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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LYNN HOVER, et al.,

Plaintiffs,

v.

GMAC MORTGAGE CORPORATION,
et al.,

Defendants.

CASE NO. C16-1243 JLR

ORDER ON REVIEW OF REQUEST
TO RECUSE

This action, filed in response to the planned non-judicial foreclosure of Plaintiffs’ house, was successfully removed from King County Superior Court. (Dkt. No. 1.) Following a series of rulings on dispositive motions, the case was dismissed in its entirety on April 5, 2017. (*See* Orders and Judgment, Dkt. Nos. 28, 30 and 31.) After entry of the judgment dismissing the matter, Plaintiffs filed a document entitled “Plaintiffs’ Written Objections, and Memorandum in Support of Plaintiffs’ Motion to Alter/Amend ‘ORDER’ on March 21, 2017 and Judgment on April 5 2017.” (Dkt. No. 32.)

1 The presiding judge, The Honorable James L. Robart, construed the pleading as a motion
2 to reconsider and/or amend (which he denied) and also as a possible motion to recuse. After
3 analyzing the Plaintiffs' allegations concerning their perceptions of his bias against them, Judge
4 Robart declined to recuse himself and (in accordance with the Local Rules of this district)
5 referred the matter to this Court for further review. (Local Rules W.D. Wash. LCR 3(e); Dkt.
6 No. 34.)

7 Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in
8 any proceeding in which his impartiality "might reasonably be questioned." Federal judges also
9 shall disqualify themselves in circumstances where they have a personal bias or prejudice
10 concerning a party or personal knowledge of disputed evidentiary facts concerning the
11 proceeding. 28 U.S.C. § 455(b)(1).

12 Under both 28 U.S.C. §144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate
13 if "a reasonable person with knowledge of all the facts would conclude that the judge's
14 impartiality might reasonably be questioned." Yagman v. Republic Insurance, 987 F.2d 622, 626
15 (9th Cir.1993). This is an objective inquiry concerned with whether there is the appearance of
16 bias, not whether there is bias in fact. Preston v. United States, 923 F.2d 731, 734 (9th
17 Cir.1992); United States v. Conforte, 624 F.2d 869, 881 (9th Cir.1980). In Liteky v. United
18 States, 510 U.S. 540 (1994), the United States Supreme Court further explained the narrow basis
19 for recusal:

20 [J]udicial rulings alone almost never constitute a valid basis for a bias or partiality
21 motion. . . . [O]pinions formed by the judge on the basis of facts introduced or
22 events occurring in the course of the current proceedings, or of prior proceedings,
23 do not constitute a basis for a bias or partiality motion unless they display a deep
24 seated favoritism or antagonism that would make fair judgment impossible. Thus,
judicial remarks during the course of a trial that are critical or disapproving of, or
even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias
or partiality challenge.

1 Id. at 555.

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3 Plaintiffs cite no other reason or evidence in support of their position than the rulings of
4 Judge Robart. A judge's conduct in the context of past or pending judicial proceedings does not
5 constitute the requisite bias under 28 U.S.C. § 144 or § 455 if it is prompted solely by
6 information that the judge received in the context of the performance of his duties. Bias is
7 almost never established simply because the judge issued adverse rulings against a party. If
8 Plaintiffs believe that Judge Robart has committed legal error in his rulings, they are entitled to
9 make that argument on appeal to the Ninth Circuit Court of Appeals (which they have done; *see*
10 Dkt. No. 37, Notice of Appeal). They are not entitled to recusal of the judge who made the
11 rulings.

12 The Court finds no evidence upon which to reasonably question Judge Robart's
13 impartiality and AFFIRMS his denial of Plaintiffs' request that he recuse himself.

14 The Clerk is ordered to provide copies of this order to Plaintiffs and to all counsel.

15 Dated this 26th day of May, 2017.

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18 RICARDO S. MARTINEZ
19 CHIEF UNITED STATES DISTRICT JUDGE
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