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REVELSTOKE INVESTMENT CORP., INC.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

IN RE: ) MDL NO. 840  
) No. 86-390  
ESTATE OF FERDINAND E. ) No. 86-330  
MARCOS HUMAN RIGHTS )  
LITIGATION ) BRIEF OF REVELSTOKE  
) INVESTMENT CORPORATION,  
) INC. IN OPPOSITION TO THE  
) CLASS'S "MOTION TO STRIKE"  
) (filed 3/19/09); CERTIFICATE OF  
) SERVICE

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THIS DOCUMENT RELATES TO: )  
) Judge: Manuel Real  
)  
Hilao et al v. Estate of Ferdinand E. )  
Marcos, )  
and )  
DeVera et al v. Estate of Ferdinand E. )  
Marcos )  
)

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**BRIEF OF REVELSTOKE INVESTMENT CORPORATION, INC.  
IN OPPOSITION TO THE CLASS'S "MOTION TO STRIKE" (filed 3/19/09)**

The Class's motion to strike is frivolous and must be denied. Where a party has a right to intervene for a limited purpose – such as to oppose a pending motion – that party has a concomitant right to “be heard on the merits” of the issue that prompted intervention. *In re Estate of Ferdinand E. Marcos Human Rights Litig.*, 536 F.3d 980, 987 (9th Cir. 2008). Here, Revelstoke has moved to intervene for the limited purpose of opposing the Class's “Second Renewed Motion for Entry of Final Judgment for Civil Contempt Against Imelda R. Marcos and Ferdinand R. Marcos and the Estate of Ferdinand E. Marcos.” The Court has set Revelstoke's motion to intervene and the Class's motion for entry of a new judgment for hearing on April 28, 2009. (Doc. Nos. 10574, 10577.) If the Court grants Revelstoke's motion to intervene (as it should), Revelstoke will have a right to “be heard on the merits” as to the Class's motion for entry of a new judgment. *In re Estate*, 536 F.3d at 987.

Courts in this Circuit regularly entertain proposed intervenors' substantive motions at the same hearing set for their motions to intervene. *See, e.g., Wininger v. SI Mgmt. L.P.*, 33 F. Supp. 2d 838, 842 (N.D. Cal. 1998) (proposed intervenors' motion to intervene and motion to disqualify counsel heard on same date); *Bates v. Jones*, 904 F. Supp. 1080, 1084 (N.D. Cal. 1995) (proposed intervenors' motion to intervene, motion for abstention, and motion to dismiss heard on same date). The

Class cites no authority to the contrary. It only cites two cases for the different (and incorrect) proposition that proposed intervenors are “nonparty intermeddlers” who have no standing to seek recusal of a judge under 28 U.S.C. § 455. *See* Mem. in. Supp. of Mot. at 2, *citing In re Manoa Fin. Co., Inc.*, 781 F.2d 1370 (9th Cir. 1986) and *United States v. Conforte*, 624 F.2d 869 (9th Cir. 1980).\*

Dated: Honolulu, Hawaii, March 27, 2009.

/s/ Thomas Benedict

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THOMAS BENEDICT

Attorney for Proposed Intervenor  
REVELSTROKE INVESTMENT  
CORP., INC.

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\* Neither case suggests, much less holds, that proposed intervenors lack such standing. Because this Court has already upheld the contention that Revelstoke, as a proposed intervenor, lacks standing to seek recusal under 28 U.S.C. § 455 (*see* Doc. No. 10576, Order dated March 20, 2009), Revelstoke does not address the issue and reserves its right to challenge the ruling on appeal or otherwise.

**IN THE UNITED STATES DISTRICT COURT  
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DATED: Honolulu, Hawaii, March 27, 2009.

/s/ Thomas Benedict

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**Filing and Replies**

1:03-cv-11111-MLR In Re: MDL 840 MARCOS, et al v. , et al

**U.S. District Court**

**District of Hawaii**

**Notice of Electronic Filing**

The following transaction was entered by Benedict, Thomas on 3/27/2009 at 3:17 PM HST and filed on 3/27/2009

**Case Name:** In Re: MDL 840 MARCOS, et al v. , et al

**Case Number:** 1:03-cv-11111

**Filer:** Revelstoke Investment Corp., Inc.

**Document Number:** 10581

**Docket Text:**

**MEMORANDUM in Opposition re [10575] MOTION to Strike [10573] Memorandum in Opposition to Motion, [10571] MOTION for Recusal MOTION OF REVELSTOKE INVESTMENT CORPORATION, INC. RESPECTFULLY REQUESTING RECUSAL OF THE HONORABLE JUDGE MANUEL REAL; MEMORANDUM IN SUPPORT OF MOTION; ORDER; CE MOTION to Strike [10573] Memorandum in Opposition to Motion, [10571] MOTION for Recusal MOTION OF REVELSTOKE INVESTMENT CORPORATION, INC. RESPECTFULLY REQUESTING RECUSAL OF THE HONORABLE JUDGE MANUEL REAL; MEMORANDUM IN SUPPORT OF MOTION; ORDER; CE filed by Revelstoke Investment Corp., Inc.. (Attachments: # (1) Certificate of Service)(Benedict, Thomas)**

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