

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02768-WYD-MEH

HEATHER DAVIS,

Plaintiff,

v.

KUTAK ROCK, LLP, a Nebraska limited liability partnership,
JAMES ARUNDEL, and
ALAN RUPE,

Defendants.

ORDER OF RECUSAL

Entered by Michael E. Hegarty, United States Magistrate Judge.

Pursuant to 28 U.S.C. §455(b)(5), a Magistrate Judge shall disqualify himself under the following circumstances:

He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

...

(ii) Is acting as a lawyer in the proceeding; . . .

My law clerk, who works closely with me on all cases assigned to this chambers, is the spouse of Todd J. McNamara of McNamara, Roseman, Martinez & Kazmierski LLP, who will be serving as Plaintiff's co-counsel in this matter. *See* docket #7. In the interests of avoiding any appearance of impropriety (*see* 28 U.S.C. § 455(a)), I hereby recuse myself from service in this matter. I direct the Clerk of the Court to cause this matter to be reassigned by random draw to another Magistrate Judge.

It is further ORDERED that Plaintiff's Motion to Vacate the Scheduling Conference [filed February 12, 2010; docket #7] is **granted** and the Scheduling Conference set for Friday, February

19, 2010 is **vacated**. The conference will be rescheduled by the Magistrate Judge drawn to this matter.

DATED at Denver, Colorado, this 16th day of February, 2010.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive style with a large initial 'M' and a distinct 'H'.

Michael E. Hegarty
United States Magistrate Judge