

FILED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SEP 21 2023

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

JENNIFER L.M. SENDZUL,

Plaintiff-Appellant,

v.

JAY C. HOAG, an individual; et al.,

Defendants-Appellees.

No. 22-55508

D.C. No. 2:21-cv-06894-RGK-KS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
R. Gary Klausner, District Judge, Presiding

Submitted September 12, 2023**

Before: CANBY, CALLAHAN, and OWENS, Circuit Judges.

Jennifer L.M. Sendzul appeals pro se from the district court's judgment dismissing her copyright infringement action for failure to prosecute. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion.

Pagtalunan v. Galaza, 291 F.3d 639, 640 (9th Cir. 2002). We affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:21-cv-06894-RGK-KS	Date	May 9, 2022
Title	<u>Jennifer LM Sendzul v. Jay C Hoag, et al.</u>		

Present: The Honorable	R. GARY KLAUSNER, UNITED STATES DISTRICT JUDGE	
Joseph Remigio	Not Reported	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiff:		Attorneys Present for Defendant:
Not Present		Not Present

Proceedings: (IN CHAMBERS) Order Re: Plaintiff's Motion to Transfer Case [DE 125]

On April 29, 2022, Plaintiff filed a motion styled as a Motion to Transfer the Case to the Appropriate Court. (ECF No. 125.) Included with the Motion is a request to disqualify this Court pursuant to 28 U.S.C. § 144. The Court finds it proper to rule on the Motion itself, as the “challenged judge . . . should rule on the legal sufficiency of a recusal motion in the first instance.” *United States v. Studley*, 783 F.2d 934, 940 (9th Cir. 1986); *see also* C.D. Cal. Gen. Order 21-01 ([A disqualification motion] must first be reviewed by the district judge to whom that case is assigned, even if that judge is the subject of the motion to disqualify.”). If the affidavit accompanying the motion is legally insufficient, then recusal can be denied. *United States v. \$292, 888.04 in U.S. Currency*, 54 F.3d 564, 566 (9th Cir. 1995).

Plaintiff bases her argument for recusal on the alleged biases of this Court. However, the biases she asserts result solely from this Court’s rulings on both procedural and substantive matters. “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). Recusal “is required only if the bias or prejudice stems from an extrajudicial source and not from conduct or rulings made during the course of the proceeding.” *Pau v. Yosemite Park & Curry Co.*, 928 F.2d 880, 885 (9th Cir. 1991). Plaintiff makes no assertions that this Court’s alleged bias arises from an extrajudicial source. Rather, her “grievances are based entirely on court rulings with which she disagrees.” *Citizen v. Cty. of San Bernardino*, 2021 WL 4228054, at *4 (C.D. Cal. Aug. 5, 2021). “Adverse findings do not equate to bias.” *United States v. Johnson*, 610 F.3d 1138, 1148 (9th Cir. 2010). Accordingly, her affidavit is legally insufficient and the Court DENIES the request for recusal and transfer of venue.

IT IS SO ORDERED.

Initials of Preparer

jre/a

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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JAN 4 2024

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

JENNIFER L.M. SENDZUL,

No. 22-55508

Plaintiff-Appellant,

D.C. No. 2:21-cv-06894-RGK-KS
Central District of California,
Los Angeles

v.

JAY C. HOAG, an individual; et al.,

ORDER

Defendants-Appellees.

Before: CANBY, CALLAHAN, and OWENS, Circuit Judges.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 35.

Sendzul's petition for rehearing en banc (Docket Entry No. 43) is denied.

No further filings will be entertained in this closed case.

**Additional material
from this filing is
available in the
Clerk's Office.**