APPENDIX 1

Decisions of the District Court

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE
ANNE K BLOCK,
Plaintiff,
v.
WASHINGTON STATE BAR
ASSOCIATION, et al.,
Defendants.

CASE NO. C15-2018 RSM

ORDER ON MOTION TO
DISQUALIFY ALL WASHINGTON
STATE BAR ASSOCIATION
MEMBERS FROM HEARING THIS
CASE

I. INTRODUCTION

THIS MATTER comes before the Court on Plaintiff's Motion to Disqualify All Washington State Bar Association Members from Hearing This Case Including But Not Limted [sic] to Judge Ricardo Martinez Citing 9th Circuit Precedent. Dkt. #9. Defendants Snohomish County, et al. have opposed the motion, joined by a number of other Defendants. Dkts. #12, #13 and #15. For the reasons set forth herein, the Court now DENIES Plaintiff's motion.

II. DISCUSSION

Plaintiff has filed a Complaint alleging a widespread

conspiracy to deprive her of her constitutional rights, motivated by a desire to stop her from uncovering and reporting on malfeasance and corruption at many levels of government, including the Washington State Bar Association ("WSBA"). Dkts. #1 and #19. It is part of the legal theory of her case that all judges in the State of Washington, by virtue of their membership in the WSBA, "have an inherent conflict of interest that prevents them from hearing this case." Dkt. #19 at 24, ¶ 3.1.

Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in any proceeding in which his impartiality "might reasonably be questioned." Federal judges also shall disqualify themselves in circumstances where they have a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28 U.S.C. § 455(b)(1).

Under both 28 U.S.C. §144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate if "a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir.1993). This is an objective inquiry concerned with whether there is the appearance of bias, not whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir.1992); *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir.1980). In *Liteky v. United States*, 510 U.S. 540 (1994), the United States Supreme Court further explained the narrow basis for recusal: [J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion. . . . [O]pinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not

constitute a basis for a bias or partiality motion unless they display a deep seated favoritism or antagonism that would make fair judgment impossible. Thus, judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge. *Id.* at 555.

In the instant motion, Plaintiff fails to even allege that any behavior by the Court during the (brief) course of this case has demonstrated bias towards her. She argues that this Court's membership in the WSBA, coupled with other historical factual allegations (which will be addressed below), is sufficient to demonstrate the requisite conflict of interest. The Court disagrees. Simple joinder of a bar association in a party's complaint "does not require recusal of judges who are members of that bar association." *Denardo v. Municipality of Anchorage*, 974 F.2d 1200, 1201 (9th Cir. 1992) (citing *Pilla v. American Bar Assoc.*, 542 F.2d 56, 57-58 (8th Cir. 1976). There are a string of cases holding that just belonging to a bar association is not the kind of relationship which gives rise to a reasonable doubt about a judge's ability to preside impartially over a case in which the bar association is a party.[1] In fact, it is unreasonable to assume that a judge's membership in a state bar association in any way foretells the kind of "deep-seated favoritism or antagonism" that requires recusal. *See King v.*

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[1] *See Hu v. American Bar Assoc.*, 334 F.Appx 17, 19 (7th Cir. 2009) (citing *Hirsh v. Justices of the Sup. Ct. of Cal.*, 67 F.3d 708, 715 (9th Cir. 1995)); *In re City of Houston*, 745 F.2d 925, 930 n.8 (5th Cir. 1984); *Plechner v. Widener College, Inc.*, 569 F.2d 1250, 1262 n.7 (3rd Cir. 1977); *also Parrish v. Bd. Of Comm'rs of Alabama State Bar*, 527 F.2d 98, 104 (5th Cir. 1975).

Kansas, No. 09-4117- JAR, 2009 WL 2912475, at *1 (D. Kan. Sept. 9, 2009). Importantly, none of Plaintiff's factual allegations demonstrate "a personal bias against [her] or in favor of any adverse party." Her allegation that the Court is "a personal friend to WSBA Defendant in this case, Doug Ende," is not true. The fact that Mr. Ende and the Court served on a CLE workshop panel in September 2014 (the only fact she cites in support of this allegation; *see* Dkt. #9, Ex. A) is proof of nothing more than that the two men were in the same room at a point in time. Plaintiff produces no other evidence of any kind of personal relationship with Mr. Ende, or how that would demonstrate bias against her.

Plaintiff further cites the undersigned Judge's involvement on the Board of the Washington Leadership Institute, a joint effort of the University of Washington School of Law and the WSBA to solicit greater participation by underrepresented portions of the legal community. *See* Dkt. #9, Ex. B. She characterizes this activity as "active member[ship] of a WSBA Board," but presents no evidence of a relationship between the Leadership Institute and the WSBA that would lend itself to reasonable assumptions of bias, nor any legal authority that simply serving on the board of an organization co-founded by a state bar association is sufficient to constitute *per se* prejudice.

Finally, Plaintiff cites the fact that the undersigned Judge formerly served as a King County Superior Court judge. What she fails to do is to present any evidence of how a prior term as a state judge constitutes proof of bias against her or in favor of the WSBA (or even gives rise to a reasonable question that bias might be present) or any legal authority previously holding this to be the case. Although Plaintiff

claims to provide "binding" Ninth Circuit precedent that "anytime the WSBA is a defendant, since all Washington State judges are mandated to hold WSBA licenses, all WSBA members must remove themselves from these cases," Dkt. #9 at 4, a closer examination of her legal authority reveals no such mandatory language. Indeed, in support of her assertion that "[t]he Ninth circuit (*sic*) held as members of the Washington State Bar Association, could become liable for its wrongdoing, and therefore are indirect defendants in the case" Plaintiff cites the case of *Riss v. Angel*, 131 Wn.2d 612 (1997). The case is neither on point (involving the denial of a building application to a nonprofit unincorporated homeowners association) nor is it from the Ninth Circuit. It is inapplicable to this issue.

Plaintiff also points to three prior instances in this District where judges from outside the district were brought in on local cases, but none of the cases involved appellate opinions by the Ninth Circuit related to issues of prejudice based on WSBA membership. The appointment orders concerning those cases[2] do not discuss judicial membership in WSBA, do not discuss the existence of a conflict of interest and do not stand for the propositions asserted by Plaintiff.

Other than the mere fact that an outside judge was brought in, Plaintiff points to no holding that mere judicial membership in the WSBA creates a potentially disqualifying conflict. This Court finds that there is none.

III. CONCLUSION

Plaintiff has presented neither factual nor legal evidence justifying her request that this Court recuse itself, and the Court declines to do so. In conformity with LCR 3(e), the Chief Judge refers any order in which he or she has declined to recuse to "the active judge with the highest

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