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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 20 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: LAKSHMI ARUNACHALAM.

No. 18-71335

LAKSHMI ARUNACHALAM,

D.C. No. 5:18-cv-01250-EJD
Northern District of California,
San Jose

Petitioner,

ORDER

v.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
CALIFORNIA, SAN JOSE,

Respondent,

APPLE, INC., Assigns and Agents, and App
Store Web Application Providers; et al.,

Real Parties in Interest.

Before: SCHROEDER, SILVERMAN, and N.R. SMITH, Circuit Judges.

Petitioner has not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

No further filings will be entertained in this closed case.

DENIED.

App. 2a
District Court Order (4/27/18)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LAKSHMI ARUNACHALAM,
Plaintiff,
v.
APPLE, INC., et al.,
Defendants.

Case No. 5:18-cv-01250-EJD

ORDER DENYING MOTION TO DISQUALIFY

Re: Dkt. No. 145

On April 16, 2018, Plaintiff filed a motion to disqualify the undersigned judge pursuant to 28 U.S.C. §§144 and 455. Dkt. 145. Title 28 section 144 provides that: "[w]henever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding." Recusal is appropriate only where "a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned," and may rest on either "actual bias or the appearance of bias." Yagman v. Republic Ins., 987 F.2d 622, 626 (9th Cir. 1993). A district judge has a duty to disqualify himself "in any proceeding in which his impartiality might reasonably be questioned" or 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(a), (b)(1). A district court also has a duty to disqualify himself when "he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of

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ORDER DENYING MOTION TO DISQUALIFY

1 the proceeding." 28 U.S.C. §455(a), (b)(4). "Financial interest" means ownership of a legal or
2 equitable interest, however small, or a relationship as director, adviser, or other active participant
3 in the affairs of a party, except that: (i) Ownership in a mutual or common investment fund that
4 holds securities is not a 'financial interest' in such securities unless the judge participates in the
5 management of the fund." 28 U.S.C. §455(d)(4)(i).

6 But at the same time, "[f]ederal judges are obligated not to recuse themselves where there
7 is no reason to question their impartiality." New York City Housing Develop. Corp. v. Hart, 796
8 F.2d 976, 980 (7th Cir. 1986). Furthermore, section 144 requires recusal "only if the bias or
9 prejudice stems from an extrajudicial source and not from conduct or rulings made during the
10 course of the proceeding." Toth v. Trans World Airlines, Inc., 862 F.2d 1381, 1388 (9th Cir.
11 1988).

12 The undersigned judge has carefully reviewed Plaintiff's motion and finds it legally
13 insufficient to warrant disqualification. Plaintiff's allegations of bias stem from (a) the
14 undersigned judge's rulings made in Plaintiff's multiple cases and (b) Plaintiff's analysis of the
15 undersigned judge's financial interests. Plaintiff's first basis for disqualification does not stem
16 from an extrajudicial source and is accordingly legally insufficient. Toth, 862 F.2d at 1388.
17 Plaintiff's second basis for disqualification is based upon inaccurate financial information. Section
18 455(b)(4) is inapplicable. Accordingly, Plaintiffs' motion is DENIED.

19 **IT IS SO ORDERED.**

20 Dated: April 27, 2018



21
22 EDWARD J. DAVILA
United States District Judge