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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 JESSICA MAE MATHESON, d/b/a
JESS'S WHOLESALE,

11 Plaintiff,

12 v.

13 LEE SMITH, et al.,

14 Defendant.
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CASE NO. C11-5946 RBL

ORDER ON MOTION TO
DISQUALIFY JUDGE RONALD B.
LEIGHTON

16 On December 23, 2011, Plaintiff filed a "Motion to Disqualify Judge Ronald B.
17 Leighton" alleging that Judge Leighton "would not be impartial due to advanced factual
18 knowledge [from having presided over prior litigation involving Plaintiff's family]." Dkt. No.
19 11, p. 2. Pursuant to Local General Rule 8(c), Judge Leighton reviewed plaintiff's motion,
20 declined to recuse himself voluntarily, and referred the matter to the undersigned. Dkt. No. 29.
21 Plaintiff's motion for voluntary recusal is therefore ripe for review by this Court.
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1 **DISCUSSION**

2 Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in
3 any proceeding in which his impartiality “might reasonably be questioned.” A federal judge also
4 shall disqualify himself in circumstances where he has a personal bias or prejudice concerning a
5 party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28 U.S.C.
6 § 455(b)(1).

7 Under both 28 U.S.C. §144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate
8 if “a reasonable person with knowledge of all the facts would conclude that the judge’s
9 impartiality might reasonably be questioned.” Yagman v. Republic Insurance, 987 F.2d 622, 626
10 (9th Cir. 1993). This is an objective inquiry concerned with whether there is the appearance of
11 bias, not whether there is bias in fact. Preston v. United States, 923 F.2d 731, 734 (9th
12 Cir.1992); United States v. Conforte, 624 F.2d 869, 881 (9th Cir.1980). In Liteky v. United
13 States, 510 U.S. 540 (1994), the United States Supreme Court further explained the narrow basis
14 for recusal:

15 [J]udicial rulings alone almost never constitute a valid basis for a bias or partiality
16 motion. . . . [O]pinions formed by the judge on the basis of facts introduced or
17 events occurring in the course of the current proceedings, or of prior proceedings,
18 do not constitute a basis for a bias or partiality motion unless they display a deep
19 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.

20 Id. at 555.

21 This is precisely the situation presented by the facts of this case. The simple fact that a
22 judge made an adverse ruling in a prior case involving related parties does not form the basis for
23 a recusal in later litigation. There is no allegation (then or now) that Judge Leighton did not
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1 reach an impartial decision in the prior lawsuit. Plaintiff presents no reason to question Judge
2 Leighton's impartiality now.

3 The motion to disqualify Judge Leighton from presiding over this case will be DENIED.

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5 The clerk is ordered to provide copies of this order to all counsel.

6 Dated this 24th day of February, 2012.

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10 Marsha J. Pechman
Chief United States District Judge

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