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| 8  | UNITED STATES DISTRICT COURT<br>WESTERN DISTRICT OF WASHINGTON                                  |   |
| 9  | AT SEA  | TTLE  |
| 10 | MARICELA RAMIREZ,   | CASE NO. C13-5873 RJB                         |
| 11 | Plaintiff,  | ORDER ON MOTION FOR                           |
| 12 | V.  | RECUSAL                                       |
| 13 | JOHN L HART, et al.,  |   |
| 14 | Defendant.  |   |
| 15 |   |   |
| 16 | On March 10, 2014, Plaintiff filed "Plainti   | ff's Notice of Motion and Motion for Judge to |
| 17 | Be Disqualified or Recused." Dkt. No. 21. The presiding judge, U.S. District Judge Robert J.    |   |
| 18 | Bryan, reviewed the motion and declined to recuse himself voluntarily. Dkt. No. 22. In          |   |
| 19 | accordance with the Local Rules of this district, th  | e matter has been referred to this Court for  |
| 20 | review. LCR 3(e).   |   |
| 21 | DISCUSSION  |   |
| 22 | Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in        |   |
| 23 | any proceeding in which his impartiality "might reasonably be questioned." A federal judge also |   |
| 24 | shall disqualify himself in circumstances where he  | has a personal bias or prejudice concerning a |
|    |   |   |

party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28 U.S.C.
 § 455(b)(1).

| <ul> <li>6 (9th Cir. 1993). This is an objective inquiry concerned with whether there is the appearance of</li> <li>7 bias, not whether there is bias in fact. <i>Preston v. United States</i>, 923 F.2d 731, 734 (9th</li> <li>8 Cir. 1992); <i>United States v. Conforte</i>, 624 F.2d 869, 881 (9th Cir. 1980). In <i>Liteky v. United</i></li> <li>9 <i>States</i>, 510 U.S. 540 (1994), the United States Supreme Court further explained the narrow basis</li> <li>10 for recusal:</li> <li>11 [J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion [Olpinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep 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 hostit to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge.</li> <li>16 <i>Id.</i> at 555.</li> <li>17 Reviewing Plaintiff's motion and accompanying documentation, it is clear that her</li> <li>18 argument that Judge Bryan should recuse himself is based solely on a series of rulings with</li> <li>19 which she disagrees. <i>See</i> Dkt. No. 21, pp. 1-2. This is not a legally sufficient basis for a recusal.</li> <li>A judge's conduct in the context of pending judicial proceedings does not constitute the requisite</li> <li>11 bias under 28 U.S.C. § 144 or § 455 if it is prompted solely by information that the judge</li> <li>12 received in the context of the performance of his duties. Bias is almost never established simply</li> <li>because the judge issued an adverse ruling.</li> </ul> | 3  | Under both 28 U.S.C. §144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate                    |
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| <ul> <li>bias, not whether there is bias in fact. <i>Preston v. United States</i>, 923 F.2d 731, 734 (9th</li> <li>Cir.1992); <i>United States v. Conforte</i>, 624 F.2d 869, 881 (9th Cir.1980). In <i>Liteky v. United</i></li> <li><i>States</i>, 510 U.S. 540 (1994), the United States Supreme Court further explained the narrow basis</li> <li>for recusal: <ul> <li>[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion [O]pinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep 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.</li> <li><i>Id.</i> at 555.</li> <li>Reviewing Plaintiff's motion and accompanying documentation, it is clear that her argument that Judge Bryan should recuse himself is based solely on a series of rulings with which she disagrees. <i>See</i> Dkt. No. 21, pp. 1-2. This is not a legally sufficient basis for a recusal.</li> <li>A judge's conduct in the context of pending judicial proceedings does not constitute the requisite bias under 28 U.S.C. § 144 or § 455 if it is prompted solely by information that the judge</li> <li>received in the context of the performance of his duties. Bias is almost never established simply because the judge issued an adverse ruling.</li> </ul> </li> </ul>   | 5  | impartiality might reasonably be questioned." Yagman v. Republic Insurance, 987 F.2d 622, 626               |
| <ul> <li>Cir.1992); United States v. Conforte, 624 F.2d 869, 881 (9th Cir.1980). In Liteky v. United</li> <li>States, 510 U.S. 540 (1994), the United States Supreme Court further explained the narrow basis</li> <li>for recusal:</li> <li>[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality<br/>motion [O]pinions formed by the judge on the basis of facts introduced or<br/>events occurring in the course of the current proceedings, or of prior proceedings,<br/>do not constitute a basis for a bias or partiality motion unless they display a deep<br/>seated favoritism or antagonism that would make fair judgment impossible. Thus,<br/>judicial remarks during the course of a trial that are critical or disapproving of, or<br/>even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias<br/>or partiality challenge.</li> <li><i>Id.</i> at 555.</li> <li>Reviewing Plaintiff<sup>*</sup>s motion and accompanying documentation, it is clear that her<br/>argument that Judge Bryan should recuse himself is based solely on a series of rulings with<br/>which she disagrees. <i>See</i> Dkt. No. 21, pp. 1-2. This is not a legally sufficient basis for a recusal.</li> <li>A judge's conduct in the context of pending judicial proceedings does not constitute the requisite<br/>bias under 28 U.S.C. § 144 or § 455 if it is prompted solely by information that the judge<br/>received in the context of the performance of his duties. Bias is almost never established simply<br/>because the judge issued an adverse ruling.</li> </ul>  | 6  | (9th Cir.1993). This is an objective inquiry concerned with whether there is the appearance of              |
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|  |    | because the judge issued an adverse ruling.   |
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| 1  | Plaintiff may disagree with Judge Bryan's rulings, but that is a basis for appeal, not           |  |
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| 2  | disqualification. Upon review of the record, the Court finds that Judge Bryan's impartiality     |  |
| 3  | cannot reasonably be questioned. There being no evidence of bias or prejudice, Plaintiff's       |  |
| 4  | request for recusal is DENIED.   |  |
| 5  | CONCLUSION   |  |
| 6  |  |  |
| 7  | There is no reasonable basis for a voluntary recusal in this instance.                           |  |
| 8  | Accordingly it is hereby <b>ORDERED</b> that the undersigned <b>DENIES</b> Plaintiff's motion to |  |
| 9  | recuse Judge Bryan   |  |
| 10 |  |  |
| 11 | The clerk is ordered to provide copies of this order to Plaintiff and to all counsel.            |  |
| 12 | Dated this 13th day of March, 2014.  |  |
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| 15 | Marshuf Helenon  |  |
| 16 | Marsha J. Pechman<br>United States Chief District Judge  |  |
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