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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Victor Antonio Parsons, et al.,

No. CV-12-0601-PHX-DKD

10 Plaintiffs,

11 v.

ORDER

12 Charles L. Ryan, et al.,

13 Defendants.
14

15 Amid Defendants' continuing failure to meet many of the requirements of the
16 Stipulation, Defendants devote energy and time to an effort to remove the judge they
17 chose to hold their feet to the fire. This is a meritless distraction. The Court has
18 considered the Motion to Disqualify Magistrate Judge Duncan from All Further
19 Proceedings (including Defendants' supplemental filing), Plaintiffs' Response and
20 Defendants' Reply, as well as Defendants' Motion for Chief Judge to Rule on
21 Defendants' Motion to Disqualify Magistrate Judge Duncan from All Further
22 Proceedings and the Response and Reply thereto.

23 It is widely recognized that except in the most extreme case, "bias or prejudice"
24 "acquired in the course of the proceedings" is not a basis for disqualification. *United*
25 *States v. Martin*, 278 F.3d 988, 1005 (9th Cir. 2002) (quoting *Liteky v. United States*, 510
26 U.S. 540, 551, 114 S.Ct. 1147, 1155 (1994)). The record here demonstrates only a
27 judge's increasing frustration with Defendants' three-year failure to deliver the healthcare
28 they promised when they settled this case. Sometimes the Court's fire is necessarily hot

1 and it must surely continue to grow warmer with each failed promise and false
2 representation of a path to compliance. Moreover, the record shows that the Court took
3 no action based upon any extrajudicial source of information other than to set evidentiary
4 hearings where all sides could be heard.

5 Accordingly, **IT IS ORDERED DENYING** the Motion to Disqualify Magistrate
6 Judge Duncan from All Further Proceedings (Doc. 2641).

7 **IT IS FURTHER ORDERED DENYING** the Motion for Chief Judge to Rule on
8 Defendants' Motion to Disqualify Magistrate Judge Duncan from All Further
9 Proceedings (Doc. 2693).

10 **IT IS FURTHER ORDERED DENYING** Motion for Leave for Ethics Bureau at
11 Yale to File Brief of *Amicus Curiae* in Opposition to Defendants' Motion to Disqualify
12 Judge Duncan from All Further Proceedings (Doc. 2729). While the Court appreciates
13 the willingness of law students to devote their efforts to matters they believe will assist
14 the Court, the proposed *amicus* brief would not assist the Court in addressing the matter
15 at hand.

16 Dated this 2nd day of May, 2018.

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David K. Duncan
United States Magistrate Judge