

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

JUL 28 2009

JAMES N. HATTEN, Clerk
Deputy Clerk

WILLIAM M. WINDSOR,)
)
Plaintiff,)
)
v.)
)
UNITED STATES OF AMERICA,)
JUDGE ORINDA D. EVANS,)
HAWKINS & PARNELL, LLP,)
CARL HUGO ANDERSON,)
PHILLIPS LYTTLE, LLP,)
CHRISTOPHER M. GLYNN,)
TIMOTHY P. RUDDY,)
ROBERT J. SCHUL,)
JUDITH L. BERRY,)
MAID OF THE MIST)
CORPORATION,)
MAID OF THE MIST)
STEAMBOAT COMPANY, LTD.,)
SANDRA CARLSON,)
MARC W. BROWN,)
ARTHUR RUSS.)
AND DOES 1 TO 100,)
Defendants.)
_____)

CIVIL ACTION NO:

1:09-CV-2027

PLAINTIFF WILLIAM M. WINDSOR'S
MOTION TO RECUSE JUDGE WILLIAM S. DUFFEY

Comes Now Plaintiff William M. Windsor ("Windsor" or "Plaintiff"), and asks that Judge William S. Duffey ("Judge Duffey") be recused from the above

entitled matter under 28 U.S.C. SECTION 455 of the United State Code, Canons of the Code of Judicial Conduct, Rules of the State Bar of Georgia Code of Professional Conduct, all other relevant statutory and state and federal case law, as well as the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the Constitution of the State of Georgia, and the Court's inherent powers. Judge Duffey has a preconceived idea of this case from information that has come from outside the case. Judge Duffey has previously called the Plaintiff "scurrilous and irresponsible" when the Plaintiff was simply attempting to take the deposition of Judge Evans.

The Plaintiff has alleged that Judge Orinda D. Evans ("Judge Evans") has committed perjury and obstruction of justice. Judge Evans has included absolutely false information in two orders – information that she knew was false. Judge Evans has withheld evidence from the Plaintiff and Alcatraz. Judge Evans has demonstrated pervasive bias throughout the proceeding. Judge Evans has demonstrated a personal bias in favor of Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd (jointly "Maid") and a prejudice against the Plaintiff and Alcatraz. Judge Evans has not demonstrated the impartiality required of a judge. Windsor has filed a Complaint for Professional Misconduct against Judge Evans and other officers of the court in Civil Action 1:06-CV-0714-ODE

("MIST-1") pursuant to Local Rule 83.1C. Judge Duffey ignored all of this.

1. Windsor has filed a Motion to Recuse Judge Duffey in this Civil Action.

2. Exhibit A is an order signed by Judge Duffey against the Plaintiff in another Civil Action. Exhibit A is incorporated herein.

3. Exhibit B is a Motion for Reconsideration filed by Windsor in response to Judge Duffey's order. Exhibit B is incorporated herein.

4. Exhibit C is the Fifth declaration of William M. Windsor. Exhibit C is incorporated herein.

THIS MOTION IS PROCEDURALLY ADEQUATE.

5. The standard of review in asking a judge to recuse is defined by the Code of Judicial Conduct.

6. This Court must determine if the motion is procedurally adequate. This Motion to Recuse is procedurally adequate. The Motion alleges facts that warrant disqualification for cause pursuant to the statutes. This is a proper application for a change of judge, and Judge Duffey no longer has jurisdiction to proceed in the action in which his impartiality is questioned.

FAILURE TO FOLLOW PROPER PROCEDURE WILL CAUSE JUDGE DUFFEY TO BE ACTING IN ABSENCE OF JURISDICTION.

7. Failure to follow proper procedure will result in a violation of the Plaintiff's civil rights where Judge Duffey will be acting in the absence of all jurisdiction.

8. The Supreme Court has expressed that Judge Duffey may proceed no further in this case. "Upon the filing of an affidavit of a party to a case in the district court...averring the affiant's belief that the judge before whom the case is to be tried has a personal bias or prejudice against him, and stating facts and reasons, substantial in character and which, if true, fairly establish a mental attitude of the judge against the affiant which may prevent impartiality of judgment, it becomes the duty of the judge to retire from the case." *Berger v. United States*, 255 U. S. 22 (1921).

9. The Supreme Court adopted the federal procedure for dealing with the problem "that is, when a trial judge in a case pending in that court is presented' with a motion to recuse accompanied by an affidavit, the judge's duty will be limited to passing upon the legal sufficiency of the affidavit, and if, assuming all the facts alleged in the affidavit to be true, recusal would be warranted, then another judge must be assigned to hear the motion to recuse." *State v. Fleming*, 245 Ga. 700, 702 (267 SE2d 207) (1980). *Riggins v. The State*, (159 Ga. App. 791), (285 SE2d 579), (1981).

10. The burden placed on a new judge is nothing compared to the burden placed on the Plaintiff in the violation of his constitutional and civil rights and violation of the law if Judge Duffey again summarily dismisses motions.

**WINDSOR HAS ASSERTED VALID FACTUAL AND LEGAL GROUNDS
TO RECUSE JUDGE DUFFEY FROM THIS CASE.**

11. Windsor has articulated facts and legally cognizable grounds to disqualify Judge Duffey. A judge's refusal to recuse him or herself is reviewed under an abuse of discretion standard. *United States v. Greenough*, 782 F.2d 1556, 1558 (11th Cir. 1986). The standard "is an objective one, whether a reasonable person knowing all the facts would conclude that the judge's impartiality might reasonably be questioned." *Id.*

12. Georgia courts have defined "impartiality might reasonably be questioned" as a "reasonable perception, of a lack of impartiality by the judge, held by a fair minded and impartial person based upon objective fact or reasonable inference." *King v. State*, 246 Ga. 386 (1980).

13. Some cases say the bias of a judge must be the result of an opinion on the merits on some basis other than what the judge learned from his participation in the case. Judge Duffey has demonstrated bias before hearing anything about this case.

14. Windsor's motion for recusal is not based solely on Judge Duffey's prior rulings in this case because he has made no rulings.

THE IMPARTIALITY OF JUDGE DUFFEY MUST BE QUESTIONED.

15. In support of this Motion, the Plaintiff relies on Title 28 of the United States Code (the Judicial Code) that provides standards for judicial disqualification or recusal. Section 455, a federal judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." The same section also provides that a judge is disqualified "where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

16. An objective observer, lay observer, and/or disinterested observer must entertain significant doubt of the impartiality of Judge Duffey.

"A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned."

"Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality...to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified." [Emphasis added]. **Liteky v. U.S.**, 114 S.Ct. 1147, 1162 (1994).

"...an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the judge's impartiality". See **Parker v. Connors Steel Co.**, 855 F.2d 1510 (11th Cir.) (1988) citing **Potashnick v. Port City Const. Co.**, 609 F.2d 1101, 1111

(5th Cir.), cert. denied, 449 U.S. 820, 101 S.Ct. 78, 66 L.Ed. 2d 22 (1980).

"When a trial judge in a case pending in that court is presented with a motion to recuse accompanied by an affidavit, the judge's duty will be limited to passing upon the legal sufficiency of the affidavit, and if, assuming all the facts alleged in the affidavit to be true, recusal would be warranted, then another judge must be assigned to hear the motion to recuse." (Citation and punctuation omitted.) *State v. Davis*, 159 Ga. App. 537, 539 (3) (284 SE2d 51) (1981). Canon 3 C. (1) (a) of the Code of Judicial Conduct states: "Judges should disqualify themselves in proceedings in which their impartiality might reasonably be questioned, including but not limited to instance where: . . . the judge has a personal bias or prejudice concerning a party or a party's lawyer . . ." "We interpret the word 'should' to mean 'shall' in the context of this requirement." *Savage v. Savage*, 234 Ga. 853, 856 (218 SE2d 568) (1975). *Houston v. Cavanagh et al.*, (199 Ga. App. 387), (405 SE2d 105), (1991).

17. ANY doubt regarding whether recusal is required must be resolved in favor of recusal. Section 455 creates a "self-enforcing obligation" for judges to recuse themselves, and doubt regarding whether recusal is required must be resolved in favor of recusal. *Murray v. Scott*, 253 F.3d 1308, 1310 (11th Cir. 2001). Once one of the enumerated circumstances in § 455(b) is established, "there can be no dispute about the propriety of recusal," which is mandatory. *Patti*, 337 F.3d at 1321-22; *Murray*, 253 F.3d at 1312.

**TO AVOID THE APPEARANCE OF IMPROPRIETY,
JUDGE DUFFEY MUST BE RECUSED.**

18. "Canon 2 [of the Code of Conduct for United States Judges] tells judges to 'avoid impropriety and the appearance of impropriety in all activities,' on the bench and off." *United States v. Microsoft Corp.*, 346 U.S. App. D.C. 330, 253 F.3d 34, 107 (D.C. Cir. 2001). Pursuant to 28 U.S.C. § 455(a), "any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." "To disqualify a judge under § 455(a), the bias 'must stem from extrajudicial sources, unless the judge's acts demonstrate such pervasive bias and prejudice that it unfairly prejudices one of the parties.'" *United States v. Berger*, 375 F.3d 1223, 1227 (11th Cir. 2004) (quotation omitted).

JUDGE DUFFEY HAS DEMONSTRATED EXTRAJUDICIAL BIAS.

19. The bias of Judge Duffey stems from extrajudicial sources. He has demonstrated a bias against pro se parties and against anyone who would have the audacity to accuse a federal judge of wrongdoing.

**THE PLAINTIFF MUST ALSO ARGUE FOR EXTENDING,
MODIFYING, OR REVERSING EXISTING LAW
OR FOR ESTABLISHING NEW LAW.**

20. The Plaintiff must also argue for extending, modifying, or reversing existing law or for establishing new law. The whole idea of justice requires a fair

trial with an impartial judge. When the judge is so obviously biased that the judge ignores the facts, it really shouldn't matter where the bias comes from.

**THE STANDARD FOR REVIEW:
AN OBJECTIVE OBSERVER – A REASONABLE PERSON**

21. Under 28 U.S.C. § 455(a), the standard is whether an objective, fully informed lay observer would entertain significant doubt about the judge's impartiality." *Christo v. Padgett*, 223 F.3d 1324, 1333 (11th Cir. 2000), cert. denied, 531 U.S. 1191, 121 S. Ct. 1190, 149 L. Ed. 2d 106 (2001). In deciding whether a district judge should recuse himself under § 455(a), we consider whether "an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the judge's impartiality." *United States v. Patti*, 337 F.3d 1317, 1321 (11th Cir. 2003) (citation omitted). *Summers v. Singletary*, 119 F.3d 917, 920 (11th Cir. 1997). Recusal under Section 455(a) "should follow if the reasonable man, were he to know all the circumstances, would harbor doubts about the judge's impartiality." *United States v. Alabama*, 828 F.2d at 1541 (internal quotation marks omitted) (quoting *Potashnick v. Port City Constr. Co.*, 609 F.2d 1101, 1111 (5th Cir. 1980)).

22. If we apply the reasonable person analysis to this situation, any reasonable person would question the impartiality of Judge Duffey.

23. "The general rule is that bias sufficient to disqualify a judge must stem from extrajudicial sources." *Hamm v. Board of Regents*, 708 F.2d 647, 651 (11th Cir. 1983). The exception to this rule is "when a judge's remarks in a judicial context demonstrate such pervasive bias and prejudice that it constitutes bias against a party." *Id.*

24. "To disqualify a judge under § 455(a), the bias "must stem from extrajudicial sources, unless the judge's acts demonstrate such pervasive bias and prejudice that it unfairly prejudices one of the parties." *Bailey*, 175 F.3d at 968 (internal quotation marks omitted). *United States v. Ramos*, 933 F.2d 968, 973 (11th Cir.1991).

25. The actions of Judge Duffey displayed deep-seated and unequivocal antagonism that would render fair judgment impossible. *Liteky v. United States*, 510 U.S. 540, 556, 114 S. Ct. 1147, 1158, 127 L. Ed. 2d 474 (1994).

26. The bias comes from sources "extrajudicial" to this Civil Action. Judge Duffey enters this Civil Action with an established bias against the Plaintiff.

27. After being presented with a motion for recusal under USCR 25.1, the trial judge has the duty to determine whether, assuming the truth of the facts alleged, a reasonable person might conclude that the judge harbors bias, stemming from an extrajudicial source, which is of a nature and intensity as would interfere

with the exercise of impartial judgment. *Wellons v. State*, 266 Ga 77, 88 (18) (463 SE2d 868) (1995). If the affidavit is found to be sufficient, then the matter is referred to another judge for a hearing. See USCR 25.3; *State v. Fleming*, 245 Ga. 700 (267 SE2d 207) (1980). USCR 25.2 requires that the affidavit "state the facts and reasons for the belief that bias or prejudice exists, being definite and specific as to time, place, persons and circumstances of extra-judicial conduct or statements . . . which would influence the judge and impede or prevent impartiality in that action. Allegations consisting of bare conclusions and opinions shall not be legally sufficient to support the motion or warrant further proceedings."

28. The Motion to Recuse Judge Duffey and this Affidavit show grounds for recusal of Judge Duffey who has behaved in a manner inconsistent with that which is needed for a full, fair, impartial decision.

**JUDGE DUFFEY ESTABLISHED A FIXED VIEW
ABOUT SUBSTANTIVE PENDING TRIAL MATTERS.**

29. Judge Duffey has established a fixed view about substantive pending trial matters.

30. Judge Duffey has established a position prior to this proceeding that the Plaintiff is wrong and that his case does not matter.

31. Judge Duffey has indicated to the Plaintiff that he is biased against pro se parties and against anyone who would have the audacity of accusing a federal judge of wrongdoing.

See, Inre Murchison, 349 U.S. 133, 136, 755 S.Ct. 623, 99 L.Ed. 942 (1955); *Liljeberg v. Health Services. Acquisition Corp.*, 486 U.S. 847, 869-70 (1988); *Rice v. McKenzie*, 581 F.2d 1114, 1116-17 (4th Cir. 1978); *accord Withrow v. Larkin*, 421 U.S. 35, 47 (1975).

"The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law."

The above is applicable to this court by application of Article VI of the United States Constitution and *Stone v Powell*, 428 US 465, 483 n. 35, 96 S. Ct. 3037, 49 L. Ed. 2d 1067 (1976).

32. The United States Constitution guarantees an unbiased Judge who will always provide litigants with full protection of ALL RIGHTS. Therefore, the Plaintiff respectfully demands that Judge Duffey recuse himself in light of the evidence that gives the Plaintiff good reason to believe that Judge Duffey cannot hear this case in a fair and impartial manner.

33. Judge Evans ignored lies, perjury, false sworn pleadings, false statements of fact, and Rule 11 violations in the hundreds by Maid in Civil Action No. 1:06-CV-0714-ODE ("MIST-1").

34. The abuse of the legal system, Windsor, and Alcatraz in the original civil action is staggering.

35. These violations were presented to Judge Duffey in motions and affidavits. Judge Duffey did nothing. How can a judge hear that a party has lied hundreds of times and do nothing? How can a judge hear that another judge has had as many as 200 false statements in orders granting preliminary injunction and summary judgment? This is wrong.

36. The Plaintiff believes that Judge Duffey will violate the Plaintiff's civil and constitutional rights under color of law and will deny due process.

“The Due Process Clause serves two purposes...One is to produce, through the use of fair procedures to prevent the wrongful deprivation of interests; ...the other is a guarantee of basic fairness, i.e.: to make people feel that they have been treated fairly.”

“[t]rial before an ‘unbiased judge’ is essential to due process.” *Johnson v. Mississippi*, 403 U.S. 212, 216 (1971); accord *Concrete Pipe & Prods. V. Constr. Laborers Pension Trust*, 508 U.S. 602, 617 (1993) “due process requires a neutral and detached judge in the first instance.” (citation omitted)

“justice must give the appearance of justice” *Levine v. United States*, 362 U.S. 610, 80 S.Ct. 1038 (1960), citing *Offutt v. United States*, 348 U.S. 11, 14, 75 S. Ct. 11, 13 (1954).

See *Mathews v. Eldridge*, 424 U.S. 319, 344 (1976)..., by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him.”

“even if there is now showing of actual bias”, “due process is denied by circumstances that create the likelihood or the appearance of bias” *Peters v. Kiff*, 407, U.S. 493, 502 (1972)

37. The Plaintiff has just cause to believe that the the Plaintiff cannot have a fair trial due to issues alleged.

38. The system used by the United States District Court for the Northern District of Georgia in assigning pro se cases to only Judge Duffey is unfair and is a violation of the Civil and Constitutional rights of the Plaintiff. The purposes in rotating assignment of judges is to spread the cases around, make it impossible for attorneys to pick a judge, and provide impartiality. This system forces the pro se Plaintiff to go before biased Judge Duffey on every action that he files.

39. The due process clauses of both the Georgia and the United States Constitutions guarantee a party an impartial and disinterested tribunal in civil cases. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242, 100 S.Ct. 1610, 1613 (1980).

[Dec #50 ¶62.]

STANDARD OF REVIEW

40. The standard of review in asking a judge to recuse is defined by Canon 3(C) which states: [Dec #50 ¶65.]

"A judge should recuse in a proceeding in which the judges impartiality might reasonably be questioned..." This includes when a judge has

"displayed deep-seated and unequivocal antagonism that would render fair judgment impossible." The test under the canon is whether a reasonable person would have a factual basis to doubt the judge's impartiality. It is vital to public confidence in the legal system that decisions of the court are not only fair, but also appear fair. The standard of review should be liberal construction in favor of the right to disqualify. Thus, whether the disqualification of a judge hinges on a statute or on a rule, the Court should adhere to the liberal construction of that statute or rule in favor of the right to disqualify. A liberal construction is necessary if we wish to promote and maintain public confidence in the judicial system.

41. In addition, the Code of Judicial Conduct provides that:

"...judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances" specified in the rule. Thus, the canon is broader than the statute. First, the four subparagraphs of Rule 2, Canon 3C(1), which set forth the circumstances for disqualification, are a clear directive to disqualify. *Berry*, 654 S.W.2d at 163 (Dixon, J., concurring). When one of these causes to recuse appears, a judge must do so. *Id.* Moreover, the phrase, "including but not limited," signifies that a judge's duty to disqualify is not confined to the factors listed in the subparagraphs, but is much broader. Second, Rule 2, Canon 3C(1) commands the disqualification of a judge if "his impartiality might reasonably be questioned." See *Grant v. State*, 700 S.W.2d 170, 171 (Mo. App. 1985). Thus, under the canon, the test is not whether actual bias and prejudice exist, but whether a reasonable person would have factual grounds to doubt the impartiality of the court. *Berry*, 654 S.W.2d at 164 (Dixon, J., concurring). If, on the record, a reasonable person would find an appearance of impropriety, the canon compels recusal. *Id.*

The question is not whether the judge is impartial in fact. It is simply whether another, not knowing whether or not the judge is actually impartial, might reasonably question his impartiality on the basis of all the circumstances.

When a party seeks to disqualify a judge for cause, the judge should adhere to the following procedures. First, the challenged judge should determine if the motion is procedurally adequate. Next, the judge should determine whether the petition is substantively adequate: Does the petition allege facts which warrant disqualification for cause pursuant to the statutes? If the motion is procedurally and substantively sufficient, the judge is faced with two options: either to grant the motion; or, if the facts in the motion are to be controverted, to hold a hearing on the record, whether requested or not, to determine the disqualification issue. If the challenged judge is to testify, the hearing must be held before another judge. These minimal procedures are necessary because, in the face of a proper application for a change of judge because the judge lacks jurisdiction to proceed in the action in which his impartiality is questioned. [Dec #50 ¶66.]

42. The Plaintiff contends that the average reasonable person, knowing all the facts, would easily conclude that Judge Duffey's impartiality could be questioned. The Plaintiff contends that any reasonable person would conclude that Judge Duffey cannot possibly give the Plaintiff a fair and impartial hearing and that he should be removed and replaced by an impartial judge.

("The probability of actual bias on the part of the judge . . . is too high to be constitutionally tolerable"); *Berger v. United States*, 255 U.S. 22, 33-34 (1921); *Potashnick v. Port City Constr. Co.*, 609 F.2d 1101, 1111 (5th Cir. 1980) ("Any question of a judge's impartiality threatens the purity of the judicial process and its institutions"); *King v. State*, 246 Ga. 386, 389-90, 271 S.E.2d 630 (1980); *Hall v. Small Bus. Admin.*, 695 F.2d 175, 179 (5th Cir. 1983) (disqualification of a judge required "if a reasonable person, knowing all the circumstances, would harbor doubts about his impartiality"); *United States v. Columbia Broad. Sys., Inc.*, 497 F.2d 107, 109 (5th Cir. 1974) ("The protection of the integrity and dignity of the judicial process from any hint or appearance of bias is the palladium of our judicial system"); *Stephens v. Stephens*, 249 Ga. 700, 702, 292 S.E.2d 689, 691 (1982). ("All parties before the court have the right to an impartial judicial officer.);

Isaacs v. State, 257 Ga. 126, 127, 355 S.E.2d 644 (1987) (“The fact that a judge’s impartiality might reasonably be questioned is sufficient for disqualification.”; a judge may not be so personally involved in a controversy “that his objectivity could reasonably be questioned.”).

43. Judge Duffey has demonstrated prejudice against the Plaintiff and must be removed from this case.

44. The support for this Motion is provided in the Docket in this Civil Action 1:09-CV-2027 I(“MIST-1”); all motions and affidavits are referenced herein and made a part of this affidavit as if attached hereto. The support for this Motion is also provided in Docket 1:06-CV-0714-ODE, including the Motion to Strike filed [Evans Docket #456], the Reply to the Response to the Motion for Sanctions on Christopher Glynn [Evans Docket #442], the Reply to the Response to the Motion for Sanctions on Timothy P. Ruddy [Evans Docket #444], the Reply to the Response to the Motion for Sanctions on Robert J. Schul [Evans Docket #448], the Reply to the Response to the Motion for Hearing on the Motion for Sanctions on Christopher Glynn [Evans Docket #441], the Reply to the Response to the Motion for Hearing on the Motion for Sanctions on Timothy P. Ruddy [Evans Docket #445], the Reply to the Response to the Motion for Hearing on the Motion for Sanctions on Robert J. Schul [Evans Docket #450], the Reply to the Response to the Motion to Compel [Evans Docket #452], the Motion to Reopen Case [Evans Docket #362 and 366], the Motion to Recuse Judge Evans

[Evans Docket #367], the Second Motion to Recuse Judge Evans filed June 4, 2009 [Evans Docket #406], the Motion for Sanctions under Rule 11 [Evans Docket #364], the Motion for Sanctions under Rule 37 [Evans Docket #363], the Motion for Sanctions against Christopher Glynn and Plaintiffs for Perjury and to Set Aside the Judgment and Orders [Evans Docket #393], the Motion for Sanctions against Timothy P. Ruddy and Plaintiffs for Perjury and to Set Aside the Judgment and Orders [Evans Docket #396], the Motion for Sanctions against Robert J. Schul and Plaintiffs for Perjury and to Set Aside the Judgment and Orders [Evans Docket #400], the Motion to Compel [Evans Docket #404], Motion to Disqualify [Evans Docket #412], and the First (“Dec #1”), Second (“Dec #2”), Third (“Dec #3”), Third Amended (“Amended Dec #3”), Fourth (“Dec #4”), Fifth (“Dec #5”), Sixth (“Dec #6”), Seventh (“Dec #7”), Eighth (“Dec #8”), Ninth (“Dec #9”), Tenth (“Dec #10”), Eleventh (“Dec #11”), and Twelfth (“Dec #12”), Fourteenth (“Dec #14”), Fifteenth (“Dec #15”), Sixteenth (“Dec #16”), Seventeenth (“Dec #24”), Eighteenth (“Dec #18”), Nineteenth (“Dec #19”), Twentieth (“Dec #20”), Twenty-First (“Dec #21”), Twenty-Second (“Dec #22”), Twenty-Third (“Dec #23”), Twenty-Fourth (“Dec #24”), Twenty-Fifth (“Dec #25”), Twenty-Sixth (“Dec #26”), Thirty-Sixth (“Dec #36”), Thirty-Eighth (“Dec #38”), Thirty-Ninth (“Dec #39”), Fortieth (“Dec #40”), Forty-First

("Dec #41"), Forty-Second ("Dec #42"), Forty-Third ("Dec #43"), Forty-Fourth ("Dec #44"), Forty-Fifth ("Dec #45"), Forty-Sixth ("Dec #46"), Forty-Eighth ("Dec #48"), Forty-Ninth ("Dec #49"), AND Fiftieth ("Dec #50") Declarations of William M. Windsor and the exhibits thereto and citations therein, and any and all other Declarations filed or to be filed by Windsor in that Civil Action. Support for this Motion is also provided in Civil Action 1:09-CV-1543-WSD-WEJ in the Motion for Change of Venue filed on July 10, 2009, the Motion for Reconsideration of Order and Opinion and Judgment to Dismiss Action filed on July 10, 2009, the Emergency Motion for Hearing [Duffey Docket #6], Motion to Disqualify [Duffey Docket #9], the Motion for Hearing [Duffey Docket #11], the Emergency Motion for Conference [Duffey Docket #13], the Motion for Reconsideration or Revision of Order Staying Case [Duffey Docket #15], the Motion to Disqualify Judge Evans [Duffey Docket #17], the Motion for Hearing [Duffey Docket #20], the response to the Emergency Motion to Quash [Duffey Docket #21], the Response to the Motion to Supplement [Duffey Docket #24], as well as the Twenty-Seventh ("Dec #27"), Twenty-Eighth ("Dec #28"), Twenty-Ninth ("Dec #29"), Thirtieth ("Dec #30"), Thirty-First ("Dec #31"), Thirty-Second ("Dec #32"), Thirty-Third ("Dec #33"), Thirty-Fourth ("Dec #34"), Thirty-Fifth ("Dec #35"), Thirty-Seventh ("Dec #37"), and Forty-Sixth ("Dec

#46”) Declarations of William M. Windsor and the exhibits thereto and citations therein filed in this Court. The foregoing Motions and Declarations are incorporated herein by reference and should be considered as if attached to this Motion. The Fifth Affidavit of William M. Windsor (“Aff #5”) is attached hereto as Exhibit C.

WHEREFORE, having now filed this Motion and sworn declarations, Plaintiff Windsor respectfully requests as follows:

- (1) that the presiding judge of this administrative judicial district assign another judge to this case or refer this Motion to the presiding judge of this administrative district for a hearing;
- (2) that the Court grant PLAINTIFF WILLIAM M. WINDSOR’S MOTION TO RECUSE JUDGE WILLIAM S. DUFFEY;
- (3) that the Court issue an order recusing Judge Duffey;
- (4) that the Court grant such other and further relief as justice requires in association with this Motion.

Respectfully submitted, this 28th day of July 2009.



William M. Windsor
Pro Se

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

WILLIAM M. WINDSOR,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO:
)	
UNITED STATES OF AMERICA,)	1:09-CV-2027
JUDGE ORINDA D. EVANS,)	
HAWKINS & PARNELL, LLP,)	
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MARC W. BROWN,)	
ARTHUR RUSS.)	
AND DOES 1 TO 100,)	
Defendants.)	
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CERTIFICATE OF COMPLIANCE

As required by Local Rule 7.1D, N.D. Ga., I hereby certify that this pleading has been prepared in Times New Roman 14-point font, one of the font and point selections approved by this Court in Local Rule 5.1B, N.D. Ga.

William M. Windsor

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

WILLIAM M. WINDSOR,)
)
 Plaintiff,)
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 v.)
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 UNITED STATES OF AMERICA,)
 JUDGE ORINDA D. EVANS,)
 HAWKINS & PARNELL, LLP,)
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 MARC W. BROWN,)
 ARTHUR RUSS.)
 AND DOES 1 TO 100,)
 Defendants.)
 _____)

CIVIL ACTION NO:

1:09-CV-2027

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of July 2009 I served **PLAINTIFF
WILLIAM M. WINDSOR'S MOTION TO RECUSE JUDGE WILLIAM S.
DUFFEY** by hand delivery addressed to the following:

Mr. Jack Sidley
Managing Partner
HAWKINS & PARNELL, LLP
4000 Suntrust Plaza
303 Peachtree Street
Atlanta, Georgia 30308
Telephone: 404-614-7400
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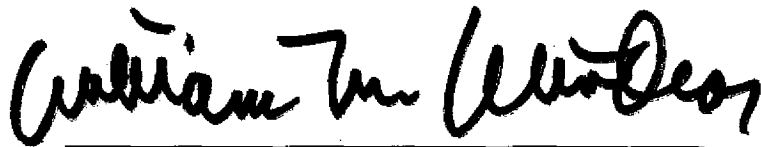
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