

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CASE NO. 08-cv-00251-DME-KMT

KENNETH L. SMITH,

Plaintiff,

v.

HON. DAVID M. EBEL, in his official capacity as Judge of THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO;
THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO,
THE TENTH CIRCUIT COURT OF APPEALS,
THE COLORADO COURT OF APPEALS,
THE SUPREME COURT OF COLORADO, and
JOHN DOES 1-99,

Defendants.

ORDER OF RECUSAL

THIS MATTER is before the Court *sua sponte*. I am a senior active member of the United States District Court for the District of Colorado and the Tenth Circuit Court of Appeals, both of which are named as Defendants in this civil action, as well as myself in my capacity as a Judge of the United States District Court for the District of Colorado. Accordingly, my impartiality might reasonably be questioned, and the appearance of impropriety may very well exist, warranting the *sua sponte* recusal pursuant to 28 U.S.C. § 455(a)¹ and Canon 3C(1) of the Code of Conduct for United States Judges, 175 F.R.D. 364, 368 (1998).

¹The standard for impartiality under 28 U.S.C. § 455(a) is an objective one, requiring recusal only “if a reasonable person, knowing all of the facts, would harbor doubts about the judge’s impartiality.” *United States v. Cooley*, 1 F.3d 985, 993 (10th Cir. 1993) (citations omitted).

IT IS THEREFORE ORDERED that:

1. The undersigned judge recuses hereafter in this case; and
2. That this case shall be reassigned as provided by D.C.COLO.LCivR 40.1.

DATED THIS 7th day of February, 2008.

BY THE COURT:

s/ David M. Ebel

David M. Ebel
Circuit Court Judge