

1 Jeffrey D. Moffatt, SSA Federal Attorney
2 332 W. Ave S, Suite D
3 Palmdale, CA 93551
4 Telephone: (661) 945-6121
5 Facsimile: (661) 945-3019
6 E-Mail: jeffreymbajd@hotmail.com
7 Other email address: Jeffrey@jeffmoffattlawfirm.com
8 Attorney for Jeffrey D. Moffatt, Pro-Per

6 UNITED STATES DISTRICT COURT
7 FOR THE CENTRAL DISTRICT OF CALIFORNIA

8 Jeffrey D. Moffatt,

9 Plaintiff

10 v.

11 State of Arizona,
12 State Supreme Court of Arizona,
13 State Bar of Arizona, and

14 Scott Bales, Chief Justice in his
15 Official Capacity,

16 Defendants

DOCKET NO.: CV-17-06029-VBF (DFM)

**(AMENDED) OPPOSITION UNDER
Fed. R. Civ. P. 12(f)(2) TO
DOCUMENT#[171] DECLARATION OF
ELIZABETH B. VANALEK – DATED
NOVEMBER 7, 2018 AND IN SUPPORT
OF DOCUMENT#[170]**

ORAL ARGUMENT REQUESTED

Date: No Date Set

Time:

Courtroom:

Honorable Judge Valerie Baker Fairbank

17 *COMES Now, Plaintiff Jeffrey D. Moffatt (Moffatt), who moves this Court*
18 *with an* **OPPOSITION TO DOCUMENT# [171] DECLARATION OF**
19 **ELIZABETH B. VANALEK – DATED NOVEMBER 7, 2018 UNDER Fed. R.**
20 **Civ. P. 12(f)(2) AND IN SUPPORT OF DOCUMENT #[170] for all the**
21 **foregoing issues as follows:**

1 Elizabeth B. Vanalek (Vanalek) in her declaration advised that the limited
2 liability partnership (LLP) does not have an annual requirement for filing with the
3 California Secretary of State. Moffatt has diligently searched for Gordon Rees
4 Scully Mansukhani, LLP (Foreign Corporation) (GRSM) amendments to the
5 Franchise Tax Board (FTB) rules and found no such GRSM amendment to
6 alleviate the yearly filing requirement.
7

8 Opposing counsel Vanalek, did not address the failure to be registered with
9 the State Bar of California, as a requirement to act as counsel for actions inside the
10 State of California. The case law in support, was included in [170] the Motion to
11 Strike all Defendant's pleadings by GRSM. Opposing counsel did not offer FTB
12 form 565 which requires an annual filing.
13
14

15 If the court does not wish to grant the motion to strike, it should grant
16 Moffatt discovery options to seek the evidence necessary to establish the legality
17 of GRSM's standing to operate and practice law in the State of California, as well
18 as practice as a legal entity in Federal District Court.
19

20 Whether GRSM is filing the necessary FTB 565 form, is real evidence, and
21 is part of the controversy on if GRSM is properly able to perform work in the State
22 of California, which includes being Defendant's counsel on the present matter.
23

24 ///

1 When Defendant's counsel, stated in their declaration that they had no
2 yearly filing requirements for the LLP, this is in stark contrast to FTB rules, as
3 such discovery is necessary to determine if the required 565 forms are up-to-date.
4

5 The information provided by Defendant's counsel was an original filing in
6 the 1990's with an amendment in 2014. Nothing other than the attestation of an
7 associate of an arguably illegal entity, Vanalek, indicated that Defendant's counsel
8 was in good standing with the California Secretary of State.
9

10 The Associate has not referenced the required registration or provided
11 documentation filed with the State Bar of California or Franchise Tax Board (FTB)
12 to evidence their legal standing.
13

14 [https://www.ftb.ca.gov/businesses/Structures/Limited-Liability-](https://www.ftb.ca.gov/businesses/Structures/Limited-Liability-Partnership.shtml)
15 [Partnership.shtml](https://www.ftb.ca.gov/businesses/Structures/Limited-Liability-Partnership.shtml)
16

- 17 • Every LLP that is **doing business** in California, has California source income, or has filed
18 a certificate or registered with the Secretary of State is required to file California Form 565.
19 Furthermore, every LLP that is doing business in California, or has filed a certificate or
20 registered with the Secretary of state must pay the annual tax of \$800.
- 21 • The return due date is the 15th day of the 3rd month after the close of the taxable year.
- 22 • LLPs must complete Schedule EO, Pass-Through Entity Ownership (565), to report any
23 ownership interest in other partnerships or limited liability companies regardless of whether
24 these entities are required to file a tax return in California, or are subject to California annual tax
25 or LLC fee.
- 26 • LLPs doing business or deriving income from within and outside of California will use
Schedule R to determine their California income.
- The LLP provides each partner with a California Schedule K-1 that states the partner's
distributive share of the LLP's items of income, deductions, credits, property, payroll and sales.

1 GRSM's claim of no yearly filing, despite CA FTB rules to the contrary,
2 should allow Moffatt to discover if Opposing counsel has been compliant with the
3 State Bar of California, FTB, and the California Secretary of State, since these are
4 items of real evidence in controversy.
5

6 Additionally, the failure to be registered by the State Bar of California,
7 which is a legal requirement for corporations and entities such as GRSM, is also
8 real evidence, going to GRSM's ability to be counsel in the matter.
9

10 ***Under Federal Rules of Evidence: 26(b)(1):***
11

12 **In General.** Parties may obtain discovery regarding any matter, not
13 privileged, which is relevant to the **claim or defense** of any party including the
14 existence description, nature, custody, condition, and location of any books,
15 documents, or other tangible things and the identity and location of persons having
16 knowledge of any discoverable matter. The information sought need not be
17 admissible at the trial if the information sought appears reasonably calculated to
18 lead to the discovery of admissible evidence.
19
20

21 As such, the court should allow discovery under FRE 26(b)(1) to ascertain if
22 the required form FTB 565 form is filed, and verify if the required registration with
23 the State Bar of California is lacking, as seems to be the case by the online search.
24

25 Additionally **Vanalek submitted Exhibit "B"** within her Declaration dated
26 November 7, 2018, a copy of California Secretary of State Form LLP-2

1 “Amendment to Registration of a Limited Liability Partnership (LLP), that appears
2 to be stamped showing “Filed Secretary of State - State of California February 10,
3 2014.”

4 According to the California Franchise Tax Board (FTB), regarding Limited
5 Liability Partnership Filing Tips for Form LLP-2 at “**Item 6** [New Type of
6 Business] (check only one box): **Check the box next to the profession that the**
7 **members of your limited liability partnership are authorized to practice.** Note:
8 Unless changed by law, the inclusion of the practice of "architecture" extends until
9 January 1, 2019, and the practice of "Engineering" and "Land Surveying" extends
10 until January 1, 2016.; or

11 **If the business of your limited liability partnership is to provide services**
12 **or facilities to a California registered limited liability partnership whose business is**
13 **the practice of public accountancy or law, or to a foreign limited liability**
14 **partnership, check the box next to "Related to" and list the name of the limited**
15 **liability partnership exactly as it appears on the records of the California Secretary**
16 **of State.”** **Source:** [https://www.sos.ca.gov/business-programs/business-](https://www.sos.ca.gov/business-programs/business-entities/filing-tips/filing-tips-llp/)
17 [entities/filing-tips/filing-tips-llp/](https://www.sos.ca.gov/business-programs/business-entities/filing-tips/filing-tips-llp/)

18 **On Exhibit B of Vanalek’s copy of Form LLP-2, dated February 10,**
19 **2014 Item #6, there is no box checked for the profession the New LLP Name**
20 **Gordon Reese Scully Mansukhani, LLP is authorized to practice. Check the box**
21

1 next to the profession that the members of your limited liability partnership are
2 authorized to practice.

3 Therefore, not authorized (engaged) to practice, not authorized to operate;
4 there can be no recoupment of Sanctions, because Gordon Reese Scully
5 Mansukhani, LLP, did not check the box for the authorized area of practice to
6 engage in business in the State of California.
7

8 Gordon Reese Scully Mansukhani, LLP, have completely circumvented the
9 California Secretary of State Rules and Franchise Tax Board Rules, by creating a
10 system designed to evade the rules of LLP, by not checking appropriate box for the
11 profession for which it is to be authorized to practice and conduct business in
12 California or as a Foreign Corporation of Delaware. See also California
13 Corporations Codes regarding State LLP / Foreign LLP's §§16954(a)(d) and
14 16960(a)(d).
15
16
17

18 In the Declaration of Elizabeth B. Vanalek, dated November 7, 2018, filed
19 with the court, Vanalek is listed with Gordon & Rees, only as an Associate,
20 therefore, Plaintiff Moffatt moves to Strike Vanalek's Declaration, because she is
21 not a Partner with the Gordon & Rees...and as such does not have the right or
22 power as a Limited Liability Partner (LLP), to act for or bind Gordon &
23 Rees...(LLP), with submission of Exhibits B.
24
25
26

CONCLUSION

WHEREFORE, PLAINTIFF Moffatt, respectfully requests the Court grant Plaintiff's Opposition to Document # [171] Declaration of Elizabeth B. Vanalek – Dated November 7, 2018 Under Fed. R. Civ. P. 12(f)(2) and in support of Document # [170] Plaintiff's Notice of Motion and "Motion to Strike" Defendant's Counsel Gordon Rees Scully Mansukhani, LLP (Foreign Corporation) as Defendant's Counsel, all Pleadings and the Declaration of A. Louis Dorney Dated October 31, 2018, Memorandum of Points and Authorities, Declaration of Star Moffatt in Support, Under Fed. R. Civ. P. 12(f)(2) for all the reasons stated above.

Dated: November 13, 2018

/s/ Jeffrey D. Moffatt

By: Jeffrey D. Moffatt,
Plaintiff-Federal Attorney Pro-Se

Jeffrey D. Moffatt, SSA Federal Attorney
332 W. Ave S, Suite D
Palmdale, CA 93551
Telephone: (661) 945-6121
Facsimile: (661) 945-3019
E-Mail: jeffreymbajd@hotmail.com
Other email address: Jeffrey@jeffmoffattlawfirm.com
Attorney for Jeffrey D. Moffatt, Pro-Per

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

Jeffrey D. Moffatt,

Plaintiff

v.

State of Arizona,
State Supreme Court of
Arizona,
State Bar of Arizona, and

Scott Bales, Chief Justice in
his
Official Capacity,

Defendants

DOCKET NO.: CV-17-06029-VBF (DFM)

**[PROPOSED] ORDER TO GRANT
AMENDED OPPOSITION TO
DOC#[171] DECLARATION OF
ELIZABETH B. VANALEK – DATED
NOVEMBER 7, 2018 UNDER Fed. R.
Civ. P. 12(f)(2) AND IN SUPPORT OF
DOC#[170] PLAINTIFF’S NOTICE OF
MOTION AND “MOTION TO STRIKE”
DEFENDANT’S COUNSEL GORDON
REES SCULLY MANSUKHANI, LLP
(FOREIGN CORPORATION) AS
DEFENDANT’S COUNSEL, ALL
PLEADINGS AND THE
DECLARATION OF A. LOUIS
DORNEY DATED OCTOBER 31, 2018,
MEMORANDUM OF POINTS AND
AUTHORITIES, DECLARATION OF
STAR MOFFATT IN SUPPORT, UNDER
Fed. R. Civ. P. 12(f)(2)**

Date:

Time:

Courtroom:

Honorable Judge Valerie Baker Fairbank

1 **ORDER** granting Plaintiff's Opposition to Document # [171] Declaration of
2 Elizabeth B. Vanalek – Dated November 7, 2018 Under Fed. R. Civ. P. 12(f)(2)
3 and in support of Document # [170] Plaintiff's "Motion to Strike" Defendants'
4 Counsel Gordon Rees Scully Mansukhani, LLP (Foreign Corporation) as
5 Defendants' Counsel, all pleadings and the Declaration of A. Louis Dorney Dated
6 October 31, 2018, Memorandum of Points and Authorities, Declaration of Star
7 Moffatt in Support, pursuant to Federal Rules of Civil Procedure Rule 12(f)(2).
8

9
10 This Matter, having come before the Court on Plaintiff's Opposition to
11 Document # [171] Declaration of Elizabeth B. Vanalek – Dated November 7, 2018
12 Under Fed. R. Civ. P. 12(f)(2) and in support of Document # [170] Plaintiff's
13 "Motion to Strike" Defendants' Counsel Gordon Rees Scully Mansukhani, LLP
14 (Foreign Corporation) as Defendants' Counsel, all pleadings and the Declaration of
15 A. Louis Dorney dated October 31, 2018, Memorandum of Points and Authorities,
16 Declaration of Star Moffatt in Support, pursuant to Federal Rules of Civil
17 Procedure Rule 12(f)(2), should be granted.
18

19
20 **IT IS HEREBY ORDERED** that all of Defendants' Counsel Gordon Rees Scully
21 Mansukhani, LLP's pleadings submitted to date 11/06/18, are stricken.
22

23 **IT IS HEREBY ORDERED** that Declaration of A. Louis Dorney dated October
24 31, 2018, is stricken and defense counsel removed both from the caption and body
25 of said Declaration.
26

1 **IT IS HEREBY ORDERED** that Declaration of Elizabeth B. Vanalek – Dated
2 November 7, 2018 is stricken.

3 **IT IS HEREBY ORDERED** that Counsel Gordon Rees Scully Mansukhani, LLP
4 be referred to the California Franchise Tax Board.
5

6 Dated: _____, 2018
7
8

9 _____
10 Senior Judge Valerie Fairbank
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Responses, Replies and Other Motion Related Documents

2:17-cv-06029-VBF-DFM Jeffrey
D Moffatt v. State of Arizona et al
CASE CLOSED on 09/22/2017

194,CLOSED

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered on 11/13/2018 at 3:29 PM PST and filed on 11/13/2018

Case Name: Jeffrey D Moffatt v. State of Arizona et al

Case Number: 2:17-cv-06029-VBF-DFM

Filer: Jeffrey D Moffatt

WARNING: CASE CLOSED on 09/22/2017

Document Number: 173

Docket Text:

Amendment to to Strike[170] (AMENDED) OPPOSITION UNDER Fed. R. Civ. P. 12(f)(2) TO DOCUMENT#[171] DECLARATION OF ELIZABETH B. VANALEK DATED NOVEMBER 7, 2018 AND IN SUPPORT OF DOCUMENT#[170] filed by Plaintiff Jeffrey D Moffatt. (Attachments: # (1) proposed order, # (2) cert of service) (Moffatt, Jeffrey)

2:17-cv-06029-VBF-DFM Notice has been electronically mailed to:

A Louis Dorny ldorny@gordonrees.com, lbucholz@grsm.com

Elizabeth B Vanalek evanalek@gordonrees.com, msalinas@grsm.com

Jeffrey D Moffatt jeffreymbajd@hotmail.com

Michael D Scully mscully@grsm.com, amontgomery@gordonrees.com

2:17-cv-06029-VBF-DFM Notice has been delivered by First Class U. S. Mail or by other means **BY THE FILER** to :

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: C:\fakepath\11 13 2018 at 210pmVERSION OPPOSITION TO VANALEK DEC final.pdf

Electronic document Stamp:

[STAMP cacdStamp_ID=1020290914 [Date=11/13/2018] [FileNumber=26599951-0] [5c4d9c48441a3c27cf6877b348f4dba5f60a73150c9e4a8fa25811c5836d51b55a2f730851ae7ef223f8b62f112576e3a843fetc88e431ad9b535e401c256b05]]

Document description: proposed order

Original filename: C:\fakepath\Proposed order motion to strike.pdf

Electronic document Stamp:

[STAMP cacdStamp_ID=1020290914 [Date=11/13/2018] [FileNumber=26599951-1] [36d6bc616d0723cf62cd35dd0296c0cef67a60c10385cf946c0ef122adffabc9935f1a3bb5c20e53fa66518d69df806a60951a5448da790467dfb79b499e2071]]

Document description: cert of service

Original filename: C:\fakepath\CERTIFICATE OF SERVICE FOR ELECTRONIC FILING ONLY.pdf

Electronic document Stamp:

[STAMP cacdStamp_ID=1020290914 [Date=11/13/2018] [FileNumber=26599951-2] [001ad4f644ce70328a4f23279b1dee85e72698f7dc006d3851edb701cab0fd2f10180494157b0eb2c7e778ee510cefd02fd9533edc007b6a3260603c4c6984f1]]