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**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

CARL L. JIMENA,)	NO. 1:07-CV-00367 OWW SKO
)	
Plaintiff,)	ORDER RE PLAINTIFF'S
)	MOTION AND MEMORANDUM TO
v.)	DISQUALIFY JUDGE OLIVER W.
)	WANGER
UBS AG (ZURICH, SWITZERLAND)	
HEADQUARTERS), et al.,)	
)	
Defendants.)	

On June 15, 2010, Plaintiff filed a Motion and Memorandum to Disqualify Judge Oliver W. Wanger from proceeding further in the above-entitled case pursuant to 28 U.S.C. §144 and 28 U.S.C. §455(a) and (b). In his motion, Plaintiff sets forth thirteen specific factual allegations of bias, prejudice or partiality. Plaintiff has noticed the motion to be heard before this judge, as the chief judge of the district, for July 15, 2010, at 10:00 a.m.

Plaintiff has cited to no statutory or case authority, and the court is aware of none, for the proposition that a motion to disqualify the judge before whom a matter is pending shall be heard by the chief judge of the district. Any motion to disqualify a judge is to be filed directly with the judge before whom the matter is pending. 28 U.S.C. §455(a) and (b) set forth the circumstances in which a judge shall “disqualify himself.” Any allegation of judicial conduct prejudicial to the effective and expeditious administration of the business of the courts is to be filed with the clerk of the court of appeals for the circuit pursuant to 28 U.S.C. §351.

1 Because Plaintiff has incorrectly filed his motion before this judge, as the chief judge of
2 the district, Plaintiff's motion will be denied without prejudice.

3 The court makes no ruling regarding the timeliness of Plaintiff's motion under 28 U.S.C.
4 §144, noting that Plaintiff alleges specific facts of bias, prejudice or partiality dating back to a
5 Memorandum Decision and Order filed on June 8, 2007. (Doc. 18)

6 THEREFORE, IT IS THE ORDER OF THE COURT that

7 1. Plaintiff's Motion and Memorandum to Disqualify Judge Oliver W. Wanger to be
8 heard before this judge, as the chief judge of the district, is DENIED without prejudice.

9 2. The hearing of this motion, noticed by Plaintiff for July 15, 2010, at 10:00 a.m.
10 before this judge, as the chief judge of the district, is VACATED.

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12 IT IS SO ORDERED.

13 Dated: June 17, 2010

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16 CHIEF UNITED STATES DISTRICT JUDGE
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