APPENDIX

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

No. 8:21-cv-2127-SDM-AAS

ANGELA DEBOSE,

Plaintiff,

v.

UNITED STATES, et al.,

Defendants.

Filed March 3, 2023

Before: Steven D. Merryday, U.S. District Judge

ORDER

A September 12, 2022 order (Doc. 81) dismisses with prejudice this action — the ninth successive action by Angela DeBose, an unmistakably vexatious litigant, against these defendants — and enjoins DeBose "from filing pro se in the United States District Court for the Middle District of Florida any complaint, petition, or claim that is (1) about her employment with USF, (2) about Ellucian, LP, (3) about any firm's or lawyer's representation of USF or Ellucian, LP, or (4) about DeBose's litigation against USF, the members of the Board of Trustees, USF's lawyers and Ellucian, LP." DeBose appeals. (Doc. 87)

Since the dismissal, DeBose has (1) twice moved (Docs. 83 and 107) to vacate the judgment, (2) moved (Doc. 86) for a new trial, (3) moved (Doc. 95) to compel USF to comply with a subpoena issued after the dismissal, (4) moved (Doc. 100) to hold a non-party in civil contempt after the non-party refused to answer a different subpoena issued after the dismissal, (5) moved (Doc. 102) to re-open the case, and (6) moved (Doc. 108) to disqualify the presiding judge. The second motion to vacate the judgment and the motion to disqualify (Docs. 107 and 108) pend. But similar to the earlier motions, DeBose presents no arguably meritorious basis for either pending motion. Further, because of the pending appeal, no authority remains in the district court to vacate the judgment. Thus, each pending motion (Docs. 107 and 108) is DENIED. * As a supplement to the record-on-appeal, the clerk must transmit this order to the Eleventh Circuit in appeal 22-13380.

ORDERED in Tampa, Florida, on March 3, 2023.

STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 23-10961

In re: ANGELA DEBOSE,

Petitioner,

Filed September 22, 2023

Before: LUCK AND ABUDU, Circuit Judges

BY THE COURT:

ORDER OF THE COURT

Angela DeBose, proceeding *pro se*, petitions this Court for a writ of mandamus and/or prohibition, arising out of a post-judgment motion seeking to disqualify a judge that she filed in the U.S. District Court for the Middle District of Florida. In her mandamus petition, DeBose alleges various disqualifying events and actions by the presiding judge in her civil case, the final judgment of which is currently on appeal. She requests an order of mandamus or prohibition either (1) granting her petition and directing the judge to recuse himself or, alternatively, (2) vacating the order denying her disqualification motion and ordering expedited discovery on the motion so it can be considered on an adequately developed evidentiary record. DeBose also seeks judicial notice of two affidavits she filed in the district court after her disqualification motion was denied.

Writs of prohibition and mandamus, both authorized under 28 U.S.C. § 1651, are "two sides of the same coin with interchangeable standards." *United States v. Pleau*, 680 F.3d 1, 4, (1st Cir. 2012) (*en banc*) (persuasive authority). They are available only in drastic situations when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion. *United States v. Shalhoub*, 855 F.3d 1255, 1259 (11th Cir. 2017); *Jackson v. Motel 6 Multipurpose, Inc.*, 130 F.3d 999, 1004 (11th Cir. 1997) (quotation marks omitted). The petitioner has the burden of showing that she has no other avenue of relief and that her right to relief is clear and indisputable. *See Mallard v. U.S. Dist. Court*, 490 U.S. 296, 309 (1989); *see also In re Wainwright*, 678 F.2d 951, 953 (11th Cir. 1982) (applying the same standard to writs of prohibition.).

These writs may not be used as a substitute for appeal or to control decisions of the district court in discretionary matters. *Jackson*, 130 F.3d at 1004; *In re Wainwright*, 678 F.2d at 953. When an alternative remedy exists, even if it is unlikely to provide relief, mandamus relief is not proper. *See Lifestar Ambulance Serv., Inc. v. United States*, 365 F.3d 1293, 1298 (11th Cir. 2004).

Under § 455(a), a judge must "disqualify himself in any proceeding in which his impartiality might reasonably be questioned" or in any circumstances "[w]here 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). Similarly, under § 144, a judge must recuse himself if a party to the proceeding makes a timely and sufficient showing by affidavit that the judge "has a personal bias or prejudice" against him. 28 U.S.C. § 144. Disqualification is only required when the alleged bias is personal in nature; that is, the bias stems from an extra-judicial source. *Loranger v. Stierheim,* 10 F.3d 776, 780 (11th Cir. 1994). Judicial rulings alone almost never constitute a valid basis for a bias or partiality motion. *Liteky v. United States,* 510 U.S. 540, 555 (1994). Likewise, "opinions 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." *Id.* We have held that "a judge, having been assigned to a case, should not recuse himself on unsupported, irrational, or highly tenuous speculation." *In re Moody*, 755 F.3d 891, 895 (11th Cir. 2014) (quoting *United States v. Greenough*, 782 F.2d 1556, 1558 (11th Cir. 1986)).

An appeal from a final judgment brings up for review all preceding non-final orders that produced the judgment. *Mickles on behalf of herself v. Country Club, Inc.*, 887 F.3d 1270, 1278-79 (11th Cir. 2018); *Barfield v. Brierton*, 883 F.2d 923, 930-31 (11th Cir. 1989). Post-judgment proceedings are final and subject to appeal once the district court has disposed of all the issues raised in the motion that initiated those post-judgment proceedings. *Mayer v. Wall St. Equity Grp., Inc.*, 672 F.3d 1222, 1224 (11th Cir. 2012).

A district court's pre-judgment ruling on recusal or disqualification is reviewable upon appeal after issuance of a final judgment. *In re Corrugated Container Antitrust Litig.*, 614 F.2d 958, 960-62 (5th Cir. 1980). Accordingly, such a ruling is not reviewable on appeal until the litigation is final, though a writ of mandamus may be issued to correct such a decision in "exceptional circumstances amounting to a judicial usurpation of power." *Id.* at 960-62 & n.4 (quotation marks omitted); *see id.* at 961-62 (declining to grant mandamus relief relating to a district court judge's refusal to recuse himself where full review of the issue was available on appeal); *see also In re Moody*, 755 F.3d at 897 (explaining that review of district court judge's refusal to recuse under mandamus authority was "even more stringent" than the ordinary abuse-of-discretion standard applicable to review on appeal of recusal issue, because the drastic remedy of mandamus was available only in exceptional circumstances). Where a judge's duty to recuse himself is debatable or non-existent, a writ of mandamus will not issue to compel recusal. *Corrugated Container*, 614 F.2d at 962.

DeBose's judicial-notice motion, which we construe as a request for this Court to consider the two affidavits she filed in the district court in determining whether she

is entitled to mandamus or prohibition relief, is GRANTED.

Nevertheless, DeBose is not entitled to mandamus or prohibition relief because she had the adequate alternative remedy of appealing the district court's order denying her post-judgment motion for disqualification. Furthermore, to the extent she alleges the district court judge should have recused himself before entering the final judgment in the case, she had the adequate alternative remedy of raising this issue in her appeal from the judgment. Further, she has not shown any exceptional circumstances to warrant a recusal challenge through mandamus, especially now that judgment has been entered. Finally, she has not shown that her right to relief is clear and undisputable.

Accordingly, DeBose's petition for a writ of mandamus and/or prohibition is DENIED.

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

No. 8:21-cv-2127-SDM-AAS

ANGELA DEBOSE,

Plaintiff,

v.

UNITED STATES, et al.,

Defendants.

Filed December 24, 2021

PLAINTIFF'S CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Local Rule 3.03(a)(1), Plaintiff Angela DeBose discloses each person — including each lawyer, association, firm, partnership, corporation, limited liability company, subsidiary, conglomerate, affiliate, member, and other identifiable and related legal entity — that has or might have an interest in the outcome of the case:

1. Angela DeBose, Plaintiff
2. Anisha P. Patel, Attorney for Defendants Greenberg Traurig, P.A. and Richard McCrea
3. Chief Judge Ronald Ficarrotta, in his official capacity, Defendant
4. Dennis P. Waggoner, Attorney for Defendants Greenberg Traurig, P.A. and Richard McCrea
5. Gerald Solis, in his official capacity, Defendant
6. Greenberg Traurig, P.A. Defendant
7. Hill Ward Henderson, P.A., Attorney for Defendants Greenberg Traurig, P.A. and Richard McCrea
8. Joshua C. Webb, Attorney for Defendants Greenberg Traurig, P.A. and Richard McCrea
9. Judge Anthony E. Porcelli, defendant
10. Judge Charlene E. Honeywell, defendant
11. Judge Elizabeth A. Kovachevich, defendant
12. Judge G. Rice, individually and/or in her official capacity, Defendant
13. Judge Gregory P. Holder, individually and/or in his official capacity, Defendant

14. Judge James M. Barton, individually and/or in his official capacity, Defendant
15. Judge James S. Moody, defendant
16. Judge Virginia M. Covington, defendant
17. Lois Palmer, in her official capacity Defendant
18. Ralph Wilcox, in his official capacity, Defendant
19. Richard McCrea, Defendant
20. Thirteenth Judicial Circuit, Defendant
21. United States, Defendant
22. University of South Florida Board of Trustees, Defendant

Rule 3.03(b) Certification

I certify that I am aware of a conflict or basis of recusal of the District Judge or Magistrate Judge or reason to transfer the case to another federal district court as follows: The district judge was formerly the chief judge of the Middle District of Florida, located in the Tampa Division, and has direct, personal knowledge of the federal judges party to this action. In their CIP, the Defendants in this case failed to list the federal judges and this potential conflict. In the role of chief judge, the district judge also either knew or had reason to know of Ronald Ficarrotta, chief judge of the Thirteenth Circuit. In Case No. 8:21-cv-21-SDM-CPT, another case where CHIEF JUDGE RONALD FICARROTA, et al., individually and in his official capacity where other state court judges are defendants, the District Judge voluntarily disclosed a conflict and recused himself, despite stating in the order, "although I have no question about my impartiality." Finally, through discovery, I will prove that a federal judge with the Middle District of Florida, Tampa Division, contacted Judge Ryan T. Holte, Federal Claims Court, the same day the instant case was filed. This contact may have

prompted Judge Holte to suddenly dismiss the Plaintiff's "takings" case and enter a final judgment well after business hours, in late evening the same day. Though the United States has not yet made an appearance in the case, this merits further investigation. It may be incidental but the District Judge and Judge Holte both are associated with the Federalist Society.

Submitted: 12/24/2021

Angela DeBose, Plaintiff

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

No. 8:21-cv-2127-SDM-AAS

ANGELA DEBOSE,

Plaintiff,

v.

UNITED STATES, et al.,

Defendants.

Filed September 13, 2021

Before: Steven D. Merryday, U.S. District Judge

This cause comes before the Court sua sponte. Under 28 U.S.C. § 455, a judge shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned and in which he is a party to the proceeding. 28 U.S.C. § 455(a) & (b)(5)(i). When the proper grounds exist, a judge has an affirmative and self-enforcing obligation to recuse himself *sua sponte*. *United States v. Kelly*, 888 F.2d 732, 744 (11th Cir. 1989). In this instance, the undersigned finds it appropriate to recuse himself from these proceedings, given that Plaintiff identifies and sets forth allegations against the undersigned in her Complaint (Doc. 1, ¶16). Accordingly, the Clerk is hereby directed to reassign this case to another magistrate judge by random draw and to provide notice to the parties of the newly designated magistrate judge.

DONE AND ORDERED in Tampa, Florida, on this 13th day of September, 2021.

ANTHONY E. PORCELLI
UNITED STATES MAGISTRATEJUDGE

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

No. 8:21-cv-21-SDM-CPT

TERESA M. GAFFNEY and
SARAH K. SUSSMAN, individually
and as Trustee of the Sussman Family Trust,

Plaintiffs,

v.

CHIEF JUDGE RONALD FICARROTA,
individually and in his official capacity,
et al.,

Defendants.

Filed March 9, 2021

Before: Steven D. Merryday, U.S. District Judge

ORDER

Under 28 U.S.C. § 455 a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." The standard for determining the presence of a "reasonable question" about a judge's impartiality is an "objective" standard. In other words, the issue is not whether the judge actually is impartial but whether a reasonable, informed, and disinterested third-party would retain a substantial question about the judge's impartiality. The requirement of impartiality disqualifies a judge with either a favorable or an unfavorable inclination or disposition toward a party, if the inclination or disposition is based on extrajudicial events or relations.

In this action, a member of my nuclear family has a lifelong and close relation with a party, a relation well-known to me, that might cause a reasonable and informed person to retain a question about my impartiality (although I have no question about my impartiality). Therefore, under 28 U.S.C. § 455, I recuse myself and direct the clerk to randomly re-assign this action to another judge in the Tampa division.

ORDERED in Tampa, Florida, on March 9, 2021.

STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

No. 8:21-cv-2127-SDM-AAS

ANGELA DEBOSE,

Plaintiff,

v.

UNITED STATES, et al.,

Defendants.

Filed November 24, 2021

Before: Steven D. Merryday, U.S. District Judge

ORDER

The defendants Thirteenth Judicial Circuit, Barton, Ficarrotta, Rice, Holder, University of South Florida Board of Trustees, Solis, Dosal, Wilcox, and Palmer move (Doc. 34) unopposed to extend the time within which to respond to the second amended complaint (Doc. 27). The motion (Doc. 34) is GRANTED. Not later than DECEMBER 23, 2021, the defendants must respond to the second amended complaint.

Also, the defendants Greenberg Traurig, P.A., and Richard McCrea move (Doc. 35) to stay discovery and to stay the requirement under Local Rule 3.02 to file a case management report. A "preliminary peek" at Greenberg and McCrea's pending motion (Doc. 30) to dismiss shows "an immediate and clear possibility" that the motion warrants granting. *See Feldman v. Flood*, 176 F.R.D. 651, 652 (M.D. Fla. 1997). For the reasons stated by Greenberg Traurig and McCrea, the motion (Doc. 35) is GRANTED. Discovery and the requirement to file a case management report are STAYED pending the resolution of Greenberg Traurig and McCrea's motion (Doc. 30) to dismiss. This stay in no way affects any defendant's time within which to respond to the complaint or any party's timely response under Local Rule 3.01(c) to a motion.

ORDERED in Tampa, Florida, on November 24, 2021.

STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

No. 8:21-cv-2127-SDM-AAS

ANGELA DEBOSE,

Plaintiff,

v.

UNITED STATES, et al.,

Defendants.

Filed December 14, 2021

PLAINTIFF'S REQUEST FOR ORAL ARGUMENT AND FOR AN EVIDENTIARY HEARING

Pursuant to Local Rule 3.01(h), Plaintiff Angela DeBose respectfully requests this Court to consider oral argument and an evidentiary hearing. While the Plaintiff asked for similar relief in her Objection Motion, (Docs. 43), to Defendant's Thirteenth Judicial Circuit Court, Barton, Ficarrotta, Rice, Holder, University of South Florida Board of Trustees, Solis, Dosal, Wilcox, and Palmer original Notice of Related Cases, (Doc. 39), under the Rule, a party must request oral argument or an evidentiary hearing in a separate document. The Plaintiff therefore makes this formal request in the manner anticipated by the Rule following Ms. Ivy Pereira Rollins' Amended Notice of Related Cases, (Doc. 44), on behalf of these Defendants. Ms. Rollins' amended notice does not resolve the matters Plaintiff raised in her objection. Rule 201 of the Federal Rules of Evidence sets forth the basic standards for judicial notice of "adjudicative facts," which are facts relevant to the adjudication of the particular controversy and specific parties before the court. Rule 201[b] allows judicial notice of adjudicative facts that are "not subject to reasonable dispute" because they are "generally known" or are "capable of accurate and ready determination by

resort to sources whose accuracy cannot reasonably be questioned." Whether requesting or opposing judicial notice, litigants have a right to be heard on the issue under Rule 201[e]. Plaintiff contends the Court may well need an evidentiary basis to consider the pleadings. The truth of that fact of whether the cases are related is not so notorious or well known, or so authoritatively attested, that it cannot reasonably be doubted. Additionally, the assertion of relatedness of the cases does not make the contents of the document admissible if subject to challenge, such as when a document is constituted as hearsay. Taking judicial notice of the entire list may appear expeditious for the current proceedings by Defendants but not when it does not comply with the rules of evidence.

Plaintiff believes that oral argument and an evidentiary hearing are necessary to better assist this Court in understanding the factual and legal issues related to the arguments by the parties. The Plaintiff is not certain how long an evidentiary hearing will take but estimates the time required for oral argument will be approximately two (2) hours.

In addition, Plaintiff requests a hearing on her motion for clarification/reconsideration, (Doc. 42). Defendants Greenberg Traurig, P.A. and Richard McCrea have now responded, (Doc. 46). Therefore, the matter is now fully briefed. Again, Plaintiff believes a hearing is necessary to illuminate the factual and legal issues related to the arguments by the parties and is anticipated to take 30-45 minutes.

Submitted: 12/14/2021

Angela DeBose, Plaintiff