

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

RAYMOND E. BUTLER, II,

Plaintiff-Appellant,

Case No. 25-cv-04443

App. Case No. 25-2529

App. Case No. 25-2589

v.

ELI JACKFINN EDDI a/k/a ELY EDDI, et al.,

Defendants-Appellees.

**REPLY IN RESPONSE TO ORDER TO SHOW CAUSE UNDER
FED. R. APP. P. 46**

Katherine A. London, counsel for Plaintiff-Appellant Raymond E. Butler II, submits this reply in response to the Court's Order to Show Cause dated October 10, 2025, pursuant to Federal Rule of Appellate Procedure 46(c). This response demonstrates good cause why no discipline should be imposed, as the challenged filing—the Motion to Disqualify Judge Nancy L. Maldonado, filed September 24, 2025 does not contain scurrilous or unfounded allegations.

This analysis is grounded in the factual averments, supporting documentation, and legal precedents cited within the Motion itself, as well as the accompanying Declaration of Raymond E. Butler II (the "Affidavit") and Certificate of Good Faith. In so doing, I draw upon established principles of judicial disqualification, emphasizing the Motion's adherence to requirements for credible, fact-based assertions derived from extrajudicial sources, as opposed to mere conjecture or defamatory rhetoric. They do not constitute conduct unbecoming a member of the bar or a violation of court rules.

I. FACTUAL BACKGROUND

A. Legal Framework for Assessing Allegations in Disqualification Motions

Under federal law, motions for judicial disqualification must be evaluated against an objective standard that safeguards the integrity of judicial proceedings. Pursuant to 28 U.S.C. §455(a), a judge shall disqualify herself in any proceeding where her impartiality might reasonably be questioned, and under §455(b)(1), disqualification is mandatory where personal bias or prejudice exists against a party. Complementing this, 28 U.S.C. §144 requires that such motions be supported by an affidavit stating facts and reasons for belief in bias or prejudice, certified as made in good faith and not for delay.

The Supreme Court has clarified that allegations in disqualification motions must be "sufficiently definite and particular" to overcome the presumption of judicial impartiality, arising from extrajudicial sources rather than mere disagreement with rulings. *Liteky v. United States*, 510 U.S. 540, 555 (1994) (holding that bias must stem from sources outside the judicial proceeding, such as personal animus or extrajudicial conduct, and not from "opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings"). See also *United States v. Baskes*, 687 F.2d 165, 170 (7th Cir. 1981) (bias must be personal and extrajudicial, not inferred from judicial acts alone).

Scurrilous allegations are those intended to vilify or degrade without basis, often characterized by inflammatory language unsupported by evidence. In contrast, the Motion here aligns with the ABA Model Code of Judicial Conduct Rule 2.11 and analogous federal principles, which mandate disqualification based on factual, non-conclusory grounds from

extrajudicial origins. The Motion satisfies these criteria through specific, documented assertions, thereby avoiding any characterization as scurrilous or unfounded.

B. Factual and Evidentiary Basis of the Motion's Allegations

The Motion's assertions are meticulously tethered to verifiable facts, court records, public documents, and extrajudicial evidence, as required by controlling authority. Far from being scurrilous, they are presented in a measured, professional manner, supported by cross-references to exhibits, complaints, and public records, and certified under penalty of perjury.

The Motion asserts that Judge Maldonado's status as a named defendant in *Butler v. Alexakis, et al.*, No. 1:25-cv-10904 (N.D. Ill.) (the "RICO Action") creates a *per se* conflict under §455(a), as it positions her as an adversary defending against claims of racketeering, obstruction of justice (18 U.S.C. § 1503), wire fraud (18 U.S.C. § 1343), and constitutional violations. This is not unfounded; it is directly predicated on the filed RICO Complaint which details specific acts. Such a lawsuit against a presiding judge inherently raises an appearance of partiality, as recognized in precedent like *Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1991) (recusal mandatory when judge is sued by a party, placing her in an adversarial role).

The following analysis addresses key categories of allegations:

- Accessing the website of KMFL Law, Inc. (the plaintiff's counsel's firm) multiple times between August 1-6, 2025 while Mr. Butler's appeal was in front of Judge Maldonado for review, thereby engaging in unauthorized surveillance using electronic

means to improperly gather information, which prejudiced her against the plaintiff and tainted her decisions.

- Collusion between District Judge Alexakis and Maldonado in obstructing Plaintiff's appeal, including delays in transmitting notices and biased denials of the appeal and en banc review.
- Maldonado led biased appellate panel that issued a prejudiced denial of the plaintiff's appeal and request for en banc rehearing without proper consideration of the merits, despite her obligation to review and adjudicate the filings fairly.
- Maldonado is accused of prior meddling and interference in the appellate court, which allegedly cemented a corrupt pattern and contributed to the sabotage of the plaintiff's case.
- During her confirmation process, Maldonado faced accusations of ideological rulings and denied basing decisions on personal beliefs, but she was criticized for a case backlog beyond the 99th percentile. Despite this, she allegedly "breezed through" the denial of the plaintiff's appeal and en banc request in just four days suggesting selective bias.
- In a prior case (*Lietzow v. Village of Huntley et al.*, N.D. Ill.), Maldonado granted summary judgment against a §1983 false arrest claim, favoring defendants in a manner akin to the plaintiff's civil rights claims, which is cited as demonstrating bias against civil rights plaintiffs.

These are specific incidents of extrajudicial conduct, not mere dissatisfaction with her rulings. *Liteky*, distinguishes such extrajudicial acts from intrajudicial opinions, noting

they evidence personal animus. *Liteky*, 510 U.S. at 555. The Motion avoids rude, scandalous, or unfounded attacks by framing targeted misconduct supported by evidence, aligning with Seventh Circuit standards requiring "credible" facts from non-judicial sources. *In re Maurice*, 167 B.R. at 125. Further, the Motion cites these facts objectively, without hyperbolic language, and supports them with docket references, thereby rebutting any claim of unfoundedness. See *United States v. Baskes*, 687 F.2d 165, 170 (7th Cir. 1981) (factual allegations from extrajudicial sources overcome presumptions of impartiality). The Motion was prepared after thorough review of provided evidence and legal research into disqualification standards and reflects zealous advocacy on behalf of a client who has suffered grievous harm.

II. ARGUMENT

A. The Filings Do Not Constitute Conduct Unbecoming or a Violation of Court Rules

Discipline under FRAP 46(c), requires clear evidence of bad faith, frivolousness, or intent to harass, not merely unsuccessful or aggressive advocacy. See *In re Snyder*, 472 U.S. 634, 645 (1985) (conduct unbecoming involves moral turpitude or dishonesty); *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 766 (1980) (bad faith required for sanctions). Here, the filings were made in good faith and do not warrant discipline.

First, the motion is grounded in factual allegations from Mr. Butler's affidavit and exhibits, not mere conjecture. The arguments in the RICO complaint, 1:25-cv-10904, leading to the Motion to Disqualify Judge Maldonado, are not frivolous, moreover they serve legitimate purposes: protecting Mr. Butler's due process rights and seeking redress for

judicial misconduct. The disqualification motion directly addresses an apparent conflict under §455(a), where a judge's impartiality might reasonably be questioned due to being sued by a party. See *Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1991) (lawsuit against judge creates per se conflict).

B. The Motion is Protected by Absolute Litigation Privilege

Litigation privilege refers to an absolute immunity that protects lawyers, clients, and sometimes third parties from civil liability (e.g., defamation, emotional distress, or fraud claims) for statements or communications made during judicial or quasi-judicial proceedings. The goal is to encourage open communication in litigation without fear of retaliatory lawsuits, avoiding a "chilling effect" on legal processes. The communications related to ongoing judicial proceedings or pre-litigation, if litigation is contemplated in good faith and under serious consideration, are included. The statement must have some relation to the proceeding, and the motive is irrelevant.

In the Seventh Circuit, which applies Illinois substantive law to privilege claims in cases like this (arising from proceedings in the Northern District of Illinois), the absolute litigation privilege is broadly construed to shield "anything said or written in the course of a legal proceeding," provided it pertains to the litigation. See *Joan M. Steffes v. Stepan Co.*, 144 F.3d 1070, 1074 (7th Cir. 1998) (holding that the privilege protects statements in pleadings, motions, and other court filings, even if potentially defamatory, as long as they bear some relation to the case). This doctrine, rooted in the Restatement (Second) of Torts §587, extends to "defamatory matter concerning another in communications preliminary to a proposed judicial proceeding, or in the institution of or during the course and as a part of, a judicial

proceeding in which [the party] participates, if the matter has some relation thereto." The privilege is absolute, meaning it applies regardless of malice or falsity, to foster "unfettered expression" in the adversarial process. *Thomas v. Petrulis*, 465 N.E.2d 932, 934 (Ill. App. Ct. 1984) (adopting Restatement principles).

Here, every allegation in the Motion is directly tied to the disqualification grounds under 28 U.S.C. §§455(a) and (b)(1). These statements were made in a formal appellate motion, supported by exhibits and pertain exclusively to the impartiality inquiry at issue in this appeal. They are not extraneous or gratuitous but essential to demonstrating extrajudicial bias from sources like exhibits in the RICO suit itself. As such, they fall squarely within the privilege's scope, barring any civil liability or derivative sanctions. See *In re Sch. Asbestos Litig.*, 977 F.2d 764, 776 (3d Cir. 1992) (applying similar principles to protect litigation-related statements from retaliatory claims).

Federal courts, including the Seventh Circuit, routinely apply this state-law privilege in federal proceedings where, as here, the underlying claims involve state tort-like elements (e.g., defamation implied in "scurrilous" allegations). Imposing sanctions under Fed. R. App. P. 46 for such privileged statements would undermine the privilege's purpose, deterring attorneys from raising legitimate recusal issues and violating due process. See *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991) (courts' inherent sanction powers must yield to absolute immunities); see also *Buckley v. Fitzsimmons*, 20 F.3d 789 (7th Cir. 1994) (discussing limits on prosecutorial immunity but affirming absolute protection for in-court acts).

C. Mitigating Factors Weigh Against Discipline

Mitigating factors counsel against discipline. This is undersigned counsel's first such filing in this Court, with no prior disciplinary history. The arguments, reflect a client's genuine belief in bias. The Motion's integrity is further evidenced by the Certificate of Good Faith, executed under penalty of perjury pursuant to 28 U.S.C. §144, wherein counsel certifies that the allegations are believed true, made in good faith, and not for delay or improper purpose. This certification underscores the Motion's foundation in genuine belief supported by evidence.

Similarly, the Affidavit of Raymond E. Butler II avers personal knowledge of the facts, specifies extrajudicial sources and affirms the belief in bias stems from a "pattern of disparate treatment" favoring defendants. Such sworn statements elevate the Motion above unfounded conjecture, as they comply with §144's mandate for timely, fact-based affidavits. These sworn statements affirmatively demonstrate adherence to ethical and legal norms. Discipline would chill advocacy for clients alleging judicial misconduct. See *In re Maurice*, 167 B.R. 114, 125 (*Bankr. N.D. Ill.* 1994) (allegations must be credible but not proven for good faith).

If a hearing is necessary, undersigned counsel requests one to present additional evidence, including Mr. Butler's testimony.

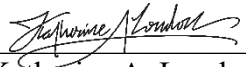
III. CONCLUSION

In sum, the Motion to Disqualify Judge Maldonado is a properly supported pleading that advances credible, fact-based allegations derived from extrajudicial sources, as required by

28 U.S.C. §§144 and 455, *Liteky*, *Baskes*, and related authorities. It eschews scurrilous or unfounded claims by relying on documented evidence—court filings, exhibits, public records, and sworn certifications—presented in a professional manner to preserve judicial integrity and Plaintiff's due process rights. Any characterization otherwise would misconstrue the Motion's evidentiary foundation and legal purpose.

For these reasons, undersigned counsel respectfully submits that good cause exists to discharge the Order to Show Cause without discipline. The filings were made in good faith, based on facts, evidence, and law, and do not rise to conduct unbecoming or a rule violation.

Respectfully submitted,

/s/ 
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