

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

U.S. Magistrate Judge Gordon P. Gallagher

Civil Case No. 12-cv-03316-MSK-GPG

BOBBIE D. CUNNINGHAM

Plaintiff,

v.

BANK OF AMERICA

Defendant.

**ORDER REGARDING THE TIMING OF A  
MOTION FOR DISQUALIFICATION**

Gordon P. Gallagher, United States Magistrate Judge

Plaintiff recently filed a motion to appear by telephone which the Court denied for the reasons set forth in the Order of Denial (document 20). Plaintiff is proceeding *pro se* in this matter and thus does not have access to filings by way of the CM/ECF system. In addition to filing the Order in the CM/ECF system, the Court instructed the Court's Clerk to mail a copy of the Order to Plaintiff and, given the short amount of time until the hearing at issue, to call Plaintiff and inform Plaintiff of the Order and Plaintiff's continued obligation to be present at the scheduling conference. This was accomplished on Friday March 8, 2013.

During the conversation between Plaintiff and the Court's Clerk, Plaintiff apparently informed said Clerk of Plaintiff's intent to file a motion requesting disqualification of this judicial officer. That conversation was relayed to the Court. Such motion having not yet been filed, the Court is making no prospective ruling.

Now that this issue, to the extent that there may in fact be an issue, has become apparent, the Court does not intend to allow the matter to linger. Therefore, to the extent

that any party may wish to file a motion to disqualify this judicial officer pursuant to 28 U.S.C. § 455, said motion must be filed no later than the close of business on March 22, 2013 to be considered timely by this Court, *See United States v. Stenzel*, 49 F.3d 658, 661 (10th Cir. 1995). This Order applies only to information known at this time. Should some ground for disqualification become known at a later time, any timeliness requirements would begin to run at that time.

Dated at Grand Junction, Colorado, this 10<sup>th</sup> day of March, 2013.

BY THE COURT:

/s/ Gordon P. Gallagher

Gordon P. Gallagher  
United States Magistrate Judge