

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NICHOLAS PIMENTEL,
Plaintiff,
- against -
DELTA AIRLINES, INC., et al.,
Defendants.
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ORDER

17-CV- 5317 (AMD) (JO)

James Orenstein, Magistrate Judge:

Plaintiff Nicholas Pimentel (he prefers the name Aasir Azzarmi, and I will use the latter surname to refer to him below) contends that I am biased, or could reasonably be perceived to be so, and must therefore be disqualified. Docket Entry ("DE") 66 (citing 28 U.S.C. § 455). In particular, Azzarmi asserts that I relied on extrajudicial information, and exhibited religious bias, in ruling that the defendants may make a video recording of his deposition testimony over his religious objection. However, I have made no such ruling. To the contrary, when the issue arose at a conference on November 20, 2018, I ordered as follows:

The plaintiff objects to having the defendants make a video recording of the deposition, as they intend to do in the absence of a protective order. The plaintiff may seek such an order by filing a letter motion by November 27, 2018. The defendants shall respond to any such motion by December 4, 2018. Either side may request oral argument on the motion.

DE 55. To date, Azzarmi has not sought a protective order, and I therefore have not ruled on the issue.

"[A] motion to disqualify a judge must be directed in the first instance to the judge whose removal is sought, rather than to any other." *Goodwine v. Nat'l R.R. Passenger Corp.*, 2014 WL 37850, at *1 (E.D.N.Y. Jan. 6, 2014) (citing cases). I therefore resolve the instant motion regardless of Azzarmi's apparent preference that I not do so.

"The fundamental question presented by such a motion is whether 'a reasonable person knowing and understanding all the relevant facts' would doubt my ability to be fair in this case." *Id.*

Because, a fully informed reasonable observer would know that the reason given for seeking my disqualification has no basis in fact, such an observer would have no basis for questioning by impartiality in this action. I therefore deny the motion.

SO ORDERED.

Dated: Brooklyn, New York
December 10, 2018

_____/s/_____
James Orenstein
U.S. Magistrate Judge