

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SCOTT LAUTENBAUGH, on behalf of)
 himself and the class he seeks to)
 represent, Plaintiffs,)
 v.)
 NEBRASKA STATE BAR)
 ASSOCIATION,)
 WARREN R. WHITTED, JR.,)
 President, Nebraska State Bar)
 Association, in his official capacity;)
 MARSHA E. FANGMEYER, President-)
 Elect, Nebraska State Bar Association,)
 in her official capacity;)
 G. MICHAEL FENNER, President-)
 Elect Designate, Nebraska State Bar)
 Association, in his official capacity,)
 Defendants.)

4:12CV3214

MEMORANDUM AND ORDER

This case involves the Nebraska State Bar Association. The suit seeks to prevent Defendants from using their member dues for certain activities.

Judge Zwart must be a member of the Nebraska State Bar Association in order to seek reappointment. *See* 28 U.S.C. § 631(b). On the other hand, Judge Kopf is not a member of the Nebraska State Bar Association and he is not required to be a member of that association to continue as a judge.

Under the foregoing circumstances, Judge Zwart contacted Judge Kopf. They then conferred. The judges have jointly agreed that Judge Zwart will recuse, although she may not have an ethical obligation to do so. Judge Kopf will handle this case without the assistance of a magistrate judge.

Accordingly,

IT IS ORDERED that:

1. Judge Zwart recuses herself from this case.

2. Judge Kopf will handle this case without the assistance of a magistrate judge.

October 15, 2012.

BY THE COURT:

s/Cheryl R. Zwart
Cheryl R. Zwart
United States Magistrate Judge

and

s/Richard G. Kopf
Richard G. Kopf
Senior United States District Judge