



THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

TAJE MONBO, <i>et al.</i>	*	Civil Action No.: CV-18-5930
	*	
Plaintiffs,	*	Assigned Judge: Margo K. Brodie
v.	*	
	*	Magistrate Judge: Steven L. Tiscione
LOTFY NATHAN, <i>et al.</i>	*	
	*	
Defendants,	*	
* * * * *		

**PLAINTIFFS’ MOTION TO RECUSE JUDGE PURSUANT TO 28 U.S.C. § 144
WITH AFFIDAVIT IN SUPPORT**

NOW COMES, Plaintiff Deafueh Monbo and Taje Monbo (hereinafter “Plaintiffs” or “Monbos”) and hereby move that the United States District Court Judge, Margo K. Brodie, recuses herself from this case pursuant to 28 U.S.C. § 144. In support of her Motion, Plaintiff Deafueh has attached an Affidavit as Exhibit 1 and incorporated Memorandum of Law, and in support thereof, states as follows:

RECUSAL UNDER 28 U.S.C. § 144

1. 28 U.S.C. § 144 allows a party to seek disqualification of the assigned trial judge where the party feels he/she will not receive a fair proceeding because of a specifically described prejudice or bias of the judge. 28 U.S.C. § 144 provides that, upon receipt of a legally sufficient motion to disqualify, “the judge shall immediately enter an order granting disqualification and proceed **no further in the action.**”

2. The principal facts constituting the grounds for this Motion are based on the bias and prejudice of District Court Judge Margo K. Brodie.

3. This Motion is filed with all due respect to the District Court. Under the circumstances as outlined below, and in the interest of justice, Plaintiff Deafueh has been forced to seek the remedy of disqualification.

4. Plaintiffs fear that they will not receive fair proceedings in this case because of District Court Judge Margo K. Brodie continuing demonstrable prejudice against the Plaintiffs.

5. A recitation of the facts forming the basis for this fear will demonstrate this fear is well-founded.

6. During the pendency of this case, certain actions were taken and statements made by the Districts Court, the significance of which was not manifest until August 26, 2022.

7. On September 4, 2019, the Plaintiffs filed a “Motion for the Issuance of Request to the Register of Copyrights” pursuant to 17 U.S.C § 411(B)(2) because the copyright to the infringing 12 O’ Clock Boys (2013) film was obtained by Lotfy Nathan by fraud.

8. Thereafter, District Court Judge Margo K. Brodie advised the parties that she would schedule oral argument once the “Motion for the Issuance of Request to the Register of Copyrights” is fully briefed. *See Exhibit 2*

9. On October 18, 2019, District Court Judge Margo K. Brodie was put on notice that the “Motion for the Issuance of Request to the Register of Copyrights” was fully briefed and that oral arguments needed to be scheduled. *See Exhibit 3*

10. District Court Judge Margo K. Brodie failed to schedule oral arguments for three years, and sat on her ass in light of the importance for an early disposition of the controversy with respect to the fraudulently obtained 12 O’Clock Boys (2013) film copyright registration.

11. Since September 2019, District Court Judge Margo K. Brodie has ignored the **mandatory** provision of 17 U.S.C § 411(B)(2) and has refused to seek the opinion of the

U.S. Copyright Office with respect to the fraudulently obtained 12 O’Clock Boys (2013) film copyright registration because of the bias and prejudice of District Court Judge Margo K. Brodie.

12. 17 U.S.C § 411(B)(2) mandates that when there is an allegation that a copyright registration was fraudulently obtained as the Monbos have alleged against Lotfy Nathan and his 12 O’Clock Boys (2013) film, District Court Judge Margo K. Brodie *must* seek the advice and opinion of the Register of Copyrights at the U.S. Copyright Office on the matter. Instead, District Court Judge Margo K. Brodie has been sitting on her ass, twiddling her thumbs since September 2019.

MEMORANDUM OF LAW

13. 28 U.S.C. § 144 allows a party to seek disqualification of the assigned trial judge where the party feels he/she will not receive a fair court proceeding because of a specifically described prejudice or bias of the judge. 28 U.S.C. § 144 provides that, upon receipt of a legally sufficient motion to disqualify, “the judge shall immediately enter an order granting disqualification and proceed no further in the action.”

14. Plaintiffs believe that the District Court is prejudiced against them. The District Court has taken on the role of advocate for the Defendants and is no longer an impartial arbitrator in this matter. The actions of the court in (1) refusing to comply with the mandatory statute of 17 U.S.C § 411(B)(2), and (2) in refusing to schedule oral arguments after being put on notice on October 18, 2019 that the “Motion for the Issuance of Request to the Register of Copyrights” was fully briefed, demonstrates the District Court’s bias. Thus, the Monbos’ fear that they will not receive a fair proceeding is well-founded, objective, and reasonable.

15. “When a judge enters into the proceedings and becomes a participant or an advocate, a shadow is cast upon judicial neutrality.” See 28 U.S.C. § 144. Trial judges must

studiously avoid the appearance of favoring one party in a lawsuit, and the refusal to call the Register of Copyrights to issue its opinion in this matter with respect to Lotfy Nathan's copyright registration fraud constitutes a breach of this principle. *See* 28 U.S.C. § 144

16. Prejudice of a judge is a delicate question to raise, but when raised as a bar to the trial of a cause, if predicated on grounds with a modicum of reason, the judge against whom raised should be prompt to recuse himself. 28 U.S.C. § 144. Where there is any legally sufficient basis, whether factually accurate or not, for a founded fear of possible prejudice to exist in the mind of a Plaintiff, recusal is mandated. 28 U.S.C. § 144

17. A motion to disqualify a judge must establish a fear on the part of the movant that he or she will not receive a fair and impartial court proceedings. 28 U.S.C. § 144. The instant motion clearly establishes such a fear. The motion "must be well-founded and contain facts germane to the judge's undue bias, prejudice, or sympathy." 28 U.S.C. § 144. The instant Motion is well founded, based on the record, and respectfully consists of germane facts showing the bias and prejudice of the District Court.

18. In determining the legal sufficiency of a motion to disqualify, a court looks to see whether the facts alleged would place a reasonably prudent person in fear of not receiving fair and impartial treatment from the trial judge. *See* 28 U.S.C. § 144. In the instant case, a reasonably prudent person would be in fear that the District Court, because of its prejudice or bias, deprived him/her of fair and impartial treatment.

19. The fear of judicial bias must be objectively reasonable. *See* 28 U.S.C. § 144. A subjective fear is insufficient. *See* 28 U.S.C. § 144. While the Monbos clearly possess a subjective fear (it being theirs, it is by definition subjective), the Monbos fear is also objective, as it is based on demonstrable, extant facts replete in the record, both written and of proceedings.

Thus, the Monbos have shown an objectively reasonable fear that they (Monbos) will not receive a fair trial or proceedings in this case, based on a specifically described prejudice or bias of this District Court.

20. The Supreme Court also addressed recusal in the 2009 case *Caperton v. A. T. Massey Coal Co.* (08-22). Even though the Supreme Court found that there was no evidence that the judge was biased, the Supreme Court still held that the judge had to recuse himself.

CONCLUSION

WHEREFORE for the reasons above, District Court Judge Margo K. Brodie should gracefully recuse herself from this matter to preserve the appearance of justice.

Respectfully Submitted,



Deafueh Monbo, Plaintiff

September 13, 2022
Date

Cc: Clerk of the Court of Appeals, 2nd Circuit

AGREED

I, Taje Monbo, am the co -Plaintiff. I stand by Plaintiff Deafueh with respect to this Motion.


Taje Monbo

Dated: September 13, 2022

CERTIFICATE OF SERVICE

I, certify that a copy of this Motion to Recuse Judge was mailed on September 13, 2022 to:

By Mail

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Deafueh Monbo

EXHIBIT 1

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

TAJE MONBO, *et al.*

*

Civil Action No.: **CV-18-5930**

*

Plaintiffs,

*

Assigned Judge: Margo K. Brodie

v.

*

Magistrate Judge: Steven L. Tiscione

LOTFY NATHAN, *et al.*

*

Defendants,

*

* * * * *

**DECLARATION OF DEAFUEH MONBO IN SUPPORT OF
PLAINTIFFS’ MOTION TO RECUSE JUDGE PURSUANT TO 28 U.S.C. § 144**

I, Deafueh Monbo, declare and state as follows:

1. I am the Plaintiff, and I have personal knowledge of the facts set forth herein.

I make this Declaration, which is filed in support of Plaintiffs’ Motion to Recuse Judge pursuant to 28 U.S.C. § 144.

2. I fear that my co-plaintiff, Taje Monbo, and I will not receive fair proceedings in this case because of District Court Judge Margo K. Brodie’s prejudice and bias toward us as Plaintiffs.

3. I fear that I will not receive fair proceedings in this case because of District Court Judge Margo K. Brodie’s continuing demonstrable prejudice toward us as Plaintiffs.

4. During the pendency of this case, certain actions were taken and statements made by the Districts Court, the significance of which was not manifest until August 26, 2022.

5. On September 4, 2019, the Plaintiffs filed a “Motion for the Issuance of Request to the Register of Copyrights” pursuant to 17 U.S.C § 411(B)(2) because the copyright to the infringing 12 O’ Clock Boys (2013) film was fraudulently obtained by Lotfy Nathan.

6. 17 U.S.C. §411(B)(2) *mandates* as follows: “In any case in which inaccurate information described under paragraph (1) is alleged, the court shall request the Register of Copyrights to advise the court whether the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration”. *See Appendix A*

7. Thereafter, on September 18, 2019, District Court Judge Margo K. Brodie advised the parties that she would schedule oral argument once the “Motion for the Issuance of Request to the Register of Copyrights” was fully briefed.

8. District Court Judge Margo K. Brodie failed to schedule oral arguments for three years in light of the importance of an early disposition of the controversy with respect to the copyright registration of the infringing 12 O’Clock Boys (2013) film, which was obtained by fraud by Lotfy Nathan.


9. Since September 2019, District Court Judge Margo K. Brodie has ignored the mandatory provision of 17 U.S.C § 411(B)(2) and has refused to seek the opinion of the U.S. Copyright Office with respect to the fraudulently obtained 12 O’ Clock Boys (2013) film copyright registration.

10. 17 U.S.C § 411(B)(2) mandates that when there is an allegation that a copyright registration was fraudulently obtained, as Plaintiffs Monbos have alleged against Lotfy Nathan and his 12 O’Clock Boys (2013) film, the District Court Judge Margo K. Brodie *must* seek the advice and opinion of the Register of Copyrights at the U.S. Copyright Office on the matter.

11. Attached to this my Declaration as Appendix A is a true copy to the statute 17 U.S.C § 411(B)(2), which District Court Judge Margo K. Brodie refuses to comply with because Judge Margo K. Brodie knows that the copyright registration of Lotfy Nathan’s infringing 12 O’Clock Boys (2013) film is INVALID.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct.

Executed this 13th day of September 2022, in Baltimore, Maryland.


Deafueh Monbo

APPENDIX A

17 U.S. Code § 411 - Registration and civil infringement actions

U.S. Code Notes

(a) Except for an action brought for a violation of the rights of the author under section 106A(a), and subject to the provisions of subsection (b),¹¹ no civil action for infringement of the copyright in any United States work shall be instituted until preregistration or registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute a civil action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his or her option, become a party to the action with respect to the issue of registrability of the copyright claim by entering an appearance within sixty days after such service, but the Register's failure to become a party shall not deprive the court of jurisdiction to determine that issue.

(b)

(1) A certificate of registration satisfies the requirements of this section and section 412, regardless of whether the certificate contains any inaccurate information, unless—

(A) the inaccurate information was included on the application for copyright registration with knowledge that it was inaccurate; and

(B) the inaccuracy of the information, if known, would have caused the Register of Copyrights to refuse registration.

→ **(2)** In any case in which inaccurate information described under paragraph (1) is alleged, the court shall request the Register of Copyrights to advise the court whether the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.

(3) Nothing in this subsection shall affect any rights, obligations, or requirements of a person related to information contained in a registration certificate, except for the institution of and remedies in infringement actions under this section and section 412.

(c) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may, either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 505 and section 510, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than 48 hours before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work, if required by subsection (a), within three months after its first transmission.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2583; Pub. L. 100-568, § 9(b)(1), Oct. 31, 1988, 102 Stat. 2859; Pub. L. 101-650, title VI, § 606(c)(1), Dec. 1, 1990, 104 Stat. 5131; Pub. L. 105-80, § 6, Nov. 13, 1997, 111 Stat. 1532; Pub. L. 105-304, title I, § 102(d), Oct. 28, 1998, 112 Stat. 2863; Pub. L. 109-9, title I, § 104(b), Apr. 27, 2005, 119 Stat. 222; Pub. L. 110-403, title I, § 101(a), title II, § 209(a)(6), Oct. 13, 2008, 122 Stat. 4257, 4264.)

EXHIBIT 2



Activity in Case 1:18-cv-05930-MKB-ST Monbo et al v. Nathan et al Order

1 message

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
To: nobody@nyed.uscourts.gov

Wed, Sep 18, 2019 at 2:37 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

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U.S. District Court

Eastern District of New York

Notice of Electronic Filing

The following transaction was entered on 9/18/2019 at 2:37 PM EDT and filed on 9/18/2019

Case Name: Monbo et al v. Nathan et al
Case Number: 1:18-cv-05930-MKB-ST
Filer:
Document Number: No document attached

Docket Text:

ORDER re [103] Plaintiffs Motion for Issuance of Request to the Register of Copyrights Pursuant to 17 U.S.C. 411(B)(2)(Other): Defendants shall file a response to the motion by September 27, 2019. Plaintiffs shall file a reply, if needed, by October 11, 2019. The District Court will schedule oral argument once the motion is fully briefed. So Ordered by Magistrate Judge Steven Tiscione on 9/18/2019. (Vasquez, Lea)

1:18-cv-05930-MKB-ST Notice has been electronically mailed to:

Joel W. Sternman j.sternman@kattenlaw.com, nycclerks@kattenlaw.com

Robert S. Meloni rmeloni@m2lawgroup.com, e.morin@m2law.net, tmccaffery@m2lawgroup.com

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Sean Akchin sean.akchin@kattenlaw.com

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1:18-cv-05930-MKB-ST Notice will not be electronically mailed to:

Taje Monbo
PO Box 441
Owings Mills, MD 21117

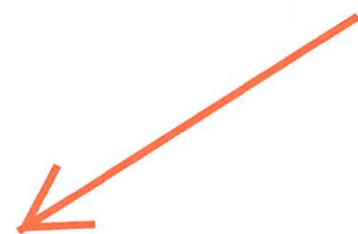


EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK**

TAJE MONBO, et al

Plaintiffs

V.

LOTFY NATHAN, et al

Defendants

Civil Action No.: CV-18-5930

Assigned Judge: Margo K. Brodie

Magistrate Judge: Steven L. Tiscione

* * * * *

NOTICE OF FULLY-BRIEFED MOTION

Plaintiffs Taje Monbo and Deafueh Monbo submit this Notice of Fully-Briefed Motion to advise this Court that Plaintiffs' Motion For The Issuance of Request To The Register of Copyrights Pursuant to 17 § U.S.C. 411(B)(2) has been fully briefed.

1. The Plaintiffs' Motion was filed on September 4, 2019. (Dkt# 103)
2. Defendants' Opposition brief was filed on September 27, 2019. (Dkt# 109)
3. Plaintiffs' Reply brief was filed on October 11, 2019. (Dkt # 111)

In light of the importance for an early disposition of this controversy with respect to copyright registration Nos. PAu003699143 and PAu00343099, Plaintiffs respectfully request that the Court take notice that the Plaintiffs' pending Motion For The Issuance of Request To The Register of Copyrights Pursuant to 17 §U.S.C. 411(B)(2) has been fully briefed.

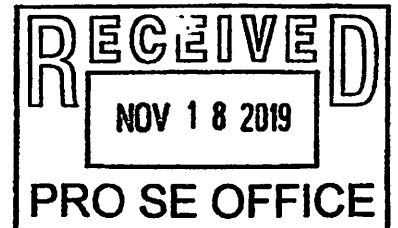
Respectfully Submitted:

Taje Monbo
Taje Monbo

Deafueh Monbo
Deafueh Monbo

Dated: November 7, 2019

CERTIFICATE OF SERVICE



ORIGIN ID: MTNA (410) 207-0242
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OWINGS MILLS, MD 21117
UNITED STATES US

SHIP DATE: 13SEP22
ACTWGT:
CAD: 114524385/NET4534
BILL SENDER

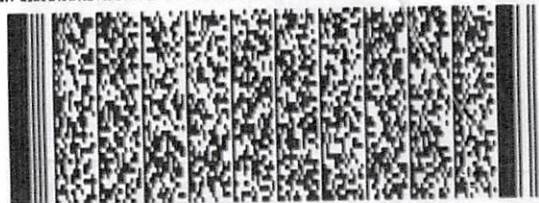
TO **ATTN: PRO SE OFFICE**
U.S. DISTRICT COURT, EDNY
225 CADMAN PLAZA EAST, ROOM 118

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U.S. DISTRICT COURT E.D.N.Y.

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