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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

CHRISTOPHER BRANDON LEE,

Petitioner,

v.

THE SUPERIOR COURT OF
SAN BERNARDINO COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

E063450

(Super.Ct.No. FMB1400414)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Rodney A. Cortez,
Judge. Petition is granted.

David J. P. Kaloyanides, a Professional Law Corporation, and David J.
Kaloyanides for Petitioner.

No appearance for Respondent.

Michael A. Ramos, District Attorney, Grace B. Parsons, Deputy District Attorney, for Real Party in Interest.

In this matter we have reviewed the petition and the opposition filed by real party in interest. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

DISCUSSION

In order to trigger the time limits for filing a peremptory challenge under Code of Civil Procedure section 170.6 against a judge assigned “for all purposes,” the assignment must be clearly imparted to the parties. (*Entente Design, Inc. v. Superior Court* (2013) 214 Cal.App.4th 385, and cases cited.) A challenge should be permitted at any time unless *clearly* prohibited by the statute. (*Pickett v. Superior Court* (2012) 203 Cal.App.4th 887, 892.)

We acknowledge that a careful reading of the entire schedule of assignments would certainly strongly *suggest* that Judge Cortez would hear not only preliminary matters, but the trial in this case. However, the problem is that the listing of “Trials” that Judge Cortez is to handle is *not limited to even-numbered cases*. The same is true of the schedule of Judge Swift’s assignments. Thus, while other proceedings are distributed by odd or even numbers, from the schedule it appears that *either* judge may hear trials of cases with *any* number. While this might be viewed as an illogical situation, it is simply

not precluded by the information as provided. Thus, the schedule of assignments is insufficiently clear on the point.

Accordingly, petitioner's challenge was timely.

DISPOSITION

Let a peremptory writ of mandate issue, directing the Superior Court of San Bernardino County to vacate its order rejecting petitioner's peremptory challenge, and to enter a new order granting or accepting the disqualification.

Petitioner is directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties.

The previously ordered stay is lifted.

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CODRINGTON
J.

We concur:

HOLLENHORST
Acting P. J.

KING
J.