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Cons. no. 25294-G

ABO & FURUYA V. CLARK

Feb./March 1949

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8 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
9 CALIFORNIA, SOUTHERN DIVISION
10 -----

11 TADAYASU ABO, et al., etc.,

12 Plaintiffs,

13 vs.

14 TOM CLARK, etc., et al.,

15 Defendants.

No. 25294-G

(Consolidated No. 25294-G)

16 MARY KANAME FURUYA, et al., etc.,

17 Plaintiffs,

18 vs.

19 TOM CLARK, etc., et al.,

20 Defendants.

No. 25295-G

(Consolidated No. 25294-G)

21
22 ORDER EXTENDING DEFENDANTS' TIME IN
23 WHICH TO FILE DESIGNATIONS.
24 -----

25 On application of Frank J. Hennessy, United States Attorney,
26 and good cause appearing therefor, IT IS HEREBY ORDERED that the
27 time within which the defendants may file designations of any of the
28 plaintiffs herein, against whom they may wish to present further
29 evidence at special hearings herein, be, and the same is hereby
30 extended to and including February 25th, 1949.

31 Dated: January 25, 1949.

32 Louis E. Goodman
United States District Judge.

ORIGINAL
FILED

FEB 18 1949

Clerk, U. S. Dist. Court
San Francisco

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,

Plaintiffs,

-vs-

TOM CLARK, etc., et al.,

Defendants.

No. 25294-G
Cons. No. 25294-G

STIPULATION AND ORDER

It is hereby stipulated between the parties hereto as follows:

1. That the name of AIRA, Harumi, joined herein as a party plaintiff on Sept. 20, 1948, be deleted as constituting a duplicate of the name of SAGARA, Harumi, who was joined as a party plaintiff on October 24, 1947.

2. That the name of AIRA, Tadashi, joined herein as a party plaintiff on Sept. 20, 1948, be deleted as constituting a duplicate of the name of SAGARA, Tadashi, who was joined as a party plaintiff on October 24, 1947.

3. That the name of AIRA, Yuriko, joined herein as a party plaintiff on Sept. 20, 1948, be deleted as constituting a duplicate of the name of SAGARA, Yuriko, who was joined as a party plaintiff on October 24, 1947.

4. That the name of FUKUI, Matsue, joined herein as a party plaintiff on Aug. 23, 1948, be deleted as constituting

1 a duplicate of the name of FUKUI, Matsuye, who was joined as a
2 party plaintiff on Aug. 23, 1948.

3 5. That the name of HAMADA, Katsuko, joined herein as a
4 party plaintiff on Aug. 23, 1948, be deleted as constituting
5 a duplicate of the name of HAMADA, Alyce Katsuko, who was joined
6 as a party plaintiff on Aug. 23, 1948.

7 6. That the name of HAMANO, Shogo, joined herein as a
8 party plaintiff on Aug. 23, 1948, be deleted as constituting
9 a duplicate of the name of HAMANO, Shogo, who was joined as
10 a party plaintiff on May 27, 1948.

11 7. That the name of HAMAZAKI, Uzuhiko, joined herein as
12 a party plaintiff on Sept. 20, 1948, be deleted as constituting
13 a duplicate of the name of HAMAZAKI, Uzuhiko, who was joined
14 as a party plaintiff on May 27, 1948.

15 8. That the name of HATANAKA, Amy, joined herein as a
16 party plaintiff on Sept. 27, 1948, be deleted as constituting
17 a duplicate of the name of HATANAKA, Murako (Ishibashi), who
18 was joined on Aug. 23, 1948.

19 9. That the name of HATTORI, George Nobutaka, joined herein
20 as a party plaintiff on Aug. 23, 1948, be deleted as constituting
21 a duplicate of the name of HATTORI, George Nobutaka, who was
22 joined as a party plaintiff on May 27, 1948.

23 10. That the name of HONDA, Takeyo, joined herein as a
24 party plaintiff on Aug. 23, 1948, be deleted as constituting
25 a duplicate of the name of TSUKAHARA, Takeyo, nee Honda, who
26 was joined as a party plaintiff on Aug. 23, 1948.

27 11. That the name of HOSHIDA, Natsuko, joined herein as
28 a party plaintiff on Aug. 23, 1948, be deleted as constituting
29 a duplicate of the name of HIRAMOTO, Natsuko Mrs., nee Hoshida,
30 who was joined as a party plaintiff on Aug. 23, 1948.

31 12. That the name of IKI, Tatehide, joined herein as a
32 party plaintiff on Aug. 23, 1948, be deleted as constituting

1 a duplicate of the name of IGE, Kenyei, who was joined as a
2 party plaintiff on June 30, 1947.

3 13. That the name of ISHIGAMI, K. Keiichi, joined herein
4 as a party plaintiff on Aug. 23, 1948, be deleted as constituting
5 a duplicate of the name of ISHIGAMI, K. Keiichi, who was joined
6 as a party plaintiff on March 4, 1946.

7 14. That the name of ISHIHARA, Kei, joined herein as a
8 party plaintiff on Aug. 23, 1948, be deleted as constituting
9 a duplicate of the name of ISHIHARA, Kei (Kay), who was joined
10 as a party plaintiff on Nov. 13, 1945.

11 15. That the name of KAMEDA, Tatsuto, joined herein as a
12 party plaintiff on Aug. 23, 1948, be deleted as constituting
13 a duplicate of the name of KAMEDA, Tatsuo, who was joined as
14 a party plaintiff on Aug. 23, 1948.

15 16. That the name of KAMEMOTO, Yoshiaki, joined herein as
16 a party plaintiff on Aug. 23, 1948, be deleted as constituting
17 a duplicate of the name of KAMEMOTO, Hiroaki, who was joined
18 as a party plaintiff on Oct. 13, 1947.

19 17. That the name of KATO, Kieko, joined herein as a
20 party plaintiff on Aug. 23, 1948, be deleted as constituting
21 a duplicate of the name of HATA, Kieko, who was joined as a
22 party plaintiff on Aug. 23, 1948.

23 18. That the name of KATO, Motoichi, joined herein as a
24 party plaintiff on Aug. 23, 1948, be deleted as constituting
25 a duplicate of the name of KATO, Motoichi, who was joined as a
26 party plaintiff on Nov. 13, 1945.

27 19. That the name of KAWANISHI, Sakaye, joined herein as a
28 party plaintiff on Aug. 23, 1948, be deleted as constituting
29 a duplicate of the name of KAWANISHI, Bernice Sakae, who was
30 joined as a party plaintiff on Aug. 23, 1948.

31 20. That the name of KOSAKO, Minoru, joined herein as a
32 party plaintiff on Aug. 23, 1948, be deleted as constituting

1 a duplicate of the name of KOSAKO, Minoru, who was joined as
2 a party plaintiff on March 4, 1946.

3 21. That the name of KUBOTA, Yoshinori, joined herein as
4 a party plaintiff on May 24, 1948, be deleted as constituting
5 a duplicate of the name of KUBOTA, Yoshinori, who was joined
6 as a party plaintiff on November 13, 1945.

7 22. That the name of KUSUNOKI, Teruko, joined herein as
8 a party plaintiff on Aug. 23, 1948, be deleted as constituting
9 a duplicate of the name of KUSUNOKI, Teruko, who was joined as
10 a party plaintiff on Jan. 7, 1948.

11 23. That the name of MASATANI, Kunio, joined herein as a
12 party plaintiff on Aug. 23, 1948, be deleted as constituting
13 a duplicate of the name of MASATANI, Kunio, who was joined as
14 a party plaintiff on May 27, 1948.

15 24. That the name of MASUDA, Isao Thomas Jefferson, joined
16 herein as a party plaintiff on Aug. 23, 1948, be deleted as
17 constituting a duplicate of the name of MASUDA, Isao Thomas
18 Jefferson, who was joined as a party plaintiff on December 23, 1947.

19 25. That the name of MASUOKA, Mary M., joined herein as
20 a party plaintiff on May 27, 1948, be deleted as constituting
21 a duplicate of the name of MASUOKA, Mary M., who was joined as
22 a party plaintiff on November 13, 1945.

23 26. That the name of MATSUURA, Shiro, joined herein as a
24 party plaintiff on May 24, 1948, be deleted as constituting
25 a duplicate of the name of MATSUURA, Shiro, who was joined as
26 a party plaintiff on November 13, 1945.

27 27. That the name of MIYAMURA, Masayuki, joined herein as
28 a party plaintiff on Aug. 23, 1948, be deleted as constituting
29 a duplicate of the name of MIYAMURA, Tadayuki, who was joined
30 as a party plaintiff on Aug. 25, 1947.

31 28. That the name of MIYATA, Yoshito Skip, joined herein
32 as a party plaintiff on May 24, 1948, be deleted as constituting

1 a duplicate of the name of MIYATA, Yoshito Skip, who was joined
2 as a party plaintiff on November 13, 1945.

3 29. That the name of NAKAGIRI, Toshiye, Mrs., joined herein
4 as a party plaintiff on Aug. 23, 1948, be deleted as constituting
5 a duplicate of the name of SHIMIZU, Toshiye, who was joined as
6 a party plaintiff on Aug. 23, 1948.

7 30. That the name of NAKASHIMA, Masao, joined herein as a
8 party plaintiff on Aug. 23, 1948, be deleted as constituting
9 a duplicate of the name of NAKASHIMA, Masao, who was joined as
10 a party plaintiff on May 27, 1948.

11 31. That the name of NISHIMURA, Nobuko, joined herein as
12 a party plaintiff on May 24, 1948, be deleted as constituting
13 a duplicate of the name of NISHIMURA, Nobuko, who was joined
14 as a party plaintiff on January 23, 1948.

15 32. That the name of NISHIMURA, Yoshiko, joined herein as
16 a party plaintiff on May 24, 1948, be deleted as constituting
17 a duplicate of the name of NISHIMURA, Yoshiko, who was joined as
18 a party plaintiff on January 23, 1948.

19 33. That the name of NISHITANI, Yoshio, joined herein as
20 a party plaintiff on May 24, 1948, be deleted as constituting
21 a duplicate of the name of NISHITANI, Yoshio, who was joined
22 as a party plaintiff on July 23, 1947.

23 34. That the name of OKADA, Akira, joined herein as a
24 party plaintiff on May 27, 1948, be deleted as constituting
25 a duplicate of the name of OKADA, Akira, who was joined as a
26 party plaintiff on November 13, 1945.

27 35. That the name of OKAMOTO, Juichi James, joined herein
28 as a party plaintiff on Sept. 27, 1948, be deleted as constituting
29 a duplicate of the name of OKAZAKI, Juichi James, who was joined
30 as a party plaintiff on March 4, 1946.

31 36. That the name of OKIMURA, Doris Hisako, nee Fujikawa,
32 joined herein as a party plaintiff on May 18, 1948, be deleted

1 as constituting a duplicate of the name of OKIMURA, Doris Hisako,
2 nee Fujikawa, who was joined as a party plaintiff on November
3 13, 1945.

4 37. That the name of OKUHARA, Shinichi, joined herein as
5 a party plaintiff on Sept. 20, 1948, be deleted as constituting
6 a duplicate of the name of OKUHARA, Shinichi, who was joined as
7 a party plaintiff on January 30, 1948.

8 38. That the name of OKUHARA, Takeko Mrs., joined herein
9 as a party plaintiff on Sept. 20, 1948, be deleted as constituting
10 a duplicate of the name of OKUHARA, Takeko Mrs., who was joined
11 as a party plaintiff on January 30, 1948.

12 39. That the name of ONO, Kaoru, joined herein as a party
13 plaintiff on May 24, 1948, be deleted as constituting a duplicate
14 of the name of ONO, Kaoru, who was joined as a party plaintiff
15 on November 13, 1945.

16 40. That the name of SAKAI, Kanako (2), joined herein as
17 a party plaintiff on Aug. 23, 1948, be deleted as constituting
18 a duplicate of the name of KAWATA, Kanako Mrs., nee Sakai,
19 who was joined as a party plaintiff on Aug. 23, 1948.

20 41. That the name of SAKI, Minoru, joined herein as a
21 party plaintiff on Aug. 23, 1948, be deleted as constituting
22 a duplicate of the name of ESAKI, Minoru, who was joined as a
23 party plaintiff on Aug. 23, 1948.

24 42. That the name of SAKODA, Eiichi Paul, joined herein as
25 a party plaintiff on Aug. 23, 1948, be deleted as constituting
26 a duplicate of the name of NORIHIRO, Eiichi Paul, who was joined
27 as a party plaintiff on Aug. 23, 1948.

28 43. That the name of SASAKI, Hisayo, joined herein as a
29 party plaintiff on Aug. 23, 1948, be deleted as constituting a
30 duplicate of the name of SASAKI, Hisaye, who was joined as a
31 party plaintiff on July 28, 1947.

32 44. That the name of SHIMAMURA, Koichi, joined herein as a

1 party plaintiff on Aug. 23, 1948, be deleted as constituting a
2 duplicate of the name of SHIMAMURA, Hiroichi, who was joined
3 as a party plaintiff on Aug. 23, 1948.

4 45. That the name of SHIMODA, Shigeru, joined herein as a
5 party plaintiff on Aug. 23, 1948, be deleted as constituting
6 a duplicate of the name of SHIMADA, Shigeru, who was joined as
7 a party plaintiff on May 27, 1948.

8 46. That the name of SHIMOKAJI, Jean Kikuye, joined herein
9 as a party plaintiff on Aug. 23, 1948, be deleted as constituting
10 a duplicate of the name of SHIMOKAJI, Jean Kikuye, who was joined
11 as a party plaintiff on Sept. 18, 1947.

12 47. That the name of SHIMURA, Kazumi, joined herein as a
13 party plaintiff on Aug. 23, 1948, be deleted as constituting
14 a duplicate of the name of EDAMURA, Kazumi, who was joined as
15 a party plaintiff on May 18, 1948.

16 48. That the name of SHIOMI, Hajimu, joined herein as a
17 party plaintiff on Sept. 20, 1948, be deleted as constituting
18 a duplicate of the name of SHIOMI, Hajimu, who was joined as a
19 party plaintiff on Aug. 23, 1948.

20 49. That the name of SHIOSAKA, Tokuko, joined herein as a
21 party plaintiff on Aug. 23, 1948, be deleted as constituting
22 a duplicate of the name of ISHIKAWA, Tokuko, nee Shiosaka,
23 who was joined as a party plaintiff on Aug. 23, 1948.

24 50. That the name of TAKAHASHI, Chiyoko, joined herein as
25 a party plaintiff on Aug. 23, 1948, be deleted as constituting
26 a duplicate of the name of NAKASHIMO, Chiyoko, who was joined as
27 a party plaintiff on March 19, 1948.

28 51. That the name of TAKEDA, Shinobu, joined herein as a
29 party plaintiff on Aug. 23, 1948, be deleted as constituting
30 a duplicate of the name of TAKETA, Shinobu, who was joined as a
31 party plaintiff on Aug. 23, 1948.

32 52. That the name of TANAKA, Shigeichi, joined herein as a

1 party plaintiff on May 24, 1948, be deleted as constituting a
2 duplicate of the name of TANAKA, Shigeichi, who was joined as
3 a party plaintiff on November 13, 1945.

4 53. That the name of TASHIMA, Masato, joined herein as a
5 party plaintiff on Sept. 20, 1948, be deleted as constituting
6 a duplicate of the name of TASHIMA, Masato, who was joined as
7 a party plaintiff on December 5, 1947.

8 54. That the name of TASHIMA, Yoshie, joined herein as a
9 party plaintiff on Sept. 20, 1948, be deleted as constituting
10 a duplicate of the name of TASHIMA, Yoshie, who was joined as
11 a party plaintiff on December 5, 1947.

12 55. That the name of TOYOTA, Kimiko, joined herein as a
13 party plaintiff on May 24, 1948, be deleted as constituting
14 a duplicate of the name of TOYOTA, Kimiko, who was joined as a
15 party plaintiff on November 13, 1945.

16 56. That the name of USHIYAMA, Haruko, joined herein as a
17 party plaintiff on Aug. 23, 1948, be deleted as constituting
18 a duplicate of the name of UCHIYAMA, Harriet Haruko, who was
19 joined as a party plaintiff on Aug. 25, 1947.

20 57. That the name of UYENO, Takashi, joined herein as a
21 party plaintiff on Aug. 23, 1948, be deleted as constituting
22 a duplicate of the name of YASUDA, Takashi, who was joined as a
23 party plaintiff on May 27, 1948.

24 58. That the name of YAMAGISHI, George Iwao, joined herein
25 as a party plaintiff on Aug. 23, 1948, be deleted as constituting
26 a duplicate of the name of YAMANISHI, Iwao, who was joined as a
27 party plaintiff on Aug. 23, 1948.

28 59. That the name of YAMAGISHI, Yoshiharu, joined herein as
29 a party plaintiff on Aug. 23, 1948, be deleted as constituting
30 a duplicate of the name of YAMANISHI, Yoshiharu, who was joined
31 as a party plaintiff on Aug. 23, 1948.

32 60. That the name of YAMAMOTO, Yukio, joined herein as a

1 party plaintiff on April 23, 1948, be deleted as constituting
2 a duplicate of the name of YAMAMOTO, Yukio, who was joined as
3 a party plaintiff on December 18, 1947.

4 61. That the name of YASUI, Misako, joined herein as a
5 party plaintiff on Sept. 27, 1948, be deleted as constituting
6 a duplicate of the name of YASUI, Masako, who was joined as a
7 party plaintiff on Nov. 13, 1945.

8 62. That the name of MAKI, Masao, joined herein as a party
9 plaintiff on Aug. 23, 1948, be deleted as constituting a duplicate
10 of the name of MAKI, Masao, who was joined as a party plaintiff
11 on May 18, 1948.

12 63. That the name of MAKI, Yoneo, joined herein as a party
13 plaintiff on Aug. 23, 1948, be deleted as constituting a duplicate
14 of the name of MAKI, Yoneo, who was joined as a party plaintiff
15 on May 18, 1948.

16 64. That the name of MASUTO, Kazuto, joined herein as a
17 party plaintiff on Aug. 23, 1948, be deleted as constituting
18 a duplicate of the name of MASUMOTO, Kazuto, who was joined as
19 a party plaintiff on May 18, 1948.

20 65. That the name of TABATA, Bill T., joined herein as a
21 party plaintiff on May 27, 1948, be deleted as constituting
22 a duplicate of the name of TABATA, Tsutomu Bill, who was joined
23 as a party plaintiff on Nov. 13, 1945.

24 66. That the name of TABATA, Yasuo Mrs., joined herein as
25 a party plaintiff on Aug. 23, 1948, be deleted as constituting
26 a duplicate of the name of TABATA, Yasuko, Mrs. nee Taniguchi,
27 who was joined as a party plaintiff on May 27, 1948.

28 67. That the name of TAKAHASHI, Yuchi, joined herein as a
29 party plaintiff on Aug. 23, 1948, be deleted as constituting a
30 duplicate of the name of TAKAHASHI, Yuichi, who was joined as a
31 party plaintiff on May 27, 1948.

32 68. That the name of TANAKA, Jitsuso, joined herein as a

1 party plaintiff on Aug. 23, 1948, be deleted as constituting a
2 duplicate of the name of TAMURA, Jitsuso, who was joined as a
3 party plaintiff on Aug. 23, 1948.

4 69. That the name of TORIYAKE, Fred Masaharu, joined herein
5 as a party plaintiff on Aug. 23, 1948, be deleted as constituting
6 a duplicate of the name of MIYAKE, Fred Masaharu, who was joined
7 as a party plaintiff on Sept. 20, 1948.

8 70. That the name of TORIYAKE, Jimmie Hidemi, joined herein
9 as a party plaintiff on Aug. 23, 1948, be deleted as constituting
10 a duplicate of the name of MIYAKE, Jimmie Hidemi, who was joined
11 as a party plaintiff on Sept. 20, 1948.

12 71. That the name of YAMAGUCHI, Shunji, joined herein as
13 a party plaintiff on Aug. 23, 1948, be deleted as constituting a
14 duplicate of the name of YAMAGATA, Shunji, who was joined as a
15 party plaintiff on Aug. 23, 1948.

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18 _____
19 Wayne M. Collins
20 Attorney for Plaintiffs

21 TOM C. CLARK, Attorney General
22 FRANK J. HENNESSY, U.S. Attorney

23 By: _____
24 Assistant U. S. Attorney
25 Attorneys for Defendants

26 SO ORDERED:

27 February 18, 1949

28 LOUIS E. GOODMAN
29 UNITED STATES DISTRICT JUDGE

30 Receipt of a copy of the above stipulation and order is
31 admitted this 18th day of February, 1949.

32 TOM C. CLARK, Attorney General
FRANK J. HENNESSY, U.S. Attorney

By _____
Assistant U. S. Attorney

ORIGINAL
FILED

FEB 18 1949

Clerk, U. S. Dist. Court
San Francisco

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,

Plaintiffs,

-vs-

TOM CLARK, etc., et al.,

Defendants.

No. 25294-G
Cons. No. 25294-G

STIPULATION AND ORDER
CORRECTING NAMES OF PLAINTIFFS

It is hereby stipulated between the parties hereto that the following corrections in the names of plaintiffs be made herein:

1. That the name HANSHO, Toyoko, joined herein on Aug. 23, 1948, be amended and corrected to read: HONSHO, Toyoko.

2. That the name ISHIKAWA, Tokuko, nee Shiosaka, joined herein on Aug. 23, 1948, be amended and corrected to read: ISHIKAWA, Tokuko, nee Maruyama.

3. That the name KUROZAWA, Freddie, joined herein on Aug. 23, 1948, be amended and corrected to read: KUROSAWA, Freddie Iwamoto.

4. That the name SASAKI, Asao, joined herein on Aug. 23, 1948, be amended and corrected to read: SAKAKI, Asao.

5. That the name SHODA, Yoshio, joined herein on Aug. 23, 1948, be amended and corrected to read: SHOGA, Yoshio.

1 6. That the name TAGUCHI, John, joined herein on Aug. 23,
2 1948, be amended and corrected to read: TOGUCHI, John.

3 7. That the name TANAKA, Toshiyuki, joined herein on Aug.
4 23, 1948, be amended and corrected to read: TANAKA, Yoshiyuki.

5 8. That the name TANAKA, Yaeko Janette, joined herein on
6 Aug. 23, 1948, be amended and corrected to read: TANABE, Yaeko
7 Jeanette.

8 9. That the name TANIGUCHI, Toshiko, joined herein on Aug.
9 23, 1948, be amended and corrected to read: TANIGUCHI, Yoshiko.

10 10. That the name TERAMOTO, Yayeko, joined herein on Aug.
11 23, 1948, be amended and corrected to read: TERAMAYA, Yayeko.

12 11. That the name YAMAGISHI, Masao, joined herein on Aug.
13 23, 1948, be amended and corrected to read: YAMAGISHI, Masako.

14 12. That the name YAMAKAWA, Katsumi, joined herein on Aug.
15 23, 1948, be amended and corrected to read: YAMANAKA, Katsumi.

16 13. That the name YAMASAKI, Shigeichi, joined herein on
17 Aug. 23, 1948, be amended and corrected to read: YAMASHITA,
18 Shigeichi.

19 14. That the name YOSHIDA, Yoshio, joined herein on Aug. 23,
20 1948, be amended and corrected to read: YOSHIDA, Yoshiro.

21 15. That the name FUKUMOTO, Taro, joined herein on Aug. 23,
22 1948, be amended and corrected to read: FUKUMORI, Taro.

23 16. That the name IWAMURA, Utaka, joined herein on Aug. 23,
24 1948, be amended and corrected to read: IWAMASA, Utaka.

25 17. That the name MATSUO, Chiyoko, joined herein on Aug. 23,
26 1948, be amended and corrected to read: MATSUNO, Chiyoko.

27 18. That the name SASAKI, Kimiye, joined herein on Aug. 23,
28 1948, be amended and corrected to read: SAIKI, Kimiye.

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31 _____
Wayne M. Collins
Attorney for Plaintiffs

TOM C. CLARK, Attorney General
FRANK J. HENNESSY, U.S. Attorney

32 _____
By Assistant U. S. Attorney
Attorneys for Defendants

1 SO ORDERED:

2 February 18, 1949

3 LOUIS E. GOODMAN,

4
5 UNITED STATES DISTRICT JUDGE

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7
8 Receipt of a copy of the above stipulation and order is
9 admitted this 18th day of February, 1949.

10
11 TOM C. CLARK, Attorney General
12 FRANK J. HENNESSY, U. S. Attorney

13 By _____
14 Assistant U. S. Attorney
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ORIGINAL
FILED

FEB 25 1949

Clerk, U. S. Dist. Court
San Francisco

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,

Plaintiffs,

-vs-

TOM CLARK, etc., et al.,

Defendants.

No. 25294-G
Cons. No. 25294-G

STIPULATION AND ORDER

It is hereby stipulated between the parties hereto as follows:

1. That the name of MATSUMOTO, Masae, joined herein as a party plaintiff on Sept. 20, 1948, be deleted as constituting a duplicate of the name of MATSUMOTO, Masayei, who was joined as a party plaintiff on May 18, 1948.

2. That the name of MATSUMOTO, Noboru, joined herein as a party plaintiff on Sept. 20, 1948, be deleted as constituting a duplicate of the name of MATSUMOTO, Noboru, who was joined as a party plaintiff on May 18, 1948.

Wayne M. Collins
Attorney for Plaintiffs

TOM C. CLARK, Attorney General
FRANK J. HENNESSY, U.S. Attorney

By: _____

Assistant U. S. Attorney

SO ORDERED: February ____, 1949. Attorneys for Defendants

UNITED STATES DISTRICT JUDGE

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Receipt of a copy of the above stipulation and order is
admitted this _____ day of February, 1949.

TOM C. CLARK, Attorney General
FRANK J. HENNESSY, U.S. Attorney

By: _____
Assistant U. S. Attorney

ORIGINAL
FILED

FEB 28 1949

Clerk, U. S. Dist Court
San Francisco

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,

Plaintiffs,

No. 25294-G

-vs-

Cons. No. 25294-G

TOM CLARK, etc., et al.,

Defendants.

ORDER REQUIRING DEFENDANTS TO SHOW CAUSE WHY THE DESIGNATION
FILED HEREIN FEBRUARY 25, 1949, SHOULD NOT BE STRICKEN AND
FINAL ORDER, JUDGMENT AND DECREE IN FAVOR OF EACH AND ALL OF
THE PLAINTIFFS AND AGAINST DEFENDANTS BE ENTERED IMMEDIATELY
UPON SETTLEMENT OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon reading and filing the Notice and Motion To Strike
Designation and affidavit of merits in support thereof and for
Order To Show Cause filed herein by the plaintiffs and good cause
appearing therefor,

IT IS ORDERED and directed that the defendants in this cause,
through their attorneys, appear and be before this Court on Monday,
March 7, 1949, at the hour of 10 o'clock A.M. of said day, then
and there to show cause, if any they have, why the "Designation
Of Plaintiffs" filed herein by the Defendants on February 25, 1949,
should not be ordered stricken and be stricken from the record herein.

IT IS FURTHER ORDERED that a copy of this order, together with
copies of said Notice and Motion to Strike and Affidavit of merits
in support thereof and for Order To Show Cause be served upon the
United States Attorney for this District as the representative of
the Attorney General and as one of the attorneys of record for the
defendants herein *by* the 1st day of March, 1949.

Dated: Feb. 28, 1949.

LOUIS E. GOODMAN
BY *LOUIS E. GOODMAN*

UNITED STATES DISTRICT JUDGE

ORIGINAL
FILED

FEB 28 1949

Clerk, U. S. Dist. Court
San Francisco

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,

Plaintiffs,

-vs-

TOM CLARK, etc., et al.,

Defendants.

No. 25294-G

Cons. No. 25294-G

NOTICE OF MOTION TO STRIKE DESIGNATION OF PLAINTIFFS

TO DEFENDANTS AND TOM C. CLARK, ATTORNEY GENERAL, H. G. MORRISON, ASSISTANT ATTORNEY GENERAL, FRANK J. HENNESSY, UNITED STATES ATTORNEY, ENOCH E. ELLISON, SPECIAL ASSISTANT TO THE ATTORNEY GENERAL, AND PAUL J. GRUMBLY, ATTORNEY, DEPARTMENT OF JUSTICE, ATTORNEYS FOR DEFENDANTS:

You and each of you will please take notice that on Monday, the 7th day of March, 1949, at the hour of 10 o'clock A. M. of said day, or so soon thereafter as counsel can be heard thereon, the plaintiffs will bring on the within motion for hearing and decision before the above-entitled Court at the courtroom thereof, 2nd Floor, Post Office Building, 7th and Mission Streets, San Francisco, California.

Dated: Feb. 28, 1949.

Wayne M. Collins
Attorney for Plaintiffs.

Receipt of a copy of the above notice together with a copy of the motion to strike therein mentioned and the Affidavit in support thereof and Order To Show Cause are admitted this 28th day of Feb., 1949.

TOM C. CLARK, ATTORNEY GENERAL, H. G. MORRISON, ASSISTANT ATTORNEY GENERAL, FRANK J. HENNESSY, UNITED STATES ATTORNEY, ENOCH E. ELLISON, SPECIAL ASSISTANT TO THE ATTORNEY GENERAL, AND PAUL J. GRUMBLY, ATTORNEY, DEPARTMENT OF JUSTICE.

By: _____

ASSISTANT U. S. ATTORNEY
Attorneys for Defendants.

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6 IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 TADAYASU ABO, et al., etc.,)

9 Plaintiffs,)

10 -vs-)

11 TOM CLARK, etc., et al.,)

12 Defendants.)

No. 25294-G

Cons. No. 25294-G

13 -----)
14
15 MOTION TO STRIKE DESIGNATION OF PLAINTIFFS

16 Plaintiffs move to strike the Designation of Plaintiffs filed
17 herein by the defendants on February 25, 1949, upon the follow-
18 ing grounds and for the following reasons, to-wit:

19 1. That Designation, as made, is actually a list of all or
20 practically all the plaintiffs in the suit and, in consequence,
21 violates the provisions of the written stipulation of the parties
22 heretofore entered into on October 10, 1947, and Order of this
23 Court thereon filed herein on October 13, 1947, closing the proof
24 and submitting the cause on the merits for decision by this court.

25 2. That Designation violates the letter, spirit and pro-
26 visions of the written Opinion of the Court made on the merits
27 of the cause after due submission thereof to the Court by the
28 parties hereto which said Opinion was filed herein on April 29, 1948.

29 3. That Designation in nowise complies with but is in direct
30 violation of and flouts the provisions of the Interlocutory Order,
31 Judgment and Decree made and entered herein on September 27, 1948,
32 relating to the designation of individual plaintiffs, if any,

1 against whom the defendants might elect to present additional
2 evidence at special individual hearings, as therein provided.

3 4. That Designation, as made by defendants, is not such
4 a designation as was permitted by the Interlocutory Order,
5 Judgment and Decree made and entered herein on September 27, 1948,
6 which required a designation, if any was to be filed herein by
7 defendants, to be made and filed by defendants in an exercise of
8 good faith.

9 5. That Designation, as made by defendants, is sham,
10 impertinent, irrelevant and immaterial and relates and pertains
11 to and covers nothing but issues of fact heretofore determined,
12 decided and resolved by this Court in favor of the plaintiffs
13 and against the defendants, as appears from the fact that each
14 and every item of proof offered by the defendants, as set forth
15 in the "General Offer Of Proof" in said Designation heretofore
16 was submitted to this Court for decision on the merits and here-
17 tofore was determined, decided and resolved by this Court in
18 favor of the plaintiffs and against the defendants, as covered
19 by the said written Opinion of this Court and the said Inter-
20 locutory Order, Judgment and Decree.

21 6. That Designation violates the oral representations
22 made to this Court and to counsel for the plaintiffs on January
23 25, 1949, by Paul J. Grumbly, attorney for the Department of
24 Justice and defendants, in obtaining an order of this Court
25 extending the time of the defendants to February 25, 1949, within
26 which to file, in an exercise of good faith, a proper designa-
27 tion, if any, of individual plaintiffs, if any, for special
28 hearings.

29 7. That Designation is not a true or proper designation,
30 within the contemplation of the Court or parties, but is sham,
31 impertinent, irrelevant and evasive and was not filed in good
32 faith by the defendants and violates and flouts the purposes for

1 which each extension of time was given defendants since April
2 29, 1948, within which to file any such designation.

3 This motion to strike will be made upon the pleadings,
4 records, files, evidence, papers and documents herein and upon
5 this motion, notice hereof, affidavit of merits in support hereof,
6 order to show cause, and also upon the following pleadings and
7 records herein, to-wit: (1) the written stipulation submitting
8 the cause to this Court for decision on the merits of the cause
9 dated Oct. 10, 1947, and the order of this Court issued thereon;
10 (2) the written Opinion of this Court made and entered herein
11 on April 29, 1948; (3) the Interlocutory Order, Judgment and
12 Decree made and filed herein on September 27, 1948; (4) the
13 various stipulations of the parties and court orders extending
14 the defendants' time within which to file a designation, as above
15 referred to and (5) the Designation filed herein on February 25,
16 1949, by defendants.
17

18 Dated: February 28, 1949.
19

20 _____
21 Wayne M. Collins,
22 1701 Mills Tower,
23 San Francisco 4, Calif.
24 Garfield 1-1218

25 Attorney for Plaintiffs.
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4 IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA

6 TADAYASU ABO, et al., etc.,

7 Plaintiffs,

8 -vs-

9 TOM CLARK, etc., et al.,

10 Defendants.

No. 25294-G

Cons. No. 25294-G

11 -----
12 AFFIDAVIT IN SUPPORT OF MOTION TO STRIKE DESIGNATION
13 AND FOR ORDER TO SHOW CAUSE
14

15 NORTHERN DISTRICT OF CALIFORNIA

16 STATE OF CALIFORNIA

17 CITY AND COUNTY OF SAN FRANCISCO

18)
19)
20) ss.
21)
22)
23)

19 Wayne M. Collins being first duly sworn, deposes and says:

20 He is and at all times since the institution of the within
21 referred to suit has been the attorney of record for the plain-
22 tiffs herein;

23 Just prior to October 10, 1947, Thomas Cooley, II, Esq.,
24 then the director of the alien enemy control unit of the Depart-
25 ment of Justice and one of the attorneys on the staff of the
26 defendant Attorney General who was one of the attorneys for the
27 defendants herein, orally informed affiant that the defendants
28 had no further evidence whatever to introduce in the cause against
29 plaintiffs or any of them other than that already filed in docu-
30 mentary form therein.
31

32 Thereafter, on October 10, 1947, counsel for the respective
parties hereto entered into a written stipulation that the cause

1 be submitted to this Court for decision on the merits of the cause,
2 upon which the order of this Court was made so ordering, which
3 said stipulation and order were filed and entered in the cause
4 on October 13, 1947, and that at said time it was understood
5 and agreed between the attorneys for the respective parties
6 hereto and they represented to this Court at said time that the
7 evidence that as of that date had been offered on the issues
8 raised by the pleadings and in the case covered all the evidence
9 to be offered by either the plaintiffs or the defendants and that
10 no further or additional evidence would be submitted unless the
11 Court itself ordered the production of further or additional
12 evidence thereon.

13 By the written stipulation entered into between the parties
14 plaintiffs and defendants on October 10, 1948, and the Court order
15 which issued thereon, filed herein on October 13, 1948, the
16 plaintiffs and defendants stipulated and agreed and the Court
17 ordered, in part, as follows:

18 "that the proofs be closed, provided, however,
19 that if the Court deems it necessary for a
20 proper decision of any factual or legal issue
21 involved in this case as to any particular
22 plaintiff or plaintiffs the Court shall order
23 the production of further or additional evidence
24 thereon,---".
25

26 This Court has not at any time whatever deemed it necessary
27 for a proper decision of any factual or legal issue involved
28 in the case as to any particular plaintiff or plaintiffs to order
29 the production of further or additional evidence on any issue
30 involved in the case and has not made any such order or orders
31 for the production of any further or additional evidence herein.

32 Thereafter, on April 29, 1948, this Court made and filed its
written Opinion herein which states, in part, as follows:

1 "It may be that if the defendants were to go
2 forward with further proof, they could present
3 evidence that certain of the plaintiffs individually
4 acted freely and voluntarily despite the present
5 record facts."---

6 and therein gave the defendants ninety (90) days within which
7 to file a designation of any such plaintiffs for special further
8 hearings and provided therein for an interlocutory decree to
9 be entered in favor of plaintiffs and against defendants.

10 Thereafter, the defendants obtained from this Court an order
11 dated and filed herein on July 27, 1948, extending defendants'
12 time within which to file any such designation to and including
13 August 28, 1948.

14 Thereafter, at the oral request of attorneys in the Justice
15 Department affiant withheld presenting the Interlocutory Order,
16 Judgment and Decree to give defendants additional time within
17 which to designate any of the plaintiffs in accordance with the
18 said Opinion of the Court and so to do and thereafter consented,
19 on August 23, 1948, with the attorneys for the defendants that
20 defendants' time within which to file any such designation be
21 extended 120 days from and after the entry of the interlocutory
22 order, judgment and decree.

23 Thereafter, the defendants obtained from this Court an order
24 dated and filed herein on August 23, 1948, extending defendants'
25 time within which to file any such designation to and including
26 one hundred twenty (120) days from and after the date the
27 plaintiffs filed their interlocutory order, judgment or decree
28 in favor of the plaintiffs and against the defendants, the plain-
29 tiffs consenting thereto.

30 Thereafter, on September 27, 1948, the Interlocutory Order,
31 Judgment and Decree was made and entered herein. It provides,
32 in part, as follows:

1 "IT IS ORDERED that the defendants herein may have
2 to and including one hundred twenty (120) days from
3 and after the filing and entry of this interlocutory
4 order, judgment and decree,-----, within which
5 they may, in an exercise of good faith, by a writing
6 or writings to be filed herein, designate any of the
7 plaintiffs herein for special individual further
8 hearings herein, upon their election, evidenced by
9 any such designation, at which to produce admissible
10 evidence relevant to the issues herein, other than
11 that heretofore offered or introduced in evidence
12 on the issues involved, against each such designated
13 plaintiff proving or tending to prove that each such
14 designated plaintiff renounced United States
15 nationality and citizenship of his or her own free
16 will, choice, desire and agency and that such renun-
17 ciation was not caused by or affected by the duress,
18 menace, coercion, intimidation, fraud and the undue
19 influence under which he or she knowingly was held
20 and subjected to at the time and place of renuncia-
21 tion,-----provided, however, that as to any such
22 plaintiff or plaintiffs who so shall be designated
23 by the defendants for special individual further
24 hearing herein, the burden of proof shall be and
25 remain upon the defendants herein to prove that the
26 renunciation of each such plaintiff, so designated
27 for such special further hearing herein, was wholly
28 voluntary, uncoerced and uncompelled and was of
29 the free will, choice, desire and agency of such
30 plaintiff and was neither caused nor affected by
31 the duress, menace, coercion, intimidation, fraud
32 or undue influence in which he or she was held and

1 subjected to,-----."

2 Thereafter, at the request of the defendants on January
3 25, 1949, and over the oral objections of affiant as attorney
4 for the plaintiffs, and upon the representations of Paul J.
5 Grumbly, an attorney for the Department of Justice who appeared
6 for the defendants, made to the Court that the names of plain-
7 tiffs who would be designated, if any, would be few in number
8 and that any such designation would be made in good faith, the
9 Court signed an Order extending the defendants' time to and
10 including February 25, 1949, within which defendants might file
11 such a designation, if any.

12 Up to and including February 25, 1949, the defendants
13 had a total of ten (10) calendar months within which to
14 make a proper designation of certain plaintiffs, if any, for
15 special individual hearings, but the defendants have not so done.

16 On February 25, 1949, the defendants filed herein a
17 Designation of Plaintiffs.

18 The Designation of Plaintiffs, as filed herein by the
19 defendants on February 25, 1949, contains a list of all or sub-
20 stantially all the names of all the parties plaintiff in the suit;
21 said designation classifies the plaintiffs into different types
22 or groups, one of which, viz., Exh. XXI-1, in suit No. 25294,
23 is a list of eight (8) plaintiffs the defendants admit were insane
24 at the time of their renunciations and incompetent to renounce
25 and another list, Exh. XXI-1, is a list of eight (8) plaintiffs
26 whose renunciations the defendants admit were never approved by
27 the Attorney General; none of the classified lists of names con-
28 tained in said Designation has any relevancy to a proper designa-
29 tion of names of individual plaintiffs against whom the defendants
30 elect to present additional evidence at special individual hear-
31 ings; the "General Offer of Proof" contained in said Designation
32 shows that the issues therein contained on which the defendants

1 make an offer of proof relates to and covers matters and issues
2 heretofore decided by the Court against the defendants and in
3 favor of the plaintiffs; and affiant alleges that said Designa-
4 tion is improper, irrelevant, impertinent, sham, evasive, and
5 dilatory; that it was not filed by defendants in an exercise of
6 good faith and should be stricken from the record in the cause.

7 WHEREFORE plaintiffs and affiant as their attorney requests
8 and moves that plaintiffs' motion to strike the Designation of
9 Plaintiff filed herein on February 25, 1949, be granted and that
10 an Order to show cause issue, directed to the defendants, requiring
11 the defendants to appear and be before this Court at a time therein
12 to be specified, then and there to show cause why the Designation
13 of Plaintiffs filed by defendants herein on February 25, 1949,
14 should not be stricken from the record and a final order, judg-
15 ment and decree be entered in favor of each and all of the plain-
16 tiffs and against the defendants immediately upon the settlement
17 of the findings of fact and conclusions of law.
18
19

20 _____
Wayne M. Collins

21 Affiant

22 Attorney for Plaintiffs.

23
24 Subscribed and sworn to before me
25 this 28th day of February, 1949.

26 NOTARY
27 SEAL

28 MRS. M. DOUGHERTY

29 Notary Public in and for the City
30 and County of San Francisco, State
31 of California.
32

ORIGINAL
FILED

MAR 4 - 1949

Clerk, U. S. Dist. Court
San Francisco

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,

Plaintiffs,

-vs-

TOM C. CLARK, etc., et al.,

Defendants.

No. 25294-G

Cons. No. 25294-G

ORDER APPOINTING GUARDIAN AD LITEM

Good cause appearing therefor, it is hereby ordered that the plaintiffs herein, Shigeno FUDETANI, Nagatoshi HASHIGUCHI, Flora Helen SHOJI, Torao SUMI, Yoshikazu TODA and Yutaka Tom UYEHARA, each of whom is a mental incompetent, be and each of them is hereby authorized to appear herein by Harry Uchida as his or her next of friend and guardian ad litem of each of them.

Dated: March 4, 1949.

LOUIS E. GOODMAN

UNITED STATES DISTRICT JUDGE

Receipt of a copy of the above order is hereby admitted
this 4th day of March, 1949.

TOM C. CLARK, Attorney General.
FRANK J. HENNESSY, U. S. Attorney.

By: _____
Assistant U. S. Attorney
Attorneys for Defendants.

ORIGINAL
FILED

MAR 4 - 1949

Clerk, U. S. Dist. Court
San Francisco

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,

Plaintiffs,

-vs-

TOM CLARK, etc., et al.,

Defendants.

No. 25294-G

Cons. No. 25294-G

DISMISSAL WITHOUT PREJUDICE

The defendants admitting in the "Designation of Plaintiffs" filed by the defendants herein on February 25, 1949, that the renunciations of the hereinafter named parties plaintiff were not approved by the Attorney General, the following named persons hereby withdraw as parties plaintiff from the above-entitled action and dismisses his or her individual action herein without prejudice:

1. ✓ DOI, Hideko, born 9-30-18, who was joined as a party plaintiff herein on May 24, 1948.
2. DOI, Hideko, born Oct. 30, 1918, who was not joined as a party plaintiff herein according to plaintiffs' records but is a party herein according to the defendants' said Designation.
3. ✓ KATAOKA, Yukio, who was joined herein as a party plaintiff on Dec. 20, 1945.
4. ✓ NAKAMURA, Miyoko, who was joined herein as a party plaintiff on Sept. 20, 1948.

✓ 5. OGATA, Miyeko, who was joined herein as a party plaintiff on Sept. 20, 1948.

✓ 6. SAKURAI, Teruo Richard, who was joined herein as a party plaintiff on Aug. 23, 1948.

7. SUNADA, Masaru, who was joined herein as a party plaintiff on Aug. 23, 1948.

8. TOMITA, Hirowo (Art), who was joined herein as a party plaintiff on May 18, 1948.

Dated: March 4, 1949.

Wayne M. Collins
Attorney for Plaintiffs

SO ORDERED:

March 4, 1949.

LOUIS E. GOODMAN

UNITED STATES DISTRICT JUDGE

Receipt of a copy of the above dismissal is admitted this
7 day of March, 1949.

TOM C. CLARK, Attorney General
FRANK J. HENNESSY, U. S. Attorney
Defendants.

By _____
Assistant U. S. Attorney

ORIGINAL
FILED

MAR 4 - 1949

Clerk, U. S. Dist. Court
San Francisco

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,

Plaintiffs,

-vs-

TOM C. CLARK, etc., et al.,

Defendants.

No. 25294-G

Cons. No. 25294-G

STIPULATION AND ORDER THAT PLAINTIFFS
HERETOFORE APPEARING AS INFANTS BY GUARDIAN AD LITEM
OR NEXT OF FRIEND, HAVING REACHED MAJORITY, NOW
APPEAR AS ADULT PARTIES PLAINTIFF

WHEREAS when this suit was filed in 1945 in excess of one hundred (100) of the plaintiffs then were minors, and thereafter a number of persons were joined as plaintiffs herein when they were minors, each of said such persons heretofore appearing herein by guardian ad litem or next of friend, and whereas each of said infant plaintiffs so appearing herein since his or her joinder as a party plaintiff herein has reached his or her majority of twenty-one (21) years, Now, Therefore, It Is Stipulated that each of said persons who heretofore appeared as an infant herein by guardian ad litem or next of friend now appear herein as an adult person in his or her own true proper name and that the orders heretofore made and entered herein for their appearance by guardian ad litem or next of friend now be terminated, it being stipulated that it is not necessary to set forth their

individual names herein,

Dated: March 4, 1949.

TOM C. CLARK, ATTORNEY GENERAL.
FRANK J. HENNESSY, U. S. ATTORNEY

By: _____
Assistant U. S. Attorney.
Attorneys for Defendants.

Wayne M. Collins
Attorney for Plaintiffs.

SO ORDERED:

March 4, 1949.

LOUIS E. GOODMAN

UNITED STATES DISTRICT JUDGE.

ORIGINAL
FILED

MAR 23 1949

Clerk, U. S. Dist. Court
San Francisco

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,

Plaintiffs,

-vs-

TOM CLARK, etc., et al.,

Defendants.

No. 25294-G

Cons. No. 25294-G

ORDER STRIKING DEFENDANTS' DESIGNATION OF PLAINTIFFS

The motion of the plaintiffs to strike the "Designation of Plaintiffs In Compliance With The Court's Order Entered Herein On September 27, 1948", which was filed herein by the defendants on February 25, 1949, and the order to show cause why said "Designation of Plaintiffs" should not be ordered stricken and be stricken from the record and files herein came on regularly to be heard before this Court the 21st day of March, 1949, Wayne M. Collins, Esq., appearing for the plaintiffs and Robert B. McMillan, Esq., Assistant U. S. Attorney, appearing for the defendants. The defendants on March 7, 1949, filed a return to said motion and on March 18, 1949, a supplemental return thereto. Oral argument was made in support of and against said motion and on said order to show cause and the matter thereupon was submitted by the parties to the Court for decision;

As part of defendants' oral argument on said motion and order to show cause, defendants' counsel who appeared and argued for

1 the defendants read to the Court part of a letter of instruc-
2 tions received by him from the office of the Attorney General
3 relating to the said "Designation" filed by defendants herein
4 on February 25, 1949, reading as follows:

5 "In making such designations we have given care-
6 ful consideration to Judge Goodman's view that they
7 should be made by the Government in the interests of
8 justice. If this means that we should be convinced
9 by the available evidence that the renunciations
10 were voluntary, in the sense that they were not the
11 results of fears of physical violence but were
12 actually desired at the time they were made, you
13 may assure him that we are so convinced. You may
14 further assure him that, in our view, at least as
15 strong a case can be made for sustaining the
16 validity of the renunciations here as were made
17 in the cases now on appeal from the decisions of
18 the District Court for the Southern District of
19 California. In view of that fact and in view of
20 Judge Goodman's opinion in the instant cases, the
21 Attorney General feels that he cannot properly
22 concede that the renunciations of any of the
23 designated plaintiffs were involuntary as a matter
24 of fact or law. He, of course, reserves the right
25 to take a different position in the event that
26 the decisions now on appeal should be sustained.

27
28 "In view of the pending of such appeals and
29 the possibility that they may prove dispositive
30 of many of the instant cases it seems desirable,
31 as a practical matter, to avoid trials as to plain-
32 tiffs designated in Exhibit XIX until after final
action on the appeals. Indeed, it is within the

1 realm of possibility that the final decisions in
2 the cases on appeal will render any further pro-
3 ceedings unnecessary."

4 This Court finds that the said "Designation of Plaintiffs"
5 filed by the defendants herein on February 25, 1949, contains
6 a list of all or substantially all the names of the parties
7 plaintiff in the suit; that it classifies the plaintiffs into
8 different types or groups; that none of the classified lists
9 of names of plaintiffs contained therein has any competency,
10 relevancy or materiality to any issue or any bearing on any
11 issue not heretofore decided by this Court or to any new issue
12 of fact or proof against any plaintiff or plaintiffs; that the
13 "General Offer Of Proof" contained therein relates to and covers
14 offered matters of proof of factual issues which heretofore were
15 considered and decided by this Court in favor of the plaintiffs
16 and against the defendants after the cause had been submitted
17 to this Court for decision on the merits of those issues and
18 those issues of fact had been resolved by this Court in favor
19 of the plaintiffs and against the defendants, as decided in this
20 Court's Opinion made and entered herein on April 29, 1948, and
21 as covered by the Interlocutory Order, Judgment and Decree made
22 and entered herein on September 27, 1948, and the Court finds
23 that the "Defendants' Return To Order To Show Cause Why Previously
24 Filed Designation Of Plaintiffs Should Not Be Stricken" filed
25 by defendants herein on March 7, 1949, and the "Defendants'
26 Supplemental Return To Court's Order To Show Cause Why Previously
27 Filed Designation of Plaintiffs Should Not Be Stricken" filed
28 herein on March 18, 1949, relate to nothing but factual issues
29 heretofore decided by this Court in favor of the plaintiffs and
30 against the defendants which were resolved in favor of plaintiffs
31 and against defendants when the Court's Opinion was made and
32

1 entered herein on April 29, 1948, and which formed a basis for
2 the Interlocutory Order, Judgment and Decree of this Court entered
3 herein on September 27, 1948.

4 And the Court finds that the said "Designation of Plaintiffs",
5 so filed by the defendants herein on February 25, 1949, does
6 not conform to the spirit, purpose or provisions of the written
7 Opinion of this Court made and entered herein on April 29, 1948,
8 or to the provisions of the Interlocutory Order, Judgment and
9 Decree made and entered herein on September 27, 1948, and that
10 it is not the type of designation for which an opportunity to
11 designate was given by this Court to the defendants; and finds
12 and concludes that the defendants' said "Designation of Plaintiffs
13 In Compliance With The Court's Order Entered Herein On September
14 27, 1948" should be ordered stricken and be stricken from the
15 record and files herein; and the defendants not having shown good
16 cause why a final order, judgment and decree should not be made
17 and entered herein in favor of each and all of the plaintiffs
18 and against the defendants, as prayed for in the amended complaint
19 herein; and it appearing that the Motion Of The Plaintiffs To
20 Strike that designation of plaintiffs filed herein by the
21 defendants should be granted, and Good Cause Appearing Therefor,

22 NOW, THEREFORE, This Court Orders that the said "Designation
23 Of Plaintiffs In Compliance With The Court's Order Entered Herein
24 On September 27, 1948", which was filed herein by the defendants
25 on February 25, 1949, be stricken from the records and files
26 herein and the same hereby is stricken from the records and
27 files herein and the plaintiffs are directed to prepare and file
28 forthwith herein formal written findings of fact and conclusions
29 of law upon which the final order, judgment and decree of this
30 Court is to be made and entered herein in favor of each and
31 all of the plaintiffs and against the defendants, as prayed
32

1 for in their amended complaint on file herein.
2

3 Dated: March 23, 1949.
4

5 LOUIS E. GOODMAN
6

7 UNITED STATES DISTRICT JUDGE
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17 Receipt of a copy of the foregoing Order is hereby admitted
18 this ____ day of March, 1949.
19

20 TOM C. CLARK, Attorney General
21 FRANK J. HENNESSY, U. S. Attorney
22

23 By _____
24 Assistant U. S. Attorney
25 Attorneys for Defendants
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