

DOCKET NO.: SC 19219	:	SUPREME COURT
(D.N. X08-FST CV 03-0196141S)	:	STATE OF CONNECTICUT
ARTIE'S AUTO BODY, INC., ET AL.	:	
vs.	:	
THE HARTFORD FIRE INSURANCE COMPANY	:	December 24, 2014

MOTION TO DISQUALIFY

Pursuant to Practice Book §§ 1-22 and 1-23 and Rule 2.11 of the Code of Judicial Conduct, the Plaintiffs-Appellees hereby move that the Honorable Justice Andrew J. McDonald recuse himself from this appeal, which is scheduled to be heard on January 13, 2015.¹ In the past, Justice McDonald has expressed personal animus towards Plaintiffs' lead counsel, Attorney David A. Slossberg, and his law firm. Justice McDonald has publicly expressed similar animus toward Attorney Slossberg's wife, State Senator Gayle Slossberg. These circumstances raise legitimate questions as to the Honorable Justice's ability to hear this case impartially and plainly warrant recusal.

Plaintiffs have sought to address this issue discreetly, and with utmost respect for this Court and its Justices, by sending two letters to apprise Justice McDonald of the issue and request that he recuse himself. He has directed them to file a formal motion instead. As set forth below and in the accompanying affidavits, recusal is necessary to

¹ Plaintiffs respectfully request that, if the Appellant is inclined to file a response, the Court require it to be filed on an expedited basis so as not to jeopardize the January 13, 2015 argument date.

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ensure the administration of justice and to preclude any reasonable questions as to the impartiality of that process.

A. Brief History of the Case.

This class action was commenced more than a decade ago by the Auto Body Association of Connecticut ("ABAC") and three Connecticut auto body repair shops, on behalf of themselves and a class of more than one thousand (1000) Connecticut auto body shops, to challenge wrongful and deceptive practices by The Hartford Fire Insurance Company ("The Hartford"). These practices included, among other things, establishing and maintaining a uniform, artificially low hourly labor rate for auto body repair work in Connecticut through the control of its in-house staff appraisers.

On November 17, 2009, after seventeen days of trial, the jury returned a verdict in favor of the Plaintiffs, awarding them \$14,765,556.27 in damages. Following the jury verdict, The Hartford made two unsuccessful motions to set aside the verdict. On May 24, 2013, the trial court entered an order granting the Plaintiffs' motion for permanent injunction against The Hartford. On June 5, 2013, the trial court granted Plaintiffs' request for punitive damages in the amount of \$20 million to reflect both the severity of the Hartford's unlawful business conduct and The Hartford's intentional efforts to conceal that conduct.

The Hartford filed its notice of appeal on June 12, 2013. On December 2, 2013, Plaintiffs sent a letter to Justice McDonald, with copies to opposing counsel, asking that he recuse himself from hearing this appeal given his prior expressions of personal animus towards Plaintiffs' counsel. The Defendant-Appellant submitted a response

letter dated December 4, 2013. Plaintiffs did not receive any response to that letter. With regard to a follow-up letter sent to Justice McDonald on December 22, 2014 after assignment of the appeal for argument, the Court directed Appellees to file a formal motion. Justice McDonald is among the justices who are scheduled to hear the appeal on January 13, 2015.

B. Factual Basis for the Motion.

Plaintiffs respectfully submit that, under the circumstances which follow, it would not be in the best interests of the judicial process for Justice McDonald to hear this case. Attached to this motion are affidavits setting forth multiple instances in which, both publicly and privately, Justice McDonald expressed personal animus toward Plaintiffs' lead counsel, Attorney David A. Slossberg, his law firm, and his wife, State Senator Gayle Slossberg.

This animus appears to have arisen from Attorney Slossberg's representation of a client who was being sued by Justice McDonald's spouse, Charles Gray. Then-Attorney McDonald represented Mr. Gray in that litigation. (D. Slossberg Aff. ¶ 6.) When the case became particularly contentious on a number of issues before trial, it was clear that Justice McDonald took personal umbrage to the efforts of Attorney Slossberg and his colleagues to advocate on behalf of their client. (Id. ¶¶ 10-11; Skolnick Aff. ¶¶ 6-7.)

More specifically, Mr. Gray placed his medical condition at issue by asserting a claim for emotional damages. As a result, defendants in that case sought his medical records. (D. Slossberg Aff. ¶¶ 8-9; Skolnick Aff. ¶ 5.) They also sought Justice

McDonald's testimony as to the emotional state of his spouse, Mr. Gray, which complicated Justice McDonald's ability to represent Mr. Gray. (Id.) In response, Justice McDonald confronted Attorney Slossberg and questioned his integrity and the integrity of his firm. (D. Slossberg Aff. ¶ 10; Skolnick Aff. ¶ 6.)

Furthermore, during his political career, Justice McDonald also engaged in acrimonious conduct toward Attorney Slossberg's wife, State Senator Gayle Slossberg. (G. Slossberg Aff. ¶¶ 5-8.). Justice McDonald's conduct towards Senator Slossberg was marked by personal animus.

C. Legal Grounds for Relief.

In light of the foregoing circumstances, recusal is necessary to ensure that Plaintiffs are not prejudiced and to protect public confidence in the judicial process. As this Court has instructed, "it is well established that [e]ven in the absence of actual bias, a judge **must** disqualify himself in any proceeding in which his impartiality might reasonably be questioned, because the appearance and the existence of impartiality are both essential elements of a fair exercise of judicial authority." State v. Rizzo, 303 Conn. 71, 119, 31 A.3d 1094 (2011), cert. denied, 133 S. Ct. 133, 184 L. Ed. 2d 64 (2012) (emphasis added). Indeed, this standard is mandatory even in the absence of actual bias where a Justice's impartiality might reasonably be questioned.

That principle is codified in Practice Book § 1-22 and Rule 2.11 of the Code of Judicial Conduct. Section 1-22 provides in relevant part: "A judicial authority **shall**, upon motion of either party or upon its own motion, be disqualified from acting in a matter if such judicial authority is disqualified from acting therein pursuant to Rule 2.11

of the Code of Judicial Conduct” (emphasis added). Rule 2.11(a) provides in relevant part: “A judge **shall** disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned including, but not limited to, the following circumstances: (1) The judge has a personal bias or prejudice concerning a party or a party’s lawyer” (emphasis added).

Pursuant to Practice Book § 1-23, the present motion is accompanied by “affidavit[s] setting forth the facts relied upon to show the grounds for disqualification and a certificate of the counsel of record that the motion is made in good faith.” On the basis of all the circumstances, including those set forth in the affidavits, a reasonable person plainly would question Justice McDonald’s ability to hear the appeal fairly and impartially. “The concept of impermissible judicial ‘bias or prejudice’ contemplates the ‘formation of a fixed anticipatory judgment on the part of the judge, as contradistinguished from an open state of mind which will be governed by the law and the facts.” Rizzo, 303 Conn. at 125. It is reasonable to conclude that Justice McDonald’s interpersonal conflicts with Plaintiffs’ lead counsel and Senator Slossberg will color his view of the case. Moreover, even if he believes that these conflicts will not affect his judgment of the case, his “subjective view as to whether he . . . can be fair and impartial in hearing the case” is not relevant. State v. Shabazz, 246 Conn. 746, 768, 719 A.2d 440 (1998), cert. denied, 525 U.S. 1179, 119 S. Ct. 1116, 143 L. Ed. 2d 111 (1999). “[T]he question is not only whether the particular judge is, in fact, impartial but whether a reasonable person would question the judge’s impartiality on the basis of all the circumstances.” Rizzo, 303 Conn. at 118-119.

In the usual course, judges voluntarily recuse themselves upon request to protect the integrity of the proceedings. Indeed, judges routinely recuse themselves under far less serious circumstances. For example, judges routinely recuse themselves based on a former business affiliation with attorneys in the case or a personal relationship with a claimant. Here, appellate counsel previously defended a contentious case brought by a Justice's spouse, which the Justice himself litigated. During the course of that litigation, the Justice expressed his animus toward appellate counsel in no uncertain terms. Additionally, the Justice served with appellate counsel's spouse in the State Senate and continued to interact with her after he moved to the Governor's office. For years, these interactions have been marked by acrimony. Either set of circumstances, standing alone, would warrant disqualification. The extraordinary combination of these unfortunate factors renders even more compelling the need for recusal here .

D. Conclusion.

For all of the foregoing reasons, Plaintiffs respectfully request that the motion be granted and Justice McDonald recuse himself from hearing the appeal in this action.

PLAINTIFFS-APPELLEES,
ARTIE'S AUTO BODY, INC., et al.

By: 

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David L. Belt, Esq.

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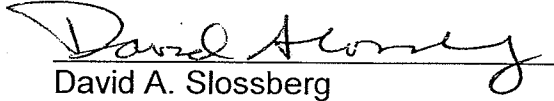
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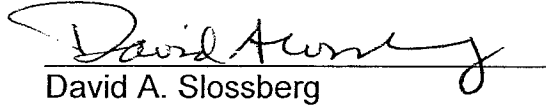
CERTIFICATE OF GOOD FAITH

This is to certify, pursuant to Practice Book § 1-23, that this motion is made in good faith, with utmost respect for this Court and its Justices and only after careful consideration. The undersigned believes that the motion is unfortunate but necessary to protect the interests of the class and this honorable Court.


David A. Slossberg

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing complies with all of the provisions of the
Connecticut Rules of Appellate Procedure § 66-3.


David A. Slossberg

CERTIFICATE OF SERVICE

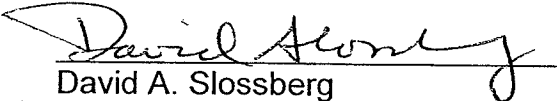
This is to certify that on December 24, 2014 a copy of the foregoing **Motion to Disqualify** was served , with consent, via electronic mail and by U.S. first class mail, postage prepaid, on the following counsel of record, in accordance with P.B. § 62-7:

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David A. Slossberg

DOCKET NO.: SC 19219

SUPREME COURT

(D.N. X08-FST CV 03-0196141S)

STATE OF CONNECTICUT

ARTIE'S AUTO BODY, INC., ET AL.

vs.

THE HARTFORD FIRE INSURANCE
COMPANY

December 23, 2014

AFFIDAVIT OF DAVID A. SLOSSBERG

I, David A. Slossberg, being duly sworn depose and say:

1. I am over the age of 18 and understand the obligation of an oath

2. I am a member of the Law Firm of Hurwitz, Sagarin, Slossberg & Knuff, LLC, counsel for the appellants in the above-referenced action.

3. I submit this affidavit in support of our motion for recusal of Justice Andrew McDonald.

4. I have known Justice McDonald since approximately 2004, when I met him through my wife, State Senator Gayle Slossberg, who was first elected to that position that same year. While I may have had some professional dealings with Justice McDonald prior to that time, I do not recall any particular case or instance.

5. From 2004 forward I saw Justice McDonald mostly through political functions, including at the State Senate. He also came to my home on a number of occasions when he and other senators met there to discuss senate business.

6. In 2005, my firm and I were retained to defend the matter of Charles Gray v. Cosi, Inc., CV-05-4002871S. Then-Attorney McDonald was representing the plaintiff in that case. Early in the case, while leaving an argument at the Stamford Superior Court, Justice

McDonald said to me "You do know that Charles Gray is my life partner." He told me at that time, and several times thereafter, how very personal the case was to him. I made every attempt to deal with him cordially and respectfully while continuing to fulfill my responsibilities to my client as required under the Rules of Professional Conduct.

7. Given how personal the case was to Justice McDonald, and given the fact that he and my wife had to work together in the State Senate, things became awkward and I decided to reduce my involvement in the case. While I continued to manage the client, my colleague Andrew Skolnick took the lead on the file.

8. As the case proceeded, a number of very contentious issues arose. Mr. Gray, who is now Justice McDonald's spouse, had asserted a claim for emotional distress damages in his employment dispute with my client. As such, Mr. Gray placed into issue, among other things, his medical condition.

9. In preparing the trial defense, there was a flurry of motion practice. My colleagues sought Mr. Gray's medical records in connection with his claim for emotional damages. They also advised Justice McDonald that they might have to call him as a fact witness to the emotional condition of his spouse, Mr. Gray. One implication was that Justice McDonald might have difficulty providing adequate representation to Mr. Gray under these circumstances.

10. At the time of this motion practice, Justice McDonald called me at the office. With voice raised and in an angry tone, he stated: "Is this how you practice law? Is this how your firm practices law?" When I attempted to explain our legal rationale, he refused to listen and continued to berate me. This call lasted only a few minutes. Based on Justice McDonald's heated tone and the personal nature of his comments, it was obvious that this

was not an ordinary dispute between opposing counsel. Instead, Justice McDonald was questioning my integrity and that of my firm.


11. My relationship with Justice McDonald after these events was very different, both in tone and in substance. When I had occasion to be in the same room with him at political functions, he seemed disinclined to have any interaction with me at all. It was clear to me that even our minimal interactions were marked by personal animus.

12. At the same time, I became aware of a deteriorating relationship between Justice McDonald and my wife State Senator Gayle Slossberg, which became particularly contentious when he became legal counsel to Governor Malloy after the Governor's election in 2010. Based on what I know, I believe that that relationship was also marked by personal animus directed by Justice McDonald to my wife, Senator Slossberg.

13. In the pending appeal to the Supreme Court, I have tried to handle this matter discreetly and respectfully. Although the situation is unfortunate for all involved, I believe the motion to recuse is necessary to fulfill my professional and ethical obligations to my clients and the Court. It is my belief that, by itself, Justice McDonald's conduct during the Cosi matter could lead a reasonable person to question his impartiality in the present matter. Likewise, his personal animus directed at my wife, Senator Gayle Slossberg, standing alone, would be sufficient to warrant recusal in this matter. The extraordinary combination of these unfortunate factors underscores the importance of recusal to ensure that there is not even the slightest doubt that justice will be administered fairly and impartially in this case.


DAVID A. SLOSSBERG

Subscribed and sworn to before me this 23rd of December, 2014.



Amy Souchuns
Commissioner of the Superior Court

DOCKET NO.: SC 19219
(D.N. X08-FST CV 03-0196141S)
ARTIE'S AUTO BODY, INC., ET AL.
vs.
THE HARTFORD FIRE INSURANCE
COMPANY

: SUPREME COURT
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: December 23, 2014

AFFIDAVIT OF GAYLE S. SLOSSBERG

I, GAYLE S. SLOSSBERG, being duly sworn depose and say:

1. I am over the age of 18 and understand the obligation of an oath.
2. I currently serve as the State Senator for the 14th Senatorial District, a position I have held since my original election in November of 2004. I submit this affidavit in support of the motion to recuse Justice Andrew McDonald from hearing the appeal in the above referenced action.
3. My husband is David Slossberg, lead counsel for the plaintiffs in this action. I have known Justice McDonald since 2004. We met as fellow members of the State Senate and the Senate Democratic Caucus.
4. When I initially met Justice McDonald our working relationship was mostly a positive one. This included communications on legislative issues. Justice McDonald and I met regularly along with a number of other senators outside of Hartford, including on several occasions at my home in Milford as well as my parents' home in Hamden.
5. After several years our working relationship began to sour. While there may have been a number of factors that contributed to these circumstances, it is my belief that

one contributing factor was that my husband, David, was defending a case brought by Justice McDonald's spouse, Charles Gray.

6. The relationship between Justice McDonald and me became untenable and frankly, caustic after Justice McDonald became the legal counsel to Governor Malloy in 2010. Our interactions were acrimonious.

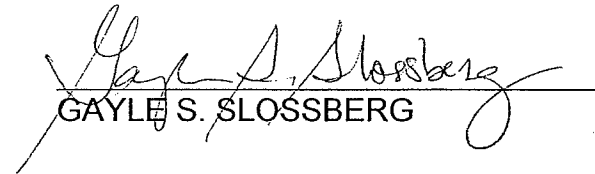
7. One such exchange occurred in June 2012 at a meeting attended by members of the House Democratic Caucus, the Senate Democratic Caucus and the Governor's office. Justice McDonald attended on behalf of the Governor's office. At the time, as Chairwoman of the Government Administration and Elections Committee, I was attempting to negotiate with the Governor's office over a piece of legislation. I was the only elected official in attendance.

8. Near the outset of the meeting, Justice McDonald started screaming directly at me at the top of his lungs in a very personal and shocking manner. He was so angry that his lip was quivering. After a long tirade, it was clear to me that his conduct had nothing to do with the legislative issues to be addressed at the meeting, but rather with his personal animus towards me. I can honestly say that in the twelve years that I have served in elected office, I have never experienced anything as hostile at any time. After the meeting, a number of the persons present approached me to make sure that I was okay and to express their shock and dismay at Justice McDonald's behavior.

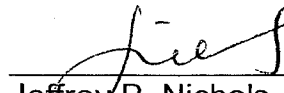
9. The circumstances under which I find myself submitting this affidavit are rather extraordinary. Not only is there a history of contention between the appellees' attorney (my husband, David Slossberg) and a sitting Supreme Court Justice, which has its

origins in litigation brought by the Justice's spouse, but that Justice also has a public history of animus directed at me.

10. In my view, the motion to recuse is about preserving the sanctity of the court and the rights of the parties to have a fair hearing, free from even the appearance of bias. Given Justice McDonald's history of acrimony toward me and my husband, I believe that it would be inappropriate for him to sit on any case involving my husband, David.


GAYLE S. SLOSSBERG

Subscribed and sworn to before me this 23 day of December, 2014.



Jeffrey P. Nichols
Commissioner of the Superior Court

DOCKET NO.: SC 19219	:	SUPREME COURT
(D.N. X08-FST CV 03-0196141S)	:	STATE OF CONNECTICUT
ARTIE'S AUTO BODY, INC., ET AL.	:	
vs.	:	
THE HARTFORD FIRE INSURANCE COMPANY	:	December 23, 2014

AFFIDAVIT OF ANDREW SKOLNICK

I, Andrew Skolnick, being duly sworn depose and say:

1. I am over the age of 18 and understand the obligation of an oath
2. I am counsel at Harlow, Adams and Friedman in Milford, and formerly a member of the Law Firm of Hurwitz, Sagarin, Slossberg & Knuff, LLC, counsel for the appellants in the above-referenced action.
3. I submit this affidavit in support of Plaintiffs' motion for recusal of Justice Andrew McDonald.
4. In 2008 and 2009, I served as lead trial counsel on behalf of Cosi, Inc. in the matter of Charles Gray v. Cosi, Inc., CV-05-4002871S. Attorney Slossberg asked me to play a lead role in the case after he learned that the Plaintiff was Justice McDonald's spouse, Charles Gray.
5. As the litigation proceeded, motion practice became very contentious over the production of Mr. Gray's medical records and whether Justice McDonald would have to be a witness at trial. Justice McDonald's spouse had asserted a claim for emotional distress damages in his employment dispute with Cosi.


6. I also recall Attorney Slossberg relaying to me a very unpleasant phone call he received from Justice McDonald questioning his integrity and the integrity of the firm in litigating the case. Nonetheless, we continued to provide the best defense we could for the client.

7. During the litigation Justice McDonald appeared both professionally and personally offended by the efforts we were asserting on behalf of our client regarding Mr. Gray's medical condition. He indicated that he thought our actions were outrageous, and it was very plain that what we considered to be zealous advocacy on behalf of our client, he viewed as a personal affront.



ANDREW SKOLNICK

Subscribed and sworn to before me this 23 of December, 2014.



Commissioner of the Superior Court

SUPREME COURT
STATE OF CONNECTICUT

NO. SC 19219

ARTIE'S AUTO BODY, INC., ET AL.

v.

THE HARTFORD FIRE
INSURANCE COMPANY

JANUARY 9, 2015

ORDER

THE PLAINTIFFS INITIALLY SOUGHT MY DISQUALIFICATION, INFORMALLY, THROUGH A LETTER ADDRESSED TO ME PERSONALLY, AND COPIED TO COUNSEL FOR THE DEFENDANTS. MORE RECENTLY, THE PLAINTIFFS WROTE TO THE ACTING CHIEF CLERK OF THE OFFICE OF THE APPELLATE CLERK RENEWING THEIR INFORMAL REQUEST THAT I DISQUALIFY MYSELF FROM THE PRESENT CASE IN ADVANCE OF THE ORAL ARGUMENT CURRENTLY SCHEDULED FOR JANUARY 13, 2015. TO AVOID SIGNIFICANT CONCERNS REGARDING IMPROPER EX PARTE COMMUNICATIONS BETWEEN A LITIGANT AND A JUDICIAL AUTHORITY; SEE *BRUNO V. CHASE HOME FINANCE, LLC*, SUPERIOR COURT, JUDICIAL DISTRICT OF DANBURY, DOCKET NO. DBDCV135009149S (OCTOBER 31, 2014); AND TO CONFORM TO THE REQUIREMENTS OF OUR RULES OF PRACTICE; SEE PRACTICE BOOK § 1-23; I DIRECTED THE CLERK'S OFFICE TO NOTIFY THE PLAINTIFFS THAT THEY SHOULD FILE A MOTION TO DISQUALIFY IF THEY BELIEVED THEY HAD A GOOD FAITH BASIS TO DO SO. THE PLAINTIFFS SINCE HAVE FILED A MOTION SEEKING MY DISQUALIFICATION UNDER RULE 2.11 (A), WHICH, IN RELEVANT PART, REQUIRES A JUDGE TO RECUSE HIMSELF WHEN HIS IMPARTIALITY "REASONABLY MIGHT BE QUESTIONED" DUE TO A "PERSONAL BIAS OR PREJUDICE CONCERNING . . . A PARTY'S LAWYER," EVEN WHEN THERE IS NO ACTUAL BIAS OR PREJUDICE. SEE *STATE V. WEBB*, 238 CONN. 389, 460 (1996).

THE BASIS FOR THE MOTION RESTS UPON ALLEGATIONS THAT I HAD EVIDENCED PERSONAL ANIMOSITY TOWARD: (1) COUNSEL FOR THE

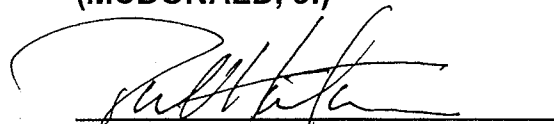
PLAINTIFFS, DAVID A. SLOSSBERG, WHEN HE AND/OR OTHER MEMBERS OF HIS LAW FIRM WERE ACTING AS OPPOSING COUNSEL IN A CIVIL ACTION THAT I HAD BROUGHT, MORE THAN TEN YEARS AGO, AS COUNSEL FOR CHARLES GRAY, MY THEN LIFE-PARTNER AND CURRENT SPOUSE; AND (2) ATTORNEY SLOSSBERG'S WIFE, STATE SENATOR GAYLE SLOSSBERG, WHEN I SERVED AS GENERAL COUNSEL TO GOVERNOR MALLOY AS A RESULT OF THE ALLEGED ACRIMONY THAT DEVELOPED IN THAT LITIGATION. THE DEFENDANTS HAVE FILED AN OPPOSITION TO THE MOTION TO DISQUALIFY, ASSERTING THAT "[A]LLEGATIONS ABOUT HEATED EXCHANGES BY OPPOSING COUNSEL IN CONTESTED LITIGATION OR IN THE ROUGH AND TUMBLE WORLD OF POLITICS DO NOT COME CLOSE TO MEETING THE BURDEN REQUIRED TO DISQUALIFY A JUDGE FROM HEARING AN APPEAL YEARS LATER IN A COMPLETELY UNRELATED MATTER."

IN CONSIDERING THE PRESENT MOTION, THE QUESTION IS WHETHER AN OBJECTIVE OBSERVER, WITH KNOWLEDGE OF THE OBJECTIVE FACTS, REASONABLY WOULD DOUBT THE JUDGE'S IMPARTIALITY UNDER THE CIRCUMSTANCES. *STATEWIDE GRIEVANCE COMMITTEE V. BURTON*, 299 CONN. 405, 416 (2011); SEE ALSO *TRACEY V. TRACEY*, 97 CONN. APP. 278, 284 (2006) ("[I]T IS A FUNDAMENTAL PRINCIPLE THAT TO DEMONSTRATE BIAS SUFFICIENT TO SUPPORT A CLAIM OF JUDICIAL DISQUALIFICATION, THE DUE ADMINISTRATION OF JUSTICE REQUIRES THAT SUCH A DEMONSTRATION BE BASED ON MORE THAN OPINION OR CONCLUSION" [INTERNAL QUOTATION MARKS OMITTED.]). THE PLAINTIFFS' MOTION CONTAINS SOME SPECULATIVE AND CONCLUSORY STATEMENTS, AS WELL AS SOME OBJECTIVELY INCORRECT FACTUAL ASSERTIONS. THE ONLY OBJECTIVE EVIDENCE THAT THE PLAINTIFFS CITE IS A REMARK THAT I HAD MADE, ALLEGEDLY IN AN ANGRY TONE, IN A BRIEF TELEPHONE EXCHANGE QUESTIONING CERTAIN LITIGATION TACTICS BY ATTORNEY SLOSSBERG AND HIS LAW FIRM ("IS THIS HOW YOU PRACTICE LAW? IS THIS HOW YOUR FIRM PRACTICES LAW?"). NOTHING OBJECTIVELY DEMONSTRATES THAT SUCH STATEMENTS CONSTITUTED ANYTHING MORE THAN THE TYPE OF ZEALOUS ADVOCACY THAT IS COMMONPLACE IN LITIGATION. "OTHER THINGS BEING EQUAL, THE MORE COMMON A POTENTIALLY BIASING CIRCUMSTANCE IS, AND THE LESS EASILY AVOIDABLE IT SEEMS, THE LESS THAT CIRCUMSTANCE IS LIKELY TO APPEAR TO A KNOWLEDGEABLE OBSERVER TO BE A SIGN OF PARTIALITY." R. FLAMM, *JUDICIAL DISQUALIFICATION* (2D ED. 2007) § 5.8.2, P. 138. RARELY WOULD A JUDICIAL AUTHORITY'S PERCEPTION OF AN ATTORNEY'S LITIGATION TACTICS, STRATEGY OR CONDUCT SERVE AS A VALID BASIS FOR DISQUALIFYING THAT JUDICIAL AUTHORITY. "THIS IS PARTICULARLY SO WHERE THE JUDGE'S ATTITUDE TOWARD COUNSEL IS BASED NOT ON ANY

PERSONAL FEELINGS OR ASSESSMENT OF COUNSEL'S GOOD FAITH OR INTEGRITY, BUT ON THE JUDGE'S . . . PERCEPTION OF COUNSEL'S PERFORMANCE AS A LAWYER . . . OR DEALINGS THE JUDGE MAY HAVE HAD WITH COUNSEL BEFORE HE TOOK THE BENCH." R. FLAMM, SUPRA. § 3.4, P. 66.

ALTHOUGH IT IS PRESUMED THAT THE ALLEGATIONS OF PERSONAL ANIMUS IN THE AFFIDAVITS OF ATTORNEY SLOSSBERG AND SENATOR SLOSSBERG HAVE BEEN MADE IN GOOD FAITH, IT IS MANIFEST THAT THEY REFLECT A SUBJECTIVE INTERPRETATION OF EVENTS. THE PLAINTIFFS' CLAIM ALSO APPEARS TO BE PREDICATED ON AN INCOMPLETE OR INCORRECT UNDERSTANDING OF THE CIRCUMSTANCES OF THE PRIOR LITIGATION, INCLUDING THE FACT THAT IT WAS A BREACH OF CONTRACT ACTION THAT CONCLUDED WITH A JUDGMENT, ENTERED MORE THAN SIX YEARS AGO, IN MR. GRAY'S FAVOR FOR MORE THAN \$1.5 MILLION. AN OBJECTIVE OBSERVER WITH KNOWLEDGE OF THE RELEVANT FACTS WOULD NOT CONCLUDE SUCH FACTS GIVE RISE TO "THE FORMATION OF A FIXED ANTICIPATORY JUDGMENT ON THE PART OF THE JUDGE, AS CONTRADISTING FROM AN OPEN STATE OF MIND WHICH WILL BE GOVERNED BY THE LAW AND THE FACTS." (INTERNAL QUOTATION MARKS OMITTED.) *STATE V. RIZZO*, 303 CONN. 71, 125 (2011). IN THE ABSENCE OF A VALID BASIS FOR MY DISQUALIFICATION, AND IN RECOGNITION OF THE PRINCIPLE THAT "[T]HERE IS AS MUCH OBLIGATION UPON A JUDGE NOT TO RECUSE HIMSELF WHEN THERE IS NO OCCASION AS THERE IS FOR HIM TO DO SO WHEN THERE IS"; (INTERNAL QUOTATION MARKS OMITTED) *ROSEN V. SUGARMAN*, 357 F.2D 794, 797-98 (2D CIR. 1966) (FRIENDLY, J.); THE MOTION SEEKING MY DISQUALIFICATION IS DENIED.

BY THE COURT,
(MCDONALD, J.)



PAUL S. HARTAN
ACTING CHIEF CLERK

NOTICE SENT: JANUARY 9, 2015
HURWITZ SAGARIN SLOSSBERG & KNUFF LLC
AXINN VELTROP & HARKRIDER LLP
WIGGIN AND DANA LLP
JANE ROSENBERG, ASSISTANT ATTORNEY GENERAL
MICHAEL DAVID SHUMSKY

140281

