
04/20/2020	<u>1</u>	COMPLAINT Receipt No: CCACDC-26146581 - Fee: \$400, filed by Plaintiff Benjamin Eilenberg. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F) (Attorney

		Ben A Eilenberg added to party Benjamin Eilenberg(pty:pla))(Eilenberg, Ben) (Entered: 04/20/2020)
04/20/2020	2	CIVIL COVER SHEET filed by Plaintiff Benjamin Eilenberg. (Eilenberg, Ben) (Entered: 04/20/2020)
04/20/2020	3	Request for Clerk to Issue Summons on Complaint (Attorney Civil Case Opening), 1 filed by Plaintiff Benjamin Eilenberg. (Eilenberg, Ben) (Entered: 04/20/2020)
04/20/2020	4	<i>Certificate of Interested Parties</i> re: Complaint (Attorney Civil Case Opening), 1 (Eilenberg, Ben) (Entered: 04/20/2020)
04/20/2020	5	NOTICE OF ASSIGNMENT to District Judge Fernando M. Olguin and Magistrate Judge Douglas F. McCormick. (esa) (Entered: 04/20/2020)
04/20/2020	6	NOTICE TO PARTIES OF COURT-DIRECTED ADR PROGRAM filed. (esa) (Entered: 04/20/2020)
04/20/2020	7	NOTICE OF DEFICIENCIES in Attorney Case Opening. The following error(s) was found: Other error(s) with document(s): A temporary restraining order (TRO) flag was indicated, but no TRO document was filed.. (esa) (Entered: 04/20/2020)
04/20/2020	8	21 DAY Summons issued re Complaint 1 as to defendant The City of Colton. (esa) (Entered: 04/20/2020)
04/20/2020	9	NOTICE OF CLERICAL ERROR: Re: Notice of Assignment to United States Judges 5 . The case should be referred to U.S. Magistrate Judge Douglas F. McCormick for preliminary matters and all further hearings as may be appropriate or necessary. Please note the change in the case number which should now read 8:20-cv-00767 FMO (DFM). (esa) (Entered: 04/20/2020)
04/29/2020	10	First EX PARTE APPLICATION for Temporary Restraining Order as to Allowing Initiative Petition Signature Gathering filed by Plaintiff Ben Eilenberg. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Proposed Order) (Attorney Ben A Eilenberg added to party Ben Eilenberg(pty:pla)) (Eilenberg, Ben) (Entered: 04/29/2020)
04/29/2020	11	SERVICE UNDER FRCP 5(b)(2)(D) Executed by Plaintiff Ben Eilenberg, upon Defendant The City of Colton served on 4/29/2020, answer due 5/20/2020. Service of the Summons and Complaint were executed upon the Clerks Office in compliance with Federal Rules of Civil Procedure. <i>As to Summons, Complaint, and Ex Parte</i> (Eilenberg, Ben) (Entered: 04/29/2020)

04/30/2020	12	OPPOSITION in opposition to re: First EX PARTE APPLICATION for Temporary Restraining Order as to Allowing Initiative Petition Signature Gathering 10 filed by Defendant The City of Colton. (Attachments: # 1 Declaration of Daniel L. Richards)(Attorney Jeffrey V Dunn added to party The City of Colton(pty:dft))(Dunn, Jeffrey) (Entered: 04/30/2020)
04/30/2020	13	REQUEST FOR JUDICIAL NOTICE <i>In Support of Opposition to Ex Parte</i> filed by Defendant The City of Colton. (Dunn, Jeffrey) (Entered: 04/30/2020)
04/30/2020	14	CERTIFICATE of Interested Parties filed by Specially Appearing Defendant The City of Colton, identifying N/A. (Dunn, Jeffrey) (Entered: 04/30/2020)
04/30/2020	15	NOTICE OF ERRATA filed by Defendant The City of Colton. correcting Objection/Opposition (Motion related), 12 (Attachments: # 1 Exhibit 1 - Opposition)(Dunn, Jeffrey) (Entered: 04/30/2020)
05/14/2020	16	Order Denying Plaintiff's Ex Parte Application for a Temporary Restraining Order 10 by Judge Fernando M. Olguin. Plaintiff seeks a disfavored remedy during an unprecedented public health crisis. But he has not established that he is likely to succeed on the merits of his claims, that he will suffer irreparable injury without a TRO, or that the balance of hardships tips in his favor. Accordingly, Plaintiff's Ex Parte Application for a Temporary Restraining Order is DENIED. (es) (Entered: 05/14/2020)
05/15/2020	17	STIPULATION Extending Time to Answer the complaint as to The City of Colton answer now due 6/19/2020, re Complaint (Attorney Civil Case Opening), 1 filed by defendant The City of Colton.(Dunn, Jeffrey) (Entered: 05/15/2020)
06/04/2020	18	First AMENDED COMPLAINT against Defendants Does, The City of Colton, The State of California, The County of San Bernardino amending Complaint (Attorney Civil Case Opening), 1 , filed by Plaintiff Ben Eilenberg (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H)(Eilenberg, Ben) (Entered: 06/04/2020)
06/04/2020	19	First APPLICATION for Preliminary Injunction re Allowing signature gatherers or alternative relief . Motion filed by Plaintiff Ben Eilenberg. Application set for hearing on 7/9/2020 at 10:00 AM before Judge Fernando M. Olguin. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H) (Eilenberg, Ben) (Entered: 06/04/2020)

06/18/2020	20	MEMORANDUM in Opposition to First APPLICATION for Preliminary Injunction re Allowing signature gatherers or alternative relief . Motion 19 filed by Defendant The State of California. (Attachments: # 1 Declaration, # 2 Declaration)(Attorney Gabrielle D Boutin added to party The State of California(pty:dft))(Boutin, Gabrielle) (Entered: 06/18/2020)
06/18/2020	21	OPPOSITION in opposition to re: First APPLICATION for Preliminary Injunction re Allowing signature gatherers or alternative relief . Motion 19 filed by Defendant The City of Colton. (Attachments: # 1 Declaration of Daniel L. Richards In Support of Opposition)(Dunn, Jeffrey) (Entered: 06/18/2020)
06/18/2020	22	REQUEST FOR JUDICIAL NOTICE <i>In Support of Opposition to Plaintiff's Application for Preliminary Injunction</i> filed by Defendant The City of Colton. (Dunn, Jeffrey) (Entered: 06/18/2020)
06/19/2020	23	ANSWER to Amended Complaint/Petition, 18 with JURY DEMAND filed by Defendant The City of Colton.(Dunn, Jeffrey) (Entered: 06/19/2020)
06/22/2020	25	NOTICE OF MOTION FOR LEAVE TO JOIN AS AN ADDITIONAL PLAINTIFF UNDER FRCP 19 and 20; APPLICATION FOR PRELIMINARY INJUNCTION Motion set for hearing on 7/9/2020 at 10:00 AM before Judge Douglas F. McCormick. (es) (Entered: 06/25/2020)
06/22/2020	26	CERTIFICATE AND NOTICE of Interested Parties filed by Movant Wylmina Hettinga (es) Modified on 6/25/2020 (es). (Entered: 06/25/2020)
06/22/2020	27	APPLICATION for Pro Se Litigant to electronically file documents in a specific case filed by Movant Wylmina Hettinga. (es) Modified on 6/25/2020 (es). (Entered: 06/25/2020)
06/25/2020	24	STIPULATION for Extension of Time to File Response to First Amended Complaint filed by Defendant The State of California. (Attachments: # 1 Proposed Order)(Boutin, Gabrielle) (Entered: 06/25/2020)
06/25/2020	28	MINUTES (IN CHAMBERS) Order Denying Motion for Leave to Join as an Additional Plaintiff under FRCP 19 and 20 (Dkt. 25) by Magistrate Judge Douglas F. McCormick: *See document for details.* (es) (Entered: 06/25/2020)
06/26/2020	29	<i>Notice of Withdrawal as Counsel - Joseph Byrne</i> (Dunn, Jeffrey) (Entered: 06/26/2020)

06/26/2020	30	Notice of Withdrawal of Miscellaneous Document 29 filed by defendant The City of Colton. (Dunn, Jeffrey) (Entered: 06/26/2020)
06/30/2020	31	REPLY support First APPLICATION for Preliminary Injunction re Allowing signature gatherers or alternative relief . Motion 19 filed by Plaintiff Ask A Ronald. (Attorney Ronald William Ask added to party Ask A Ronald(pty:pla))(Ask, Ronald) (Entered: 06/30/2020)
07/01/2020	32	MINUTE ORDER (In Chambers) Order Re First Application for Preliminary Injunction 19 by Magistrate Judge Douglas F. McCormick: This case has been assigned to this Court for all preliminary matters. See Dkt. 9. Plaintiff has filed a motion for a preliminary injunction. See Dkt. 19. The Court has reviewed the motion papers, oppositions, and reply. The Court determines that oral argument will not be necessary. See Local Rule 7-15. The hearing noticed for July 9, 2020, is accordingly VACATED. The matter is under submission. Under 28 U.S.C. § 636(b)(1)(B), the Court will prepare Proposed Findings and Recommendation for the District Judge. (es) (Entered: 07/01/2020)
07/01/2020	33	ORDER ADOPTING STIPULATION TO EXTEND TIME TO RESPOND TO FIRST AMENDED COMPLAINT 24 , by Magistrate Judge Douglas F. McCormick. Defendant's time to respond to the First Amended Complaint is extended by 15 days and shall now be due on July 15, 2020. (es) (Entered: 07/01/2020)
07/06/2020	34	Defendant State of California's Objections to Plaintiff's Evidence Filed with Reply Brief in Support of Application for Preliminary Injunction Objection re: First APPLICATION for Preliminary Injunction re Allowing signature gatherers or alternative relief . Motion 19 and Plaintiff's Reply in Support of Application for Preliminary Injunction 31 filed by Defendant The State of California. (Boutin, Gabrielle) (Entered: 07/06/2020)
07/09/2020	35	NOTICE OF FILING REPORT AND RECOMMENDATION by Magistrate Judge Douglas F. McCormick. Objections to R&R due by 7/29/2020. (nbo) (Entered: 07/09/2020)
07/09/2020	36	REPORT AND RECOMMENDATION issued by Magistrate Judge Douglas F. McCormick. Re First APPLICATION for Preliminary Injunction re Allowing signature gatherers or alternative relief 19 . Accordingly, IT IS RECOMMENDED that Plaintiffs Application for a Preliminary Injunction be DENIED. Under 28 U.S.C. § 636(b)(1), Plaintiff may file and serve any written objections within fourteen days of service of this Report and Recommendation. (nbo) (Entered: 07/09/2020)

07/09/2020	37	AMENDED NOTICE OF FILING REPORT AND RECOMMENDATION by Magistrate Judge Douglas F. McCormick. Objections to R&R due by 7/23/2020. (nbo) (Entered: 07/09/2020)
07/15/2020	38	NOTICE OF MOTION AND MOTION to Dismiss for Lack of Jurisdiction <i>the First Amended Complaint</i> filed by Defendant The State of California. Motion set for hearing on 8/13/2020 at 10:00 AM before Judge Fernando M. Olguin. (Attachments: # 1 Memorandum, # 2 Request for Judicial Notice) (Boutin, Gabrielle) (Entered: 07/15/2020)
07/27/2020	39	Opposition In Opposition re: NOTICE OF MOTION AND MOTION to Dismiss for Lack of Jurisdiction <i>the First Amended Complaint</i> 38 filed by Plaintiffs Ben Eilenberg, Ask A Ronald. (Attorney Ronald William Ask added to party Ben Eilenberg(pty:pla))(Ask, Ronald) (Entered: 07/27/2020)
07/29/2020	40	Order Accepting Report and Recommendation of United States Magistrate Judge by Judge Fernando M. Olguin: IT IS THEREFORE ORDERED that Plaintiff's First Application for a Preliminary Injunction is DENIED. 19 (es) (Entered: 07/30/2020)
07/30/2020	41	RESPONSE IN SUPPORT of NOTICE OF MOTION AND MOTION to Dismiss for Lack of Jurisdiction <i>the First Amended Complaint</i> 38 filed by Defendant The State of California. (Boutin, Gabrielle) (Entered: 07/30/2020)
08/06/2020	42	(IN CHAMBERS) Order Granting Plaintiff's Request for Leave to Amend by Magistrate Judge Douglas F. McCormick: Considering Plaintiff's request for leave to amend in his opposition to the State's motion to dismiss, the Court accordingly instructs Plaintiff to file, within fourteen (14) days of the date of this Order, a motion for leave to amend in conformance with Fed. R. Civ. P. 15 and Local Rule 15. If Plaintiff's motion for leave to amend is granted, the Court will simultaneously deny the instant motion to dismiss as moot. [See document for details.] (es) (Entered: 08/06/2020)
08/10/2020	43	JOINT REPORT Rule 26(f) Discovery Plan ; estimated length of trial 3-5 days, filed by Defendant The City of Colton.. (Dunn, Jeffrey) (Entered: 08/10/2020)
09/21/2020	44	NOTICE OF FILING REPORT AND RECOMMENDATION by Magistrate Judge Douglas F. McCormick. Objections to R&R due by 10/5/2020. (nbo) (Entered: 09/21/2020)
09/21/2020	45	REPORT AND RECOMMENDATION issued by Magistrate Judge Douglas F. McCormick Re NOTICE OF MOTION AND MOTION to

		Dismiss for Lack of Jurisdiction <i>the First Amended Complaint</i> 38 . IT IS RECOMMENDED that the District Judge issue an Order: (1) accepting this Report and Recommendation; (2) granting the States Motion to Dismiss; and (3) dismissing all claims against the State with prejudice. Under 28 U.S.C. § 636(b)(1), the parties may file and serve any written objections within fourteen days of service of this Report and Recommendation. (nbo) (Entered: 09/21/2020)
10/09/2020	46	MINUTES (IN CHAMBER) Order to Show by Magistrate Judge Douglas F. McCormick: Accordingly, within twenty-eight (28) days of the date of this order, Plaintiffs are ORDERED to either: (a) show good cause in writing why they have not served the First Amended Complaint; or (b) serve and file the Complaint in compliance with the Federal Rules of Civil Procedure. Plaintiffs are expressly forewarned that failure to comply will result in a recommendation of dismissal of the claims against San Bernardino County without prejudice. (See document for details.) (es) (Entered: 10/09/2020)
10/13/2020	47	Order Accepting Report and Recommendation of United States Magistrate Judge by Judge Fernando M. Olguin: IT IS THEREFORE ORDERED that the State of California's Motion to Dismiss is granted, and all claims against the State of California are dismissed with prejudice. (es) (Entered: 10/13/2020)
10/22/2020	48	CASE MANAGEMENT AND SCHEDULING ORDER by Magistrate Judge Douglas F. McCormick. [SEE DOCUMENT FOR DETAILS AND DEADLINES.] (es) (Entered: 10/22/2020)
11/24/2020	49	NOTICE OF FILING REPORT AND RECOMMENDATION by Magistrate Judge Douglas F. McCormick. Objections to R&R due by 12/14/2020. (nbo) (Entered: 11/24/2020)
11/24/2020	50	REPORT AND RECOMMENDATION issued by Magistrate Judge Douglas F. McCormick Re Complaint (Attorney Civil Case Opening), 1 . IT IS RECOMMENDED that the District Judge issue an Order: (1) accepting this Report and Recommendation; and (2) directing that Plaintiffs claims against the County of San Bernardino be dismissed. Objections to R&R due by 12/14/2020. (nbo) (Entered: 11/24/2020)

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Transaction Receipt

11/24/2020 17:25:58

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Description:	Docket Report	Search Criteria:	8:20-cv-00767-FMO-DFM End date: 11/24/2020
Billable Pages:	6	Cost:	0.60
Exempt flag:	Not Exempt	Exempt reason:	Not Exempt