

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

PARAMOUNT PROPERTIES MANAGEMENT)	
GROUP LLC,)	
)	
Plaintiff,)	CASE NO. 2022-CV-365529
)	
v.)	
)	
DERRICK JACKSON,)	
)	
Defendant.)	

THIRD MOTION FOR RECUSAL

COMES NOW Defendant in the above-styled action, DERRICK JACKSON, and files this second motion requesting the recusal of the Honorable Melynee Leftridge showing this Court as follows:

I. Timing

Timing is proper pursuant Uniform Superior Court Rule (“USCR”) 25.1 as the new additional grounds for disqualification were made known to Defendant and Defendant’s counsel on January 26, 2023. *See also* O.C.G.A. 1-3-1(d)(3). No other hearing or trial notice has been filed and/or served at the time of this filing.

II. Rule of Law

A. Georgia Code of Judicial Conduct

“Judges shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.” CJC Rule 1.2(a). “Judges shall perform judicial duties without bias or prejudice.” CJC Rule 2.3(A). Rule 2.11(A) of the Code of Judicial Conduct states “[j]udges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned. . . .” Rule 1.2 prohibits not only actual impropriety but also the

appearance of impropriety. *See* Rule 1.2, Commentary [3] (“The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge’s ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired.”).

Under Rule 2.2, “Judges shall dispose of all judicial matters fairly, promptly, and efficiently.” However, “[t]he obligation of judges to dispose of matters promptly and efficiently must not take precedence over their obligation to dispose of matters fairly and with patience.” CJC Rule 2.6(B). Further, “[j]udges shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law.” CJC Rule 2.6(A).

Under Rule 2.3(B), “[a] judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice Judges shall not permit court staff, court officials, or others subject to the judge’s direction and control to do so.”

B. Uniform Superior Court Rule 25.3

USCR 25.3 states in part: “When a judge is presented with a motion to recuse, or disqualify, accompanied by an affidavit, the judge shall temporarily cease to act upon the merits of the matter The trial judge shall not otherwise oppose the motion.”

III. Facts

1. Defendant asserts all facts stated and alleged, including exhibits, in the *Rule 25.2 Attorney’s Affidavit* filed with this Court on December 27, 2022, the *Second Rule 25.2 Attorney’s Affidavit* filed on December 28, 2022, *Third Rule 25.2 Attorney’s Affidavit* filed on January 20, 2023 and *Fourth Rule 25.2 Attorney’s Affidavit* contemporaneously herewith.
2. Some time prior to demanding a jury trial in this case, counsel for Defendant discovered that an attorney from Hall Booth Smith, R. David Ware, who was also a former Magistrate Court judge, donated to Judge Leftridge’s recent campaign and that Judge Leftridge was a former Magistrate Court Judge prior to her role as a Superior Court Judge. No further research was done regarding the connection between Judge Leftridge and R. David Ware at that particular time.
3. On October 12, 2022, just before the pretrial conference that same day, Defendant’s counsel filed a motion for a continuance requesting that this Court continue the case to a date after

October 31, 2022. At the pretrial conference via Zoom, Judge Leftridge orally denied that motion without asking the Plaintiff's counsel if he opposed the continuance request. The Judge only asked Defendant's counsel for argument before she quickly denied it. The fact that the Judge did not even ask the Plaintiff's side if they opposed the request for a continuance led Defendant's counsel to be concerned that there may have been an *ex parte* communication. Judge Leftridge subsequently did give some relief via email comparable to that of a continuance, but that fact is not on the Court's record and, therefore, Defendant's motion for continuance gives the impression of a meritless attempt to "delay" the action when in fact the request was meritorious.

4. The Court's scheduling order set the trial date in this action for October 25, 2022 and that order gave no indication that a court reporter would not be provided. On the afternoon of October 21, 2022, the Friday before the Tuesday hearing, the Judge's staff assistant sent an email to the parties stating that the Court would not provide a court reporter and, further, that the Judge would not delay trial if the parties could not get a court reporter.
5. Despite efforts made, counsel for Defendant never secured a court reporter; Plaintiff's counsel indicated through email that he may have secured a court reporter but it was not clear. Defendant filed for Bankruptcy the day before the trial so that issue did not come to fruition.
6. Also on October 21, 2022, Plaintiff's counsel filed a motion for immediate writ of possession. Defendant's counsel filed a response and a motion for stay of application for writ of possession on October 24, 2022 on grounds that Plaintiff did not even have a viable dispossessory claim.
7. Pursuant to the Lease For Residential Property ("LRP") and the Purchase And Sale Agreement ("PSA") between the parties, Defendant is to pay \$15,000.00 per month for rent/purchase payments. This comes to \$180,000.00 per year.
8. By Consent Order, without prejudice of any claims, counterclaims or defenses in this action, on or about April 21, 2022, Defendant deposited the sum of \$85,264.52 into the Court Registry under the Magistrate Court's jurisdiction pursuant to O.C.G.A. § 44-7-54.
9. Defendant then made seven (7) consecutive payments of \$15,000.00, which total \$105,000.00.
10. As of the date of Plaintiff's motion to release the funds in the Registry, Defendant had already deposited \$190,264.52.
11. Plaintiff told the Bankruptcy Court that the purchase and sales agreement at issue in this case was terminated in May of this year, which was over three months after this **dispossessory action** was originally initiated in the Magistrate Court of Fulton County.
12. Plaintiff's counsel filed its *Motion For An Immediate Writ of Possession And Release Of All Funds Held In The Registry* on December 20, 2022, requesting the following relief:
 - a. An immediate writ of possession; and

- b. The release of all funds paid into the Court's Registry by Defendant since April 2022.
 - c. Plaintiff's motion did not pray for further payments be made into the Registry and such requirement is not authorized by law. *See* O.C.G.A. § 44-7-54.
13. On December 21, 2022, this Court issued an order granting (a) the release of all funds in the Registry to the Plaintiff, (b) an immediate writ of possession, and (c) an order that Defendant pay \$30,000.00 into the Registry of the Court by December 31, 2022, all without providing any accounting of what the dollar amounts stood or stand for.
14. Upon further research conducted between December 24 through December 26, 2022, it was discovered that Judge Leftridge previously worked for Sharon W. Ware, who is the ex-wife of the only donor to Judge Leftridge's campaign from Hall Booth Smith, R. David Ware.
15. On December 31, 2022, counsel for Defendant shared a link to an article on his McMaster For Cobb campaign Facebook page entitled "Fulton County Judge Circumvents jury in an 'attempt' to distribute over \$40k in Registry funds," which is about Judge Leftridge's actions in this lawsuit subject to the first *Motion for Recusal* and was published by Navigating Justice on the wikilaw.org website.
16. Sometime after December 31, 2022 but before January 12, 2023, Leon Gates posted a comment about the above described article stating "Ya'll will believe ANYTHING". More exchanges took place on Facebook between counsel for Defendant and Leon Gates. As of January 13, 2023, Leon Gates holds himself out on LinkedIn as being a Deputy Sheriff Captain at Fulton County S.O.
17. Leon Gates has been a public supporter of "Melynee Leftridge Harris" on Facebook, and the judge has publicly expressed her appreciation for Leon Gates's support, stating specifically: "Thank you so much Captain Gates! I appreciate your support a great deal!!!!"
18. Fulton County Sheriff Deputies evicted the Defendant's fiancé and children from 955 Tiverton Ln., Johns Creek, Fulton County, GA on January 12, 2023. Fulton County Sheriff Deputies did not have a Writ of Possession giving them the authority to take possession of the Property from Defendant's fiancé, children or any occupants other than Derrick Jackson. Defendant's fiancé refused to leave the home so the Sheriff Deputies began to put Defendant's children into patrol vehicles until Defendant's fiancé came out of the house.
19. At least one of the Deputy Sheriffs that evicted Defendant's family told them that Defendant's attorney didn't know what he was doing and that the Sheriffs had a court order allowing them to evict the fiancé and children. At least one of the Sheriff's Deputies told Defendant's family member that they had "the judge's phone number."
20. On January 26, 2023, counsel for Plaintiff filed its *Plaintiff's Motion In Opposition To Defendant's First Motion For Recusal* ("Opposition") (1) arguing the merits of the case, (2) attacking Defendant's credibility, (3) defending Judge Leftridge, and (4) attacking Defendant's

exercise of Constitutional rights, all with false assertions of fact and without any supporting affidavit(s).

Conclusion

Unless Plaintiff believes that there is some favorable benefit to have the Honorable Judge Melynee Leftridge continually preside over this action, Plaintiff has no incentive to oppose Defendant's motion to recuse. Further, by defending Judge Leftridge and attacking Defendant personally over this recusal motion, Plaintiff's counsel is in turn serving as Judge Leftridge's attorney and is also in violation of USCR 25.3.

In light of the above considered in conjunction with all 25.2 affidavits, motions and facts on the record as applied to the Georgia Code of Judicial Conduct, the Honorable Judge Melynee Leftridge is at minimum in violation of **USCR Rule 25.3 and CJC Rules 1.2, 2.2, 2.3 and 2.6**, and therefore has a duty to recuse herself pursuant to **Rule 2.11(A)** from the above-styled action without delay.

WHEREFORE Defendant prays:

- (a) That this Court Grant this motion; and
- (b) That the Honorable Judge Melynee Leftridge be recused from this action should Defendant's first and second motions for recusal be denied;
- (c) That the Court reassign this matter to a judge that is not disqualified for any reason, including but not limited to any of the same or similar reasons that Judge Leftridge is disqualified for as stated herein.

This 31st day of January 2023.

/s/ Matthew D. McMaster
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Attorney for Defendant

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