HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DANIEL DOW, Plaintiff, v. FEDERAL NATIONAL MORTGAGE ASSOCIATIONS, et al., Defendants.	CASE NO. C16-5812-RBL ORDER DENYING MOTION AND REFERRING IT TO CHIEF JUDGE DKT. #21, 25

THIS MATTER is before the Court on Plaintiff Daniel Dow's Motion for Recusal. [Dkt. ##21, 25]. In a letter to the Ninth Circuit, forwarded to the District Court, Dow asks for Judge Leighton's recusal. He argues Judge Leighton is prejudiced against him because (1) Judge Leighton did not cite to a Gonzaga Law Review article when granting Partial-Defendants' motion to dismiss [Dkt. #17], and (2) admitted to having a conflict of interest precluding him from presiding over Dow's case by failing to affirmatively assert he had no conflict. Dow does not specify what this apparent conflict might be.

Dow first argued Judge Leighton was unfit to serve as a federal judge a few months ago in *Dow v. Bank of America et al.*, 3:16-cv-5235-RBL. The Court dismissed Dow's claims without prejudice because he had failed to file an amended complaint plausibly stating a claim

for relief and had refused to pay the Court's filing fee. Dow responded by filing a "Notice re Impeachment of Ronald B. Leighton," arguing Judge Leighton had ignored Bank of America's fraud, in violation of the Rules of Professional Conduct:

> Please find enclosed RE: ***Show Me The Note, Page 1,*** *(copy) ORDER DENYING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS,* USDC Western Division, Ronald B. Leighton (*Lawyer* Leighton), #C16-5235-RBL, Tacoma, WA state. The ***ORDER*** ignores non-existent **Trustee PRLAP** (ASSIGNMENT OF DEED OF TRUST attached). *Lawyer* Leighton is well-informed of the mendacity *via* Bank of America [BAC.N]. ***See*** www.auggiecoupdblog.wordpress.com, in honor of ***enlightened self-government*** Twenty-first Century. Two (2) Cashier Checks submitted to the Court, **in *good faith* to receive *justice in the rule of law*** were declined. BAC.N ***VITIATED*** the mortgage contract I was sold because BAC.N commits ***financial contract fraud*** as **vile reality**. ***Who*** dictates ***what*** *Lawyer* Leighton writes and, ***why*** invest in reading what a Pro Se files, ***when*** arithmetic pencils ***how*** BAC.N decides .. ***where*** does *Lawyer* Leighton ***pass the Constitutional Muster*** *and* ***RPC***?!? My filing in the USDC, documents:

Dkt. #24.

Dow immediately filed a complaint in this case, which is even less intelligible than his first complaint. On December 1, 2016, the Court granted Partial-Defendants' motion to dismiss because rather than articulating a plausible claim for relief against them, Dow railed against the banking industry and the government generally. The Court warned him it would dismiss his remaining claims unless he paid the filing fee or applied to proceed *in forma pauperis* within 14 days.

Dow responded by filing a notice of appeal and a letter requesting Judge Leighton's removal. His appeal appears to concern his first case because he argues its dismissal demonstrates Judge Leighton's unfitness to serve:

Case No. **3:16-cv-05812-RBL APPEAL**, is requested to be filed. Please also, forward the precise (process) *ie* paperwork, to move the proper Court in grievances for the Judicial Fitness Committee | Commission. And, the **APPEAL** to ***see*** the Summons also in the first Case, served ***due process - rule of law***: Judge Leighton (Leighton) did note Case **3:16-cv-05235-RBL**. ALL parties are required to Appear, *due process law*. ***See*** Exhibit Amendments *5TH* and *14TH*. Dismissal *via* a pauper form, **dishonors** the U.S. Constitution's right to challenge those who-whom have committed the crimes - that I am in the Court to receive. **JUSTICE**. Leighton omitted addressing Fraud on the Court (a filing of another person's Bankruptcy). And, Conflicts of Interest to-date have not been fully disclosed. Leighton ***does not pass the Constitutional Muster.*** I have specified an Article III Court. Thank you.

Dkt. 22. His letter, which the Ninth Circuit forwarded to this Court, contains much of the same information and asks for Judge Leighton's removal. In it, Dow additionally argues Judge Leighton is prejudiced against him because (1) Judge Leighton did not cite to a Gonzaga Law Review article and (2) did not affirmatively state he had no conflicts of interest.

A federal judge should recuse himself if "a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." 28 U.S.C. §144; *see also* 28 U.S.C. § 455; *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir. 1993). This is an objective inquiry concerned with whether there is the appearance of bias, not whether there is bias in fact. *See Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992); *see also United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980). Under the Local Rules of this District, a motion for recusal is addressed first to the presiding judge, and if the judge does not recuse voluntarily, the matter is referred to the chief judge for review. *See* LCR 3(e). This Court therefore considers Dow's motion in the first instance.

Dow has not demonstrated that a reasonable person would question Judge Leighton's impartiality. He has identified no specific (or general) conflict or bias. He instead grieves the Court's dismissal of his claims, which he argues supports a finding of prejudice and unfitness. A reasonable person would not conclude the Court's citing to sources more persuasive than a Law

Review article and its silence about non-existent conflicts of interest demonstrate prejudice or lack of ability. Nor would a reasonable person conclude the Court's decision to dismiss Dow's claims for failure to pay the filing fee, after repeatedly instructing him to do so, suggests bias against Dow. Accordingly, the Court will not recuse itself from this case voluntarily. Dow's Motion for Recusal [Dkt. ##21, 25] is DENIED. Under LCR 3(e), this Matter is referred to Chief Judge Martinez for review.

Dated this 29th day of December, 2016.

Ronald B. Leighton
United States District Judge