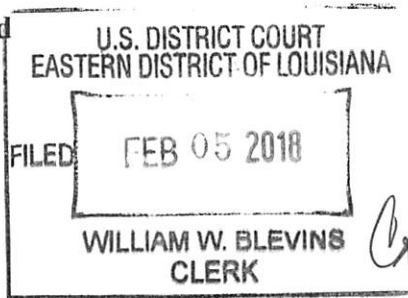


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

Howard Anthony Brown and
Belden Batiste

Vs.

TOM SCHEDLER, ET AL.



Civil Action No. 17-9627

SECTION: "E" (4)

**MOTION TO DISQUALIFY DISTRICT JUDGE AND
MEMORANDUM OF LAW IN SUPPORT THEREOF**

Plaintiffs Howard Anthony Brown and Belden Batiste, hereby moves Judge SUSIE MORGAN pursuant to 28 U.S.C. § 144 and 28 U.S.C. § 455 to immediately disqualify herself from all future proceedings in this matter. In support of this Motion Plaintiffs set forth the following facts and argument.

BACKGROUND

This case was filed by Plaintiffs on September 26, 2017 in this District Court seeking relief under the Voting Rights Act of 1965 and this was assigned to Section "H", JUDGE JANE TRICHE MILAZZO. Judge MILAZZO was subsequently disqualified and this case was reassigned. Plaintiffs then filed Motions for ruling on Notice of Submission and Oral Argument, and both motions were denied by Judge SUSIE MORGAN without any written reason or opinion accompanying order to Plaintiffs.

FACTS

I. Plaintiffs Howard Anthony Brown and Belden Batiste, hereby move this court to take mandatory notice of the known facts that Judge SUSIE MORGAN, has knowingly, willingly, intentionally, with forethought, malice and vexation violated the Federal Code of Conduct and the laws of the land which is the Constitution for the United States of America. JUDGE SUSIE

____ Fees _____
____ Process _____
____ X Dkt _____
____ CTRM Dep _____
____ Dec. No. _____

UNITED STATES DISTRICT COURT
EAST DISTRICT OF CALIFORNIA

TO THE HONORABLE CLERK OF THE COURT
FROM THE UNITED STATES DISTRICT COURT
EAST DISTRICT OF CALIFORNIA
CLERK

MEMORANDUM FOR THE CLERK OF THE COURT
UNITED STATES DISTRICT COURT

Re: [illegible]
[illegible]
[illegible]
[illegible]

RECOMMENDATION

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

Respectfully,
[illegible]

FILED

[illegible]
[illegible]
[illegible]
[illegible]

9/5/18
I

MORGAN, has the appearance of bias and prejudice therefore shall immediately recuse herself in this matter without delay.

II. Plaintiffs hereby moves the court to take mandatory notice of the fact that by this motion to disqualify and recuse, Judge SUSIE MORGAN shall immediately recuse herself without delay.

III. Plaintiffs hereby moves the court to take mandatory notice of the fact that Plaintiffs strongly believes that Judge SUSIE MORGAN, has the appearance of bias and prejudice, and has created the appearance of impropriety and shall immediately recuse herself without delay.

IV. Plaintiffs hereby moves the court to also take mandatory notice of the fact that Judge SUSIE MORGAN, has knowingly, willingly, and intentionally, with forethought, malice and vexation violated the Federal Code of Conduct especially Canon 1, Canon 2, and Canon 3.

V. Plaintiffs hereby moves the court to also take notice of the fact that Judge SUSIE MORGAN, is not eligible to preside in this matter and Plaintiffs hereby demands that Judge SUSIE MORGAN, immediately be disqualified and remove herself from this case and matter without delay. Furthermore, according to 28 U.S.C. Code Section 455 (a) (b) (1) (4), Judge SUSIE MORGAN shall recuse herself immediately in order to ensure impartiality and fairness in this matter.

SUPPORTING ARGUMENT

28 U.S.C. §144, provides:

Whenever 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 proceedings.

28 U.S.C. § 455 provides:

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

“[I]t is apparent that the two sections are not redundant but are complementary...” United States v. Silba, 624 F.2d 864, 868 (9th Cir. 1980). “[A] movant under section 144 must allege facts to convince a reasonable person that bias exists, while under the broader language of section 455, he must show only that a reasonable person ‘ would harbor doubts about the judge’s impartiality.’” Phillips v. Join Legislative Committee on Performance & Expenditure Review, 637 F.2d 1014, 1019 (5th Cir. 1981), cert denied, 456 U.S. 960 (1982).

In the instant case, based upon the declarations attached hereto, a “reasonable person” would be convinced that bias existed and, certainly, that person “would harbor doubts” about the court’s impartiality.

The complaint in the above caption matter to which Judge SUSIE MORGAN is presiding and recently rendered orders denying to rule on motions that’s presently before the court and given all the facts, (1) Judge SUSIE MORGAN, ordered Plaintiffs Motion denied, without any reason or opinion to Pro Se Plaintiffs.

(2) The fact that the Plaintiffs make mention and the Docket confirms that there was tampering of the Docket, to give the justification for the dismissal of the Entry of Default and Default Judgement.

(3) Judge SUSIE MORGAN denies to rule on a matter that’s assigned to her and denies the Plaintiffs their full Rights to be heard.

(4) Its apparent that based on the named defendants that appears on the Motion in question, Judge SUSIE MORGAN fails to render Plaintiffs the full Right to be heard according to law.

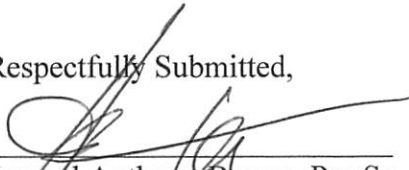
(5) That the previous Judge was not only a professional associate of Judge SUSIE MORGAN, but also a personal friend. To which both of them were nominated by Senator MARY LANDRIEU to the bench and appointed by President Barack Obama.

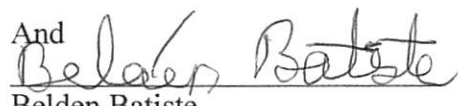
CONCLUSION

Given the Statement in the attached Declaration, which the court should know to be true and which hopefully should be undisputed. As well as the totality of the facts, especially the fact that Judge SUSIE MORGAN fails to perform the duties of her office and ruled on motions that are presently in front her. It would appear that a reasonable person would conclude that bias exist in this case and therefore the Court must recuse itself under 28 U.S.C. § 144.

Never the less putting aside the question of whether actual prejudice exist it can be no doubt that a reasonable person looking at the totality of the circumstances would harbor doubts about the courts impartiality and therefore Judge SUSIE MORGAN, should recuse herself from this matter under 28 U.S.C. § 144.

Respectfully Submitted,


Howard Anthony Brown, Pro Se
4711 Marque Drive
New Orleans, Louisiana 70127
(504) 251-1203

And

Belden Batiste
1421 North Miro
New Orleans, Louisiana 70119
(504) ~~251-1203~~

872-5056

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2018 the foregoing "Motion to Disqualify District Judge and Memorandum of Law in Support Thereof" was hand delivered to the Clerk of Court and a copy emailed to the Counsels of Record for the Defendants.

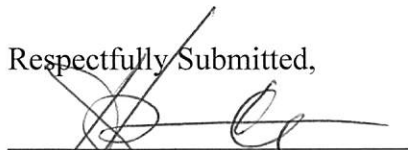
I further certify that a copy of the above and foregoing "Motion to Disqualify District Judge and Memorandum of Law in Support Thereof" was sent via U.S. Mail, properly address and with proper postage to the Counsels of Record:

Christina B. Peck (T.A.) (La. Bar # 14302)
Email: cpeck@roedelparsons.com
8440 Jefferson Highway, Suite 301
Baton Rouge, Louisiana 70809-7652
Attorney for Defendant Jeff Landry

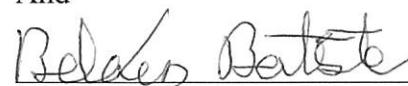
Celia R. Cangelosi
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5551 Corporate Blvd., Suite 101
Baton Rouge, Louisiana 70808
Attorney for Defendant Tom Schedler

David Glen Sanders
Email: sandersd@ag.louisiana.gov
1885 North 3rd Street
Baton Rouge, Louisiana 70804-9005
Attorney for Defendant Judges

Respectfully Submitted,


Howard Anthony Brown, Pro Se
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And


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New Orleans, Louisiana 70119
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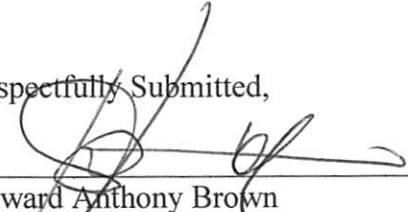
DECLARATION UNDER PENALTY OF PERJURY

STATE OF Louisiana

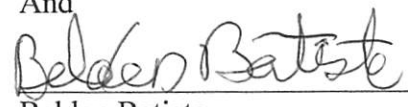
COUNTY OF Orleans

PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1746, under penalties of perjury, WE hereby declare that we have examined this Declaration and is attached documents to the best of our knowledge and belief. This Declaration and any attachments, which purport to be part of this Declaration, are true, correct and complete.

Respectfully Submitted,


Howard Anthony Brown
4711 Marque Drive
New Orleans, Louisiana 70127
(504) 251-1203

And


Belden Batiste
1421 North Miro
New Orleans, Louisiana 70119
~~(504) 251-1203~~

504-872-3056

Executed this ____ day of _____, _____.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**Howard Anthony Brown, ET AL.,
PLAINTIFF(S)**

CIVIL ACTION

No. 17-9627

VERSUS

SECTION: "E" (4)

**TOM SCHEDLER, ET AL.,
DEFENDANT(S)**

ORDER

Considering the Motion to Disqualify Judge_____.

IT IS ORDERED that the Motion is GRANTED.

New Orleans, Louisiana, this _____ day of _____, 20_____.

**SUSIE MORGAN
UNITED STATES DISTRICT JUDGE**