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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 DONTE McCLELLON, an individual,

CASE NO. C18-852JCC

10 Plaintiff,

ORDER AFFIRMING ORDER DECLINING
TO RECUSE VOLUNTARILY

11 v.

12 WELLS FARGO ADVISORS FINANCIAL
13 NETWORK, LLC (CRD#: 11025), a
14 corporation; and WELLS FARGO
15 CLEARING SERVICES, LLC, (CRD#: 19616), a corporation,

16 Defendants.

17 This matter is before the Court on Plaintiff's motion seeking recusal of the Honorable
18 Judge Coughenour. Dkt. #49. Judge Coughenour declined to recuse himself and, in accordance
19 with this Court's Local Civil Rules, the matter was referred to the Undersigned for review. Dkt.
20 #54; LCR 3(f). Plaintiff's motion is light on factual support and does not demonstrate a basis for
21 recusal. The Undersigned affirms Judge Coughenour's decision.
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23 Plaintiff filed this action alleging that Defendants engaged in two unauthorized
24 transactions involving Plaintiff's brokerage account. The Court dismissed Plaintiff's complaint,
25 and judgement was entered. Dkts. #30 and #31. Plaintiff subsequently requested that the Court
26 vacate its prior order. Dkt. #32. That request and a motion for reconsideration were both denied.
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1 Dkts. #37 and #40. Plaintiff appealed and sought to pursue the appeal *in forma pauperis* (“IFP”).
2 Dkts. #41 and #42. Upon referral, the Honorable Magistrate Judge Brian A. Tsuchida
3 recommended that the Court find Plaintiff’s appeal not taken in good faith and deny IFP status.
4 Dkt. #45. Judge Coughenour adopted the Report and Recommendation. Dkt. #46. Plaintiff then
5 sought to vacate that order, reopen the matter, and recuse Judge Coughenour. Dkt. #49.

6 Plaintiff’s primary complaints clearly flow from Plaintiff’s disagreement with orders
7 entered by Judge Coughenour. Plaintiff alleges that Judge Coughenour abused his discretion by
8 finding Plaintiff’s appeal was “not made in good faith.” *Id.* at 4 (quoting Dkt. #46). Plaintiff
9 expresses his belief that his motion to vacate the judgment should have been granted and that
10 Judge Coughenour denied IFP status on appeal “even when opposing counsel [had] not opposed”
11 it. *Id.* Plaintiff concludes that Judge Coughenour’s rulings have “demonstrated that he is
12 incapable of ruling in impartiality in separate matters.” *Id.*

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14 Pursuant to 28 U.S.C. § 455(a), a “judge of the United States shall disqualify himself in
15 any proceeding in which his impartiality might reasonably be questioned.” Recusal is appropriate
16 if “a reasonable person with knowledge of all the facts would conclude that the judge’s
17 impartiality might reasonably be questioned.” *Yagman v. Republic Insurance*, 987 F.2d 622, 626
18 (9th Cir. 1993). This is an objective inquiry concerned with whether there is the appearance of
19 bias, not whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992);
20 *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).

21
22 Plaintiff fails to allege any reasonable basis for recusal. Plaintiff’s complaints are with
23 Judge Coughenour’s judicial actions. But, “a judge’s prior adverse ruling is not sufficient cause
24 for recusal.” *United States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986); *see also Taylor v.*
25 *Regents of Univ. of Cal.*, 993 F.2d 710, 712 (9th Cir. 1993) (“To warrant recusal, judicial bias
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1 must stem from an extrajudicial source.”). Plaintiff merely alleges that “[t]his has gone well
2 beyond simply disagreeing with a U.S. District Judge on any particular ruling but into the efforts
3 this U.S. District Judge has made to abuse his discretion.” Dkt. #49 at 4. Beyond this baseless
4 and conclusory allegation, Plaintiff points to nothing but Judge Coughenour’s prior rulings as a
5 basis for concluding that Judge Coughenour’s “impartiality might reasonably be questioned.”

6 Accordingly, the Court finds and ORDERS that Judge Coughenour’s Order (Dkt. #54)
7 declining to recuse himself is AFFIRMED. The Clerk shall provide a copy of this Order to
8 Plaintiff.
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10 DATED this 10 day of June 2019.

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13 RICARDO S. MARTINEZ
14 CHIEF UNITED STATES DISTRICT JUDGE
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