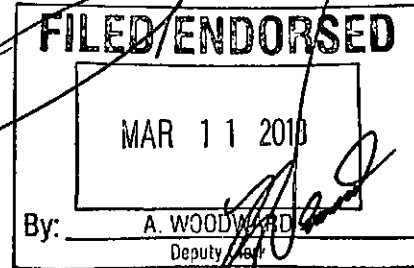


1 Mark E. Ellis - 127159
William A. Lapcevic - 238893
2 Elizabeth A. Handelin - 275710
ELLIS LAW GROUP, LLP
3 740 University Avenue, Suite 100
Sacramento, CA 95825
4 Tel: (916) 283-8820
Fax: (916) 283-8821

5 Attorneys for Defendant
6 ROBERT MCFARLAND



7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SACRAMENTO

10
11 THE NATIONAL GRANGE OF THE ORDER
OF PATRONS OF HUSBANDRY, a
12 Washington, D.C., nonprofit corporation,

13 Plaintiff,

14 v.

15 THE CALIFORNIA STATE GRANGE, a
California nonprofit corporation, and ROBERT
16 MCFARLAND, JOHN LUVAAS, GERALD
CHERNOFF, and DAMINA PARR,

17 Defendants.

Case No.: 34-2012-00130439

**DECLARATION OF WILLIAM A.
LAPCEVIC IN SUPPORT OF EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE RE PRELIMINARY
INJUNCTION**

DATE: March 12, 2013

TIME: 9:00 a.m.

DEPT: 53

Complaint filed: October 1, 2012

Trial Date: None set

19 I, William A. Lapcevic, declare:

20
21 1. I am an attorney duly licensed to practice before all the courts of the State of California,
22 and am a senior associate with the law firm, Ellis Law Group, counsel of record for Defendant Robert
23 McFarland in the above captioned matter. I state the facts herein of my own personal knowledge and if
24 called upon to do so, could and would competently testify thereto.

25 2. Pursuant to Rule 3.1202(a) of the Rules of Court, the parties and attorneys related to
26 this motion are as follows:
27
28

ORIGINAL

Attorneys for Plaintiff: The National Grange of the Order of Patrons of Husbandry

Martin Jensen
PORTER SCOTT
350 University Avenue, Suite 200
Sacramento, California 95825
(916) 929-1481
(916) 927-3706 (fax)

Attorneys for Defendant: California State Grange

Robert D. Swanson
BOUTIN JONES
555 Capitol Mall, Suite 1500
Sacramento, California 95814
(916) 321-4444
(916) 441-7597 (fax)

Attorneys for Defendant: Robert McFarland

Mark Ellis
ELLIS LAW GROUP
740 University Ave., Suite 100
Sacramento, California 95814
(916) 283-8820
(916) 283-8821 (fax)

Defendant: John Luvaas
Chairman: California State Grange
3830 U Street
Sacramento, California 95817

Defendant: Gerald Chernoff
No Information Available

Defendant: Damian Parr
No Information Available

3. On March 4, 2013, I learned that the National Grange was moving forward with a "Grange trial" on March 14, 2013. The outcome of such an event would be used to negatively affect McFarland's employment contract.

1 4. Based on the required time for notice of a motion and the date of the impending
2 "Grange Trial" any notice motion filed by McFarland after March 4, 2013 would be heard after the
3 "Grange Trial" had gone forward.

4 5. On Friday, March 8, 2013, at approximately 1:30 p.m. I notified Martin Jensen by
5 telephone, counsel for the National Grange, that we would be appearing *ex parte* on Tuesday, March
6 12, 2013, in Department 53 of the Sacramento County Superior Court at 9:00 a.m. seeking a temporary
7 restraining order and preliminary injunction to enjoin the National Grange from holding its "Grange
8 Trial" and interfering with McFarland's contractual obligations as President of the California National
9 Grange. Further, I provided counsel with written notice on March 8, 2013, pursuant to Rules of Court,
10 Rule 3.1203 (a true and correct copy is attached hereto as **Exhibit J.**) Counsel for the National Grange
11 has indicated they will oppose this application and appear at the hearing.
12

13 6. On January 28, 2013, on behalf of Defendant Robert McFarland ("McFarland"), I
14 served discovery requests on Plaintiff the National Grange, through its counsel, Martin Jensen at Porter
15 Scott. Plaintiff's responses were due to be served no later than March 4, 2013.
16

17 7. On March 1, 2013, Martin Jensen, counsel for The National Grange, contacted me to
18 request an extension in which to respond to McFarland's discovery requests. I granted an extension
19 until March 18, 2013, for Plaintiff to serve responses. Attached hereto as **Exhibit K** is a true and
20 correct copy of Mr. Jensen's letter of March 1, 2013, confirming the extension. At the time of granting
21 the extension, I did not know that the trial had been scheduled for March 14.

22 8. If the "Grange Trial" is permitted to go forward on March 14, 2013, McFarland will
23 have been effectively deprived of his ability to receive discovery from the National Grange, as its
24 responses are now due to be served on March 18, 2013, after the "Grange Trial" would have taken
25 place, pursuant to the extension which was requested and granted on March 1, 2013, *after* the Grange
26
27
28

1 trial had been set for March 14, 2013, but prior to McFarland and our office receiving notice of the
2 Grange trial.

3 9. On March 1, 2013, on behalf of McFarland, I sent a letter to counsel for National
4 Grange, objecting to any "Grange Trial" going forward and requesting that they agree to stay or abate
5 this proceeding until this matter is heard on its merits at trial. A true and correct copy of my March 1,
6 2013 letter is attached hereto as **Exhibit L**.

7 10. On March 4, 2013, we received an e-mailed letter rejecting our proposal for the
8 National Grange to stay or abate the approaching "Grange Trial." Attached hereto as **Exhibit M** is a
9 true and correct copy of the March 4, 2013 letter from Mr. Jensen.
10

11 I declare under the penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct and that this declaration was executed on March 10, 2013, in Sacramento,
13 California.

14
15
16 By



William A. Lapcevic

EXHIBIT J

ELLIS LAW GROUP LLP

740 University Avenue, Suite 100, Sacramento, California 95825
Phone: 916-283-8820 Fax: 916-283-8821 Web: www.ellislawgrp.com
e-mail: blapcevic@ellislawgrp.com

March 10, 2013

Via Facsimile and U.S. Mail

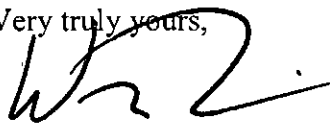
Martin Jensen
Porter Scott
350 University Avenue
Suite 200
Sacramento, CA 95825

RE: ***NATIONAL GRANGE V. CALIFORNIA STATE GRANGE (MCFARLAND)***
Sacramento, Case No. 34-2012-00130439
Our File No. 12-0106-A

Dear Mr. Jensen:

This will confirm our conversation of today and serve as notice that we will appear *ex parte* on behalf of Defendant Robert McFarland on Tuesday, March 12, 2013, at 9:00 a.m. in Department 53 of the Sacramento Superior Court, located at 800 Ninth Street, Sacramento, California, to request an Order to Show Cause and temporary restraining order to restrain the National Grange from holding an internal trial pending hearing of Mr. McFarland's motion for a preliminary injunction.

Very truly yours,



William A. Lapcevic

cc: Daniel Stouder
Robert Swanson

EXHIBIT K

P O R T E R | S C O T T

ATTORNEYS

March 1, 2013

VIA FACSIMILE AND U.S. MAIL

Mark Ellis
William A. Lapcevic
ELLIS LAW GROUP
740 University Ave., Suite 100
Sacramento, CA 95825

350 University Avenue
Suite 200
Sacramento, CA 95825
TEL: 916.929.1481
FAX: 916.927.3706

www.porterscott.com

Re: **National Grange, et al. v. Bob McFarland**
Sacramento Superior Court Case No. 34-2012-00130439

Dear Gentlemen:

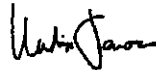
This shall confirm that your office has graciously granted National Grange a two week extension to respond to Request for Production, Set One, Form Interrogatories, Set One, and Special Interrogatories, Set One up to and including March 18, 2013. Should any part of this information be incorrect, please contact our office immediately.

Thank you for your professional courtesy and cooperation in this matter.

Very truly yours,

PORTER SCOTT
A PROFESSIONAL CORPORATION

By



Martin N. Jensen

MNJ/dmg

{01109553.DOC}

EXHIBIT L

ELLIS LAW GROUP LLP

740 University Avenue, Suite 100, Sacramento, California 95825
Phone: 916-283-8820 Fax: 916-283-8821 Web: www.ellislawgrp.com
e-mail: blapcevic@ellislawgrp.com

March 1, 2013

Steven Verrill
270 Bailey Hill Rd.
Protland, Maine 04274
sverrill@roadrunner.com

Martin Jensen
Porter Scott
350 University Ave., Ste. 200
Sacramento, CA 95825
mjensen@porterscott.com

RE: *Letter Received February 17, 2013 from Steven Verrill*

Dear Mr. Verrill:

Our firm represents Robert McFarland in the action brought by the National Grange against Mr. McFarland and the California State Grange which was filed in Sacramento Superior Court, Case No. 34-2012-00130439. We are in receipt of your letter dated February 11, 2013, which Mr. McFarland received on February 17, 2013.

Please consider this letter as Mr. McFarland's response.

On October 1, 2012, the National Grange filed a lawsuit in the Sacramento Superior Court naming our client, Robert McFarland, as well as the California State Grange, seeking declaratory relief, a temporary restraining order and a preliminary injunction enjoining the actions of Mr. McFarland and the California State Grange.

As you are aware, the Court denied the National Grange's motion in order to ensure the preservation of the status quo of the operations of the California State Grange pending a trial on the merits. For your convenience, a copy of the Minute Order denying the National Grange's motion is attached.

Based on the National Grange's earlier choice of forum in a California State Court action, we object to its present and second attempt to proceed in an extrajudicial fashion to upset the status quo. The National Grange's currently proposed "Trial" of allegations made by Ed Lutrell against Robert McFarland to be adjudicated by persons selected by Mr. Lutrell, but paid for by Robert McFarland is not only unconscionable, but it seeks to substantially alter the status quo of the

Steven Verrill
Martin Jensen
March 1, 2013
Page 2

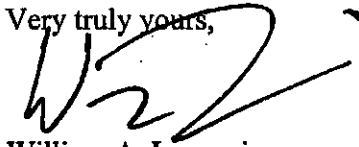
California State Grange's activities. In other words, the National Grange is attempting to expedite a "Kangaroo Court" proceeding in order to achieve what it failed to obtain by filing its State Court action. We all know there is no way Mr. McFarland can receive a fair trial in a forum provided by Luttrell, and presided over by his cronies. The history of Mr. Luttrell and the National Grange's actions toward Mr. McFarland to date speak for themselves: *res ipsa loquitur*.

Thus, on behalf of Mr. McFarland, we object to the National Grange moving forward with any proceedings against Mr. McFarland outside the State Court action, and request that the National Grange abate or stay the current internal proceedings pending the trial of the case filed by the National Grange in the Sacramento Superior Court.

Should you not respond by noon on Monday, March 4, 2013, we will move to enjoin the National Grange from proceeding with its proposed "Trial" until the current matter is resolved in the Sacramento Superior Court.

Should you have any questions or concerns please contact the undersigned at your earliest convenience. Your anticipated cooperation is greatly appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Lapcevic', with a long horizontal stroke extending to the right.

William A. Lapcevic

cc: Bob McFarland
Robert Swanson
John Luvaas

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SACRAMENTO
GORDON D SCHABER COURTHOUSE**

MINUTE ORDER

DATE: 10/17/2012

TIME: 02:00:00 PM

DEPT: 53

TEMPORARY JUDGE: Rudolph Loncke

CLERK: E. Brown

REPORTER/ERM: S. Adams CSR# 12554

BAILIFF/COURT ATTENDANT: C. Chambers

CASE NO: 34-2012-00130439-CU-MC-GDS CASE INIT.DATE: 10/01/2012

CASE TITLE: The National Grange of the Order of Patrons of Husbandry vs. The California State Grange

CASE CATEGORY: Civil - Unlimited

EVENT TYPE: Motion for Preliminary Injunction

APPEARANCES

Martin Jensen, counsel, present for Plaintiff(s).

William A Lapcevic, counsel, present for Defendant(s).

Robert D Swanson, counsel, present for Defendant, Plaintiff(s).

Dan Stouder, counsel present for defendant

Nature of Proceeding: Motion for Preliminary Injunction

TENTATIVE RULING

Plaintiff The National Grange Request for Preliminary Injunction against Defendant California State Grange, and its Executive Committee is DENIED.

Plaintiff requests that this Court enjoin Defendants Robert McFarland, John Luvaas, Gerald Chernoff, and Damian Parr, and California State Grange, as well as its employees and agents from executing any contracts or undertaking any official actions at or from the direction of the California State Grange Executive Committee, and requests an order that the California State Grange's Executive Committee to turn over keys, building and computer passwords, and all other information necessary for The National Grange to operate the California State Grange during the pendency of this action.

Trial courts should evaluate two interrelated factors when deciding whether or not to issue a preliminary injunction. The first is the likelihood that the plaintiff will prevail on the merits at trial. The second is the interim harm that the plaintiff is likely to sustain if the injunction were denied as compared to the harm that the defendant is likely to suffer if the preliminary injunction were issued. *Cohen v. Cohen v. Board of Supervisors* (1985) 40 Cal. 3d 277, 286.

Facts

Moving party plaintiff National Grange declines to specify the offense committed by the President of the California Grange, however the complaint alleges that effective August 6, 2012, the President of the California Grange, McFarland was suspended by the Master of The National Grange, pending a new set of duly filed charges to be adjudicated in The National Grange. McFarland refused to accept the suspension and purported to remain acting Master of the California State Grange despite the provision

that Masters of the State Granges are answerable to the Master of The National Grange.

Instead of complying with National Grange's order of suspension, the Executive Committee of the California Grange met in Sept 2012, hiring counsel to represent the California Grange opposing the authority of the National Grange.

On September 17, 2012, Edward L. Luttrell, Master of The National Grange, with the approval of the Executive Committee of The National Grange, formally suspended the Charter of the California State Grange on the basis that the California State Grange was working in violation of the law and usages of the Order of The National Grange and that the suspension was for the good of the Order.

Likelihood That The Plaintiff Will Prevail On The Merits

Plaintiff has failed to demonstrate that it will prevail on the merits. This appears to be a contract dispute between the National Grange and the California Grange.

The California Grange has operated since shortly after the Civil War. It is a California non-profit, mutual benefit corporation in good standing with the State of California.

Plaintiff seeks to seize the assets, terminate the President, and take complete control of the California Grange from its Executive Committee and deliver them to an out of state entity, not qualified to do business in California.

Irreparable injury

The purpose of a preliminary injunction is to maintain the status quo.

National Grange contends that the California State Grange and its Executive Committee have demonstrated that it can disregard the laws and proper procedures of the organization, and the irreparable injury which plaintiff will suffer if the injunction is not granted is the California Grange's Executive Committee entering into legal contracts with third persons, unaware that the California State Grange has been suspended. The sole injury to plaintiff is an asserted breach of the organization's governing documents, by unspecified acts of McFarland.

Despite the denial of a TRO, the National Grange has contacted members of the California Grange to tell them to stay away from the annual meeting of the California Grange, scheduled for October 2012. The National Grange threatened to seize the assets of the local Grange chapters, including the Grange Halls. California members have been instructed to hold all proceeds from auctions and fund raising events at the annual meeting to be turned over to the National Grange.

Plaintiff seeks to restrain McFarland from acting in his capacity of President, despite the vote of the California Executive Committee to the contrary, and to prevent him from communicating with his membership.

Here, opposing party asserts that it collects California Grange's dues on a quarterly basis. As of the filing of the opposition papers, the dues for California have been paid current to the National Grange.

The California Grange has a full time staff of employees, who need to be paid. This injunction would enjoin not only McFarland, but all of the employees from performing their regular duties, causing their constructive discharge.

The Court finds, on the record before it, that the balance of the injuries favors the denial of the requested

preliminary injunction, pending trial on the merits.

This minute order is effective immediately. No formal order nor further notice is required, the tentative ruling providing sufficient notice.

COURT RULING

The matter was argued and submitted. The Court affirmed the tentative ruling.

EXHIBIT M

Sent: Monday, March 04, 2013 12:03 PM
To: Mark Ellis
Cc: Amanda Griffith; Sharon Silva; Rosanne Estrella
Subject: FW: Ltr to Lapcevic and Verrill --- National Grange v. McFarland

FYI

From: Desiree Ganzon [<mailto:DGanzon@porterscott.com>]
Sent: Monday, March 04, 2013 11:59 AM
To: Bill Lapcevic; sverrill@roadrunner.com
Cc: Martin N. Jensen; Thomas L. Riordan; rswanson@boutinjones.com;
dstouder@boutinjones.com
Subject: Re: Ltr to Lapcevic and Verrill --- National Grange v. McFarland

Good Morning Mr. Lapcevic and Mr. Verrill:

Attached please find correspondence from Mr. Jensen regarding the above-referenced matter. Thank you.

Desiree Ganzon, Legal Secretary

Secretary to Martin N. Jensen

PORTER SCOTT

350 University Ave., Suite 200
Sacramento, CA 95825
TEL: 916.929.1481 ext. 343
FAX: 916.927.3706

www.porterscott.com

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P O R T E R | S C O T T
ATTORNEYS

March 1, 2013

VIA E-MAIL ONLY

William A. Lapcevic
Ellis Law Group LLP
740 University Avenue, Suite 100
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Steven Verrill
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350 University Avenue
Suite 200
Sacramento, CA 95825
TEL: 916.929.1481
FAX: 916.927.3706

www.porterscott.com

Re: National Grange, et al. v. Bob McFarland
Sacramento Superior Court Case No. 34-2012-00130439

Dear Mr. Lapcevic and Mr. Verrill:

We strongly oppose your notion that Mr. McFarland can preemptively declare the procedure set forth in the bylaws of both the California State Grange and the National Grange to be a "Kangaroo Court." This is precisely the procedure he had agreed to uphold as Master of the California State Grange. It is unclear what "res ipsa loquitur" refers to, since Mr. McFarland voluntarily agreed to serve a previous suspension in June-July 2012 following an internal Order trial and appeal from a prior dispute. By his actions he obviously agrees in the validity of the internal Grange process.

The current action in California (Sacramento County case no. 34-2012-00130439) was filed by the National Grange precisely because Mr. McFarland and the California State Grange refused to heed the internal Order procedures clearly set forth in the bylaws. It was expressly not to determine the merits of the dispute. Mr. McFarland was properly suspended under the terms of the bylaws in August 2012. If the imminent internal Order proceedings can later be shown to clearly violate the terms of the bylaws, Mr. McFarland may be

William A. Lapcevic
Steven Verrill
March 4, 2013
Page 2

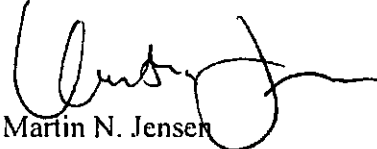
entitled to judicial relief in California civil courts, but California courts will not otherwise interfere with the internal proceedings of a private organization. (*California Dental Assn. v. American Dental Assn.* (1979) 23 Cal.3d 346, 350.) Mr. McFarland has never suggested how the current internal Order proceedings violate the bylaws of the Order.

By denying the National Grange's motion for a preliminary injunction, the California Superior Court merely ruled that the National Grange did not establish the actions by Mr. McFarland and the California State Grange would cause irreparable harm. The Superior Court did not, of course, indicate that the internal Order proceedings could not go forward as set forth in the bylaws. There is no legal basis for injunctive relief against the National Grange in following its own internal bylaws. Please let us know what clear violation of the Order bylaws Mr. McFarland believes to be threatened.

Very truly yours,

PORTER SCOTT
A PROFESSIONAL CORPORATION

By



Martin N. Jensen

MNJ/dmg

cc: Robert D. Swanson (rswanson@boutinjones.com)
Daniel S. Stouder (dstouder@boutinjones.com)