

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2023-002759

07/26/2023

HONORABLE DANIELLE J. VIOLA

CLERK OF THE COURT
N. Johnson
Deputy

PAUL GOUNDER

PAUL GOUNDER
3655 N 5TH AVE # 205
PHOENIX AZ 85013

v.

ROYAL RIVIERA H O A

CHARLES D ONOFRY

JUDGE PINEDA
JUDGE VIOLA

REASSIGNMENT REQUEST DENIED – CIVIL PRESIDING JUDGE

The court received Plaintiff's Motion to Recuse filed July 19, 2023. The Motion was forwarded to the Civil Presiding Judge for a determination. The Court determines that Plaintiff seeks a ruling removing the assigned judge for cause under Rule 42.2 of the Arizona Rules of Civil Procedure.

Rule 42.2 of the Arizona Rules of Civil Procedure provides that a party seeking a change of judge for cause must establish grounds by affidavit as required by A.R.S. § 12-409. Plaintiff failed to include an affidavit in support of his motion. Even if an affidavit was included, the issues raised by Plaintiff fail to establish a basis to grant Plaintiff's motion. Plaintiff lists several motions which he claims have not been addressed by Judge Pineda. Upon review of the court docket, Judge Pineda has either ruled on the "motion objecting to the Defendant's Motion to Dismiss." Judge Pineda treated the objection as a response to the Defendant's Motion to dismiss as noted in the June 9, 2023 ruling.

The Motion to Vacate the Court's ruling on the Defendant's Motion to Dismiss, filed on June 29, 2023 is not yet ripe for a ruling. The Defendant has an opportunity to respond to the

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Motion and the Plaintiff has an opportunity to file a Reply. The same analysis applies to Plaintiff's Motion to Vacate Nunc Pro Tunc order of June 21, 2023, and Motion for Default Judgment filed on June 30, 2023. Plaintiff further complains about the July 13, 2023, Nunc Pro Tunc order that was filed on July 17, 2023, because Plaintiff objected stating that Defendant used the wrong name for clarification of the June 9, 2023, ruling correction. Disagreement with the Court action is not a basis to remove a judge for cause. *See Liteky v. United States*, 510 U.S. 540, 555-56 (1994) (finding that judicial rulings, routine trial administrative efforts, and ordinary admonishments occur in the course of judicial proceedings and fail to stand as a proper basis to request removal of a judge for cause absent a finding of knowledge acquired outside such proceeding or the display of a deep-seated and unequivocal antagonism that would render fair judgment impossible); *State v. Henry*, 189 Ariz. 543, 546 (1997) (citing *State v. Curry*, 187 Ariz. 623, 631 (App. 1996)).

Finally, Plaintiff references a number of other motions that this judicial officer was unable to locate on the Court docket. Accordingly, Plaintiff may wish to contact the Clerk of Court to verify the Motions that have been filed and docketed.

In sum, Plaintiff has failed to satisfy his burden to establish that a change of judge is appropriate.

IT IS ORDERED denying the Motion to Recuse filed July 19, 2023.