

1  
2  
3  
4  
5  
6  
7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10

11 In re

No. C 11-03630 CRB

12 REGULO SIERRA,

**ORDER DENYING MOTION TO  
REASSIGN**

13 Appellant,

14 v.

15 JANINA M. HOSKINS, Chapter 11 Trustee  
16 in Bankruptcy,

17 Appellee.  
\_\_\_\_\_ /

18 On August 19, 2011, Appellant filed a one-page “Petition by Appellant to assign a  
19 [sic] another Judge to the case” (“Motion”). There are two means for disqualifying a district  
20 judge, either pursuant to 28 U.S.C. § 144 or 28 U.S.C. § 455. Since Appellant did not file an  
21 affidavit attesting to actual personal bias against him or in favor of another party as required  
22 by 28 U.S.C. § 144, the Court assumes the Motion is pursuant to § 455.


23 Under § 455(a), recusal may be had where the judge’s impartiality may reasonably be  
24 questioned or under § 455(b) where the judge “knows that he . . . has [an] interest that could  
25 be substantially affected by the outcome of the proceeding.” 28 U.S.C. § 455(b)(4).

26 Here Appellant identified two potential grounds for disqualification in his motion: (1)  
27 a conflict of interest; and (2) prejudice due to other appeals in the Sophie Ng bankruptcy  
28 case. First, Appellant provides no explanation or allegations to support a conflict of interest.  
He was not a party in other appeals in the Sophie Ng case, nor does he state he has a vested

1 interest in those actions. Second, adverse rulings in the prior appeals “do not constitute the  
2 requisite bias or prejudice” to support disqualification. United States v. Azhocar, 581 F.2d  
3 735, 739 (9th Cir. 1978); see also Berger v. United States, 255 U.S. 22, 34 (1921). As  
4 Appellant fails to identify any grounds for disqualification, nor does the Court discern any  
5 such grounds, the Motion is DENIED.

6 **IT IS SO ORDERED.**

7  
8  
9 Dated: September 8, 2011

  
\_\_\_\_\_  
CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE