

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-01483-REB-MEH

ELIZABETH WOJDACZ,

Plaintiff,

v.

COLORADO SPRINGS CITY POLICE DEPARTMENT,  
COMMANDER BRIAN GRADY,  
OFFICER JOHN IRELAND,  
PATRICK MILLER,  
PENROSE ST. FRANCIS HEALTHCARE,  
GARY LEE NORMAN,  
MICHAEL J. DUNCAN, and  
CLIFF HUDSON,

Defendants.

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**ORDER**

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

Before the Court is Plaintiff's Opposed Motion to Remove Magistrate Judge Michael E. Hegarty from Presiding Further in the Above Captioned Case Due to Fraud Upon the Court [filed December 21, 2012; docket #103]. Plaintiff requests that I recuse myself from this case due to alleged bias and impartiality. Because I am a United States Magistrate Judge, I will consider her motion under the appropriate standard of 28 U.S.C. § 455(a), which provides, in pertinent part, "[a]ny . . . magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

The standard for impartiality under 28 U.S.C. § 455 is an objective one, requiring recusal only if "a reasonable person, knowing all the relevant facts, would harbor doubts about the judge's

impartiality.” *United States v. Cooley*, 1 F.3d 985, 993 (10th Cir. 1993) (citations omitted). In this case, recusal is not appropriate. Based on the facts alleged in Plaintiff’s recent motion, she has not demonstrated that a reasonable person would question my impartiality. Plaintiff’s entire argument centers around her displeasure with my rulings and her desire to have United States District Judge Robert E. Blackburn rule on her motions. However, Judge Blackburn has referred these motions to me pursuant to the Local Rules, and “adverse rulings cannot in themselves form the appropriate grounds for disqualification.” *Green v. Branson*, 108 F.3d 1296, 1305 (10th Cir. 1997). Plaintiff’s arguments are an insufficient basis for recusal. *See United States v. Greenspan*, 26 F.3d 1001, 1005 (10th Cir. 1994) (holding that a judge has just as strong a duty to sit when there is no legitimate reason to recuse as he does to recuse when the law and facts require).

Accordingly, for the reasons stated above, Plaintiff’s Opposed Motion to Remove Magistrate Judge Michael E. Hegarty from Presiding Further in the Above Captioned Case Due to Fraud Upon the Court [filed December 21, 2012; docket #103] is **denied..**

Dated this 2nd day of January, 2013, in Denver, Colorado.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive, flowing style.

Michael E. Hegarty  
United States Magistrate Judge