

IN THE CIRCUIT COURT OF FAULKNER COUNTY ARKANSAS
CIVIL DIVISION -1st

LAURA HAMMETT, an individual

PLAINTIFF

V. CASE No. 23-cv-20-631

**FIRST AMERICAN HOME WARRANTY
CORPORATION, a California Corporation;
NICHOLSON'S HEATING AND AIR
CONDITIONING, INC., an Arkansas
Corporation; SMARTCOOL OF
ARKANSAS, INC., an Arkansas Corporation,
DOES 1-99**

DEFENDANTS

**Reply to Untimely Response by First American Home Warranty Corporation
Re: Motion for Recusal of Judge Susan Kaye Weaver; Brief in Support**

Comes now Pro Se Plaintiff Laura Hammett, (“I” Me”, “My” or “Hammett”), and in reply to opposition to her motion for the recusal of Judge Susan Kaye Weaver filed by First American Home Warranty (“FAHW”) states:

1. My son had a devastating accident and was brought to the intensive care unit five days ago. He was moved to a progressive unit yesterday, but I am still having trouble focusing on legal matters. I am therefore incorporating my reply to Nicholson’s response verbatim after adding some caselaw I researched before I knew about my son’s accident. I apologize for any redundancies and less than perfect structure.
2. The motion for recusal does not rely on adverse rulings. It relies on inconsistent rulings and manifest injustices.
3. For example, Judge Weaver transferred property I held in a living trust, as sole current beneficiary, trustee and settlor to a man who hand wrote and signed a note stating how he and his attorney William Zac White would commit fraud on me and the court. Judge Weaver saw the note before transferring property I needed for retirement to the fraudsters. My sons were the contingent beneficiaries. My injured son is going to be disabled for life. I need my assets to support him. I have to try to get the property back through a pending appeal. Even after the appeal, Mr. White and the Pietrczaks,

through an irrevocable trust sanctioned by Judge Weaver, have undoubtedly hid or used up all the money they got selling the property.¹

4. The defendants do not contradict the facts I raised, that derogatory comments were made in front of Judge Weaver, and she failed to control my adversary. Defendants merely deflect my argument by pretending the Judge is not required to require that litigants maintain civility in the courtroom.
5. The defendants provide no evidence that my testimony that Judge Weaver colluded with Mr. White and Court Reporter Jana Perry to fictionalize the proceedings is false. They could easily have subpoenaed the audio tapes and played them in public. But that would hurt their case, so they did not.
6. Committing crimes of dishonest services against Hammett implicates the Court.
7. The Court's misconduct is extra-judicial. Judge Weaver transferred my personal property that was on the real estate she transferred and ordered me to stay off the real property, without allowing me to present a defense in court and after I was dismissed with prejudice. The Court had no jurisdiction over me after I was dismissed. I fear disobeying her unlawful order because

¹ The buyer inspected the property prior to the transfer by the court, showing an unreasonable level of confidence by Pietrczak and his attorney that they would prevail.

she would incarcerate me. I would then be tasked with obtaining a writ of habeas corpus.

8. FAHW cited *Bentonville Sch. Dist. v. Sitton*, 2022 Ark. 1, at 3 (Brill, S.J., sitting as a single justice) (quoting *Ferguson v. State*, 2016 Ark. 319, at 7, 498 S.W.3d 733, 737). This caselaw supports Hammett’s position; not the defendants’ position.
9. “A clearly erroneous interpretation or application of a law or rule will constitute a manifest abuse of discretion. *Little Rock Wastewater Util. v. Larry Moyer Trucking, Inc.*, 321 Ark. 303, 902 S.W.2d 760 (1995).”
Ferguson at *6.
10. “Nonetheless, we need not decide whether Judge Elmore’s presiding over the matter was a violation of Rule 2.11. The plain *7 wording of Rule 2.11 required Judge Elmore to recuse because her ‘impartiality might reasonably be questioned.’” Id at *6, 7.
11. “Rule 2.11(A) states that ‘[a] judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might *reasonably be questioned.*’ (Emphasis added.) We have explained that the word ‘shall’ is mandatory rather than discretionary. *Middleton v. Lockhart*, 344 Ark. 572, 43 S.W.3d 113 (2001).” Id.

12. The appearance of extra judicial bias Hammett argued at length in the *Pietrczak* appeal went unopposed by Pietrczak. Pietrczak did not argue that Hammett's claim of an appearance of extra judicial bias was unreasonable. Because there was a reasonable appearance of extra judicial bias on one case, there is an appearance of extrajudicial bias on all cases. That is the meaning of extra judicial. It is not case specific. The Court of Appeals has not ruled on Hammett's unopposed appeal for over a year. Hammett intends to petition the Supreme Court to mandate the COA take action.
13. As to this case alone, with its short docket relative to the other cases involving Hammett wherein Judge Weaver presides, the Court had little opportunity to make adverse rulings.
14. The order mandating arbitration is adverse to Hammett. It is a clearly erroneous application of law. Hammett did not sue on a theory of contract. She sued on: (1) Fraud in the inducement; (2) Rescission; (3) Promissory Estoppel; (4) Negligence; (5) Reckless Endangerment; (6) Bodily injury; (7) outrage; (8) violations of the Arkansas Service Contracts Act and (9) fraud. (First Amended Complaint, "FAC", ¶ 12.)
15. Hammett clearly did not agree with the contract. FAHW honored Hammett's request to rescind the contract on a separate property that did not suffer any malfunction and returned the purchase price in full. That solution

was not appropriate for the Gold Lake Club Property. Hammett refrained from purchasing a policy from another company, based on FAHW's fraudulent advertising, and therefore had no honest home warranty company to cause the repair of the faulty HVAC or dishwasher. (See FAC in general, specifically, ¶¶ 177, 187-197)

16. Hammett certainly did not agree with the arbitration agreement. (FAC ¶ 193.) In particular, the arbitration agreement excluded damages for each and every claim raised by Hammett. Had FAHW rescinded the contract on the first day Hammett asked, Hammett would only have asked for the cost of repair or replacement of the HVAC. (FAC ¶ 21.) But FAHW fraudulently induced Hammett to wait indefinitely for the HVAC to be repaired, with devastating consequences.

17. FAHW referred to the reply to Nicholson's opposition to the recusal. FAHW did not dispute that the Court's mandate that Hammett abide by the arbitration agreement in a contract to which she did not agree was prejudicial. They thereby waived argument against the fact that had Hammett signed the documents required in the Commercial Disputes Arbitration Rules and Mediation Procedures specified, she would be signing

away her rights and damages incurred through the violations enumerated in FAC ¶ 12. (Commercial-Rules_Web.pdf (adr.org), at 12, §R-4(a)(ii).)²

18. The plain wording of *Arkansas Code of Judicial Conduct Rule 2.11* required Judge Weaver to recuse because her “impartiality might reasonably be questioned.” *Ark. Code Jud. Conduct R. 2.11(A)*.
19. FAHW does not give an alternative explanation, other than extra judicial bias, why the Court would require a demonstrably ill defendant to drive for several hours and be in a space with other people during the COVID pandemic, when the Court had no intention of allowing the defendant to speak on her own behalf.
20. The Judge’s “conscience” is not as reliable or important as the public’s perception of the integrity of the court. (*Matter of Est. of Edens*, 2018 Ark. App. 226, 19, 548 S.W.3d 179, 190–91 (2018)); “The proper administration of the law requires not only that judges refrain from actual bias but also that they avoid all appearance of unfairness. *Id.* When a judge exhibits bias or the appearance of bias, the appellate court will reverse.” *Id.* 191.; “A clearly erroneous interpretation or application of a law or rule will constitute a manifest abuse of discretion. *Id.*” *Id.*)

² Note that FAHW was allowed to file for arbitration and failed to pursue its right.

21. To repeat, since FAHW ignored this argument, the continuance issue described in detail showed that, not only did Judge Weaver abuse her discretion by refusing a continuance to Hammett where a summons to a common-defense-doctrine defendant was not even issued and neither summons served; Judge Weaver granted a continuance sua sponte to U. S. Bank because service of summons by the pro se plaintiff in that case was technically deficient.
22. Further, Judge Weaver filed an admonishment letter on Friday, August 20, 2021, at 4:25 PM. Hammett's adversary filed a motion disguised as a responsive letter with an exhibit, file stamped August 20, 2021 at 5:08 PM. Opposing counsel's usual tardiness gave this an appearance of planning otherwise known as collusion, between Judge Weaver and the represented party.
23. Judge Weaver enforced an overbroad request for production of documents and other tangibles and intangibles disguised as a "subpoena" against Hammett.
24. Judge Weaver watched what was happening in the Courthouse on the day William White shouted "Shut your mouth Bitch!" No one denies that and Judge Weaver said she was watching when a sheriff deputy served an improper summons on Hammett that same day (probably the reason

Hammett was commanded to drive to the courthouse while ill.) No apologetics were made for the Judge’s lack of concern when Mr. White said “bitch” directed at the 60 year old Hammett in open court.

25. FAHW gave no reason why it did not show bias for the Court to treat a contract Hammett agreed to rescind in *Pietrcak* as void ab initio but the arbitration clause in contract Hammett asked to rescind in FAHW as enforceable.

26. Hammett intends to appeal erroneous rulings by Judge Weaver in this case. But the appearance of extra-judicial bias demands a recusal, to mitigate damages to Hammett and the public’s perception of the Arkansas judiciary.

27. Hammett made an objective demonstration of prejudice compelling disqualification. Const. Art. 7, § 20; A.C.A. § 16–13–312.

With hope for justice,

/s/ Laura Hammett January 18, 2024

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CERTIFICATE OF SERVICE

I hereby certify that, on January 18, 2024, I electronically filed the Plaintiff Laura Hammett's **Reply Re: Motion for Recusal of Judge Susan Kaye Weaver** with the Clerk of the Court using the eFlex Electronic Filing System, which shall send notification of such filing to all counsel of record.

January 18, 2024

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