

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN JOSE DIVISION

4 IN RE:  
5 FAREED SEPEHRY-FARD,  
6 Debtor.  
7  
8  
9  
10 FAREED SEPEHRY-FARD,  
11 Plaintiff,  
12 v.  
13 SELECT PORTFOLIO SERVICING INC.,  
14 Defendant.

Case No. [5:16-mc-80109-EJD](#)

**ORDER DENYING “MOTION TO RECUSE;” DENYING “ADMINISTRATIVE MOTION TO VACATE VOID ORDER;” DENYING “REQUEST FOR MANDATORY JUDICIAL NOTICE”**

Re: Dkt. Nos. 3, 4, 5

15 Debtor and Appellant Fared Sepehry-Fard (“Debtor”) sought to proceed in forma pauperis  
16 with respect to an appeal from an order issued by the United States Bankruptcy Court. Debtor  
17 filed a motion under 28 U.S.C. § 1915(a) in the United States Bankruptcy Appellate Panel for the  
18 Ninth Circuit, which transferred the motion to this court. The matter was then referred to the  
19 undersigned for general duty review, as was denied. Dkt. No. 2.

20 Now before the court are: (1) a document entitled “Debtor’s Motion to Recuse - Bias or  
21 Prejudice,” (2) another document entitled “Administrative Motion to Vacate Void Order,” and (3)  
22 a document entitled “Plaintiff’s Request for Mandatory Judicial Notice.” Dkt. Nos. 3, 4, 5. These  
23 matters are nearly identical to documents that Debtor filed in another case<sup>1</sup> and, like those, are  
24 suitable for decision without a hearing. Having reviewed them, the court finds, concludes and  
25 orders in the same manner it did previously:

26  
27 <sup>1</sup> The other case is Sepehry-Fard v. Select Portfolio Servicing, Inc., Case No. 5:16-mc-80112-EJD.

1           1.       The “Motion to Recuse” appears to arise under 28 U.S.C. § 455. According to that  
2 statute, a district judge has a duty to disqualify himself “in any proceeding in which his  
3 impartiality might reasonably be questioned” or where “he has a personal bias or prejudice  
4 concerning a party, or personal knowledge of disputed evidentiary facts concerning the  
5 proceeding.” 28 U.S.C. § 455(a), (b)(1).

6           2.       Notably, the standard employed to determine whether recusal is appropriate under §  
7 455 is an objective one. Clemens v. United States Dist. Ct., 428 F.3d 1175, 1178 (9th Cir. 2005).  
8 It asks “whether a reasonable person with knowledge of all the facts would conclude that the  
9 judge’s impartiality might reasonably be questioned.” Herrington v. Cnty. of Sonoma, 834 F.2d  
10 1488, 1502 (9th Cir. 1988) (quoting United States v. Nelson, 718 F.2d 315, 321 (9th Cir. 1983)).  
11 “The ‘reasonable person’ in this context means a ‘well-informed, thoughtful observer,’ as opposed  
12 to a ‘hypersensitive or unduly suspicious person.’” Clemens, 428 F.3d at 1178 (citing In re  
13 Mason, 916 F.2d 384, 386 (7th Cir. 1990).

14           3.       “Since a federal judge is presumed to be impartial, the party seeking  
15 disqualification bears a substantial burden to show that the judge is biased.” Torres v. Chrysler  
16 Fin. Co., No. C 07-00915 JW, 2007 U.S. Dist. LEXIS 83154, at \*4, 2007 WL 3165665 (N.D. Cal.  
17 Oct. 25, 2007) (citing Reiffin v. Microsoft Corp., 158 F. Supp. 2d 1016, 1021-22 (N.D. Cal.  
18 2001)). Indeed, “[f]ederal judges are obligated not to recuse themselves where there is no reason  
19 to question their impartiality.” New York City Housing Develop. Corp. v. Hart, 796 F.2d 976,  
20 980 (7th Cir. 1986).

21           4.       As the court understands it, Debtor’s motion is based on three primary allegations.  
22 First, he asserts the undersigned was “bribed” and was disqualified from determining whether his  
23 proposed action was barred by the pre-filing order because of some purported partnership or  
24 conspiracy with Judge Lucy H. Koh “to aid and abet Defendants/pretender lenders/alleged  
25 creditors to continue to steal monies and properties from Debtor.” This speculative allegation is  
26 not sufficient to justify recusal under § 455. See Clemens, 428 F.3d at 1178-79 (holding that

1 “[r]umor, speculation, beliefs, conclusions, innuendo, suspicion, opinion, and similar non-factual  
2 matters” are not ordinarily sufficient to require a § 455 recusal). Nor is the fact that Debtor  
3 attempted to sue another judge of this court. See id. (holding that recusal is not required because  
4 of “mere familiarity with the defendant(s)”).

5 5. Similarly, Debtor cannot seek the undersigned’s recusal based on rulings made in  
6 prior actions involving Debtor. To be sure, “[b]ias under 28 U.S.C. § 455 must derive from  
7 extrajudicial sources.” Herrington, 834 F.2d at 1502; accord Liteky v. United States, 510 U.S.  
8 540, 555 (1994) (holding that judicial rulings alone are not a valid basis for a recusal motion as  
9 they do not establish reliance on an extrajudicial source).

10 6. Furthermore, there is no legal basis for Debtor’s theory that the undersigned “gave  
11 tacit agreement” of a “lifetime bar” from presiding over cases involving Debtor. Instead,  
12 “[d]isqualification is case-specific; the statute does not put a whole subject matter out of bounds to  
13 a judge with no concrete investment in a particular dispute.” Guardian Pipeline, L.L.C. v. 950.80  
14 Acres of Land, 525 F.3d 554, 557 (7th Cir. 2008).

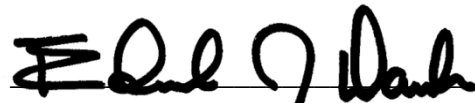
15 Thus, for the reasons explained, the “Motion to Recuse” is DENIED. The “Administrative  
16 Motion to Vacate” is also DENIED because it is based on the same disqualification theory. The  
17 “Request for Mandatory Judicial Notice” is DENIED because the documents attached to that  
18 motion are not the proper subjects for such relief.

19

20 **IT IS SO ORDERED.**

21 Dated: August 4, 2016

22



23

EDWARD J. DAVILA  
United States District Judge

24

25

26

27

28