

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

MARK J. CUYLER,

Plaintiff,

-vs-

Case No. 6:11-cv-1225-Orl-31GJK

**UNITED STATES DISTRICT COURT,
MIDDLE DISTRICT OF FLORIDA,
ORLANDO DIVISION, et al.,**

Defendants.

ORDER

This matter comes before the Court on the Plaintiff's Objection to the Court's Order Rendered On August 10, 2011 and Motion to Disqualify Judge Gregory A. Presnell (Doc. 12). Consistent with his pattern of abusive litigiousness¹, the Plaintiff has again responded to an adverse ruling by seeking the disqualification of the judge who ruled against him. Indeed, this suit, filed against all of the district judges in the Orlando Division and two of the three magistrate judges, is another example of this same practice.

Normally, a judge must disqualify himself when he is a party to the proceeding. 28 U.S.C. § 455(b)(5)(I); *see also United States v. Patti*, 337 F.3d 1317, 1321 (11th Cir. 2003). However, such disqualification is not required where, as here, the suit against the judge is baseless.² *See*,

¹See Doc. 11 in *Cuyler v. Presnell*, Case No. 6:11-cv-623-Orl-22DAB.

²The instant suit has been brought against federal judges for actions taken in their official capacity and is clearly barred by judicial immunity. *See Stump v. Sparkman*, 435 U.S. 349 (1978).

e.g., In re Hipp, 5 F.3d 109, 116-17 (5th Cir. 1993). In addition, the Plaintiff has sued every district judge in the division, and every other judge who has failed to rule in his favor. Where a litigant indiscriminately brings suit against (or threatens to sue) all of the judges of a court, leaving no one to hear the case, the rule of necessity relieves the judge of the obligation to recuse himself. *Bolin v. Story*, 225 F.3d 1234, 1238-39 (11th Cir. 2000). *See also Davis v. Kvalheim*, 261 Fed. Appx. 231 (11th Cir. 2008).

In consideration of the foregoing, it is hereby

ORDERED that the Plaintiff's Objection to the Court's Order Rendered On August 10, 2011 and Motion to Disqualify Judge Gregory A. Presnell (Doc. 12) is **DENIED**.

DONE and **ORDERED** in Chambers, Orlando, Florida on August 18, 2011.



GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party