

IN THE CIRCUIT COURT OF SEARCY COUNTY, ARKANSAS
CIVIL DIVISION

CASE No. 65CV-21-20

MICHEAL PIETRCZAK

PLAINTIFF

v.

**RURAL REVIVAL LIVING
TRUST; AND LAURA LYNN**

DEFENDANTS

LAURA LYNN HAMMETT

**COUNTER-
CLAIMANT**

v.

MICHEAL PIETRCZAK

**COUNTER-
DEFENDANT**

**SEPARATE DEFENDANT LAURA LYNN AND COUNTERCLAIMANT
LAURA LYNN HAMMETT'S MOTION FOR ORDER OF RECUSAL OF
JUDGE SUSAN K. WEAVER**

Separate Defendant Laura Lynn and Counterclaimant Laura Lynn Hammett's Motion For Order of
Recusal of Judge Susan K. Weaver
Searcy County Circuit Court Case No. 65CV-21-20

Comes Separate Defendant Laura Lynn and Counterclaimant Laura Lynn Hammett (“Hammett”), in pro se, and for her Motion for Order of Recusal of Judge Susan K. Weaver, states as follows:

1. Judge Susan K. Weaver is assigned to three cases on which Laura Lynn Hammett (“Hammett”) is a litigant, including the above captioned case. This motion pertains equally to all the cases and Hammett requests the Court recuse from each case.
2. The cases are the above captioned case which will be called “Pietrczak”, Laura Hammett v. First American Home Warranty Corporation, et al, 23CV-20-631, called “Home Warranty” hereunder, and Laura Lynn Hammett v. Shelter Mutual Insurance Company, et al, 23CV-21-318, called “Insurance” hereunder.

General Facts

3. Judge Weaver made numerous egregious legal errors on each case, which will need to be addressed by our appellate court. In each case, the error is against Hammett’s arguments.
4. Judge Weaver allows opposing counsel to make derogatory and unprofessional comments about Hammett in hearing and by email.
5. Many of the rude comments made in hearing were not transcribed by the Court Reporter, and it is likely Judge Weaver orchestrated the inept transcription.
6. More material inaccuracies were made in the transcription. Even so, the purported comments by the Court admit bias, where the Court said she does not “normally” make the ruling she made against Hammett.

7. Hammett was waiting to file the motion for recusal until after a hearing to settle the record, but the Court's apparent bias is causing the 59-year-old pro se litigant extreme anxiety over her finances, believing Judge Weaver will use her position of power to transfer wealth Hammett needs to retire to Mr. White and other attorneys representing Hammett's opposition.
8. It is likely that Hammett will file a complaint under 42 USC 1983 against the court reporter and Judge Weaver, not subject to absolute judicial immunity because it is about an administrative act, the transcription of the record.
9. Judge Weaver made an error against Hammett that she made on another case similarly, but she already corrected the other case by reversing the order.
10. Judge Weaver dismissed Hammett's counterclaim on Pietrczak sua sponte, with no specific reason given, but she did not dismiss the deficient complaint, even after Hammett filed a motion to dismiss.
11. The appearance of bias is so bad that Hammett cannot find a local attorney who is willing to represent her on any case presided over by Judge Weaver.
12. Attorney White has filed no less than eight documents in this case untimely, Hammett has been timely in each filing, yet the Court repeatedly admonishes Hammett to "follow the Rules".

Specific Facts

13. In Pietrczak, one error involved the opposing party's failure to serve summons on the defendants. Summons was not even issued for one necessary party, "Rural Revival Living Trust".

14. Pietrczak attorney, William Z. White failed to serve summons on a necessary party in a different case presided over by Judge Susan K. Weaver, 71PR-19-91, Zelda Harrell Walls. In that guardianship case, Ms. Walls had settled a spendthrift trust for her son Richard Gawenis. Mr. Gawenis, represented by William Z. White, convinced Judge Weaver to terminate and revoke the trust on September 22, 2020, without notice to the successor trustee. (as described in Zelda S. Walls Living Trust Dated July 25, 2019, Donna Bryant v. Richard Gawenis, case no. 71CV-20-119, C20D01, paragraph 8) Judgement in favor of the plaintiff in 71CV-20-119 was granted by Judge Weaver on March 30, 2021, reinstating the trust.
15. Apparently Judge Weaver is now aware that a summons must be served on each defendant.
16. Mr. White asked Judge Weaver for a continuance of the hearing of August 4, 2021 (“the Hearing”), though he filed an opposition to the continuance on July 30, 2021.
17. The basis for the continuance was alleged to be the dodging of service of summons on the Rural Revival Living Trust by Hammett. Judge Weaver was aware that summons was not even issued to the trust and there was no evidence Hammett dodged service but granted the continuance anyhow.
18. The Court appeared to know ahead of time it was going to continue the hearing of August 4, 2021, yet engaged in a charade with Plaintiff’s counsel that Hammett might need to argue her case at a jury trial.
19. Evidence that the Court knew there would be no trial is that a jury pool was not arranged.

20. Hammett produced exhibits she would try to introduce into evidence. Mr. White produced none.
21. The Court abused its discretion to grant a continuance based upon Mr. White's plea for more time to serve summons on the Rural Revival Living Trust, even though Mr. White had not caused a summons to issue yet, the claims in the complaint were time barred and the almost identical complaint filed in 2018 was dismissed for lack of prosecution.
22. Pietrczak had not responded to Hammett's counterclaim and the time to respond was expired by almost a month. The Court did not grant default judgment as requested by Hammett.
23. Pietrczak asked for an extension of time to serve the summons on Rural Revival Living Trust past the statutory 120 days at the Hearing.
24. Judge Weaver granted the extension in writing, based on oral motion, in contradiction to ARCP Rule 4(i)(2) and her purported statement that she "normally" requires the motion to extend time to be written.
25. The oral motion for extension of time was denied during the hearing. Judge Weaver claims and the transcript of the hearing shows that Judge Weaver granted the oral motion during the hearing. This and pervasive inaccuracies in the transcript give the appearance of collusion between the Court, attorney White and, most unfortunately, the Court Reporter, a woman reputed to be honest. (Hammett moved the Court to settle the record and the motion is pending.)
26. An inaccurate transcription is an administrative error, not a judicial error, and thus, when Hammett files a suit under 42 USC 1983 against the Court

Reporter and Judge Weaver, the suit should not be barred by absolute judicial immunity. Judge Weaver is a viable defendant in a suit by Hammett.

27. In the Home Warranty case, the defendant filed a motion to compel arbitration. (That motion was eventually granted erroneously and may be appealed after the arbitrator's ruling is reduced to judgment.) It took Judge Weaver 14 months to decide the motion to compel arbitration. This extremely long wait is especially prejudicial since the purpose for arbitration is to speed up the legal process.
28. In the Insurance case, Judge Weaver ordered Hammett to "add the 'Rural Revival Living Trust'" as a plaintiff. Trusts are not a proper party. Assuming the Court meant to add the trustee of the Rural Revival Living Trust, Hammett made a diligent effort to find an attorney to represent the trustee. Three attorneys have refused the job, even if paid by fee. Hammett has reason to believe the refusal of the work is due to the apparent bias of Judge Weaver against Hammett. (One attorney sent a retainer agreement and said he was ready to help in early August, but when Hammett tried to hand him the retainer check in late August, after the crazy hearing and a slew of adverse rulings against Hammett, he refused it.)
29. Hammett has two appointments to speak with attorneys in counties where Judge Weaver does not preside. (One has appealed orders made by Judge Weaver in the past, but lost on appeal.) Still, the difficulty to get attorneys to take work non-contingent is glaring evidence of the appearance of bias by the Court.

BRIEF IN SUPPORT

Separate Defendant Laura Lynn and Counterclaimant Laura Lynn Hammett's Motion For Order of
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30. “Canon 2 of the Arkansas Code of Judicial Conduct provides that a ‘judge shall perform the duties of judicial office impartially, competently, and diligently.’ Rule 2.11(A)(1) of the Code provides that a judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including when the judge has a personal bias or prejudice concerning a party or a party's lawyer.” Matter of Est. of Edens, 2018 Ark. App. 226, 19, 548 S.W.3d 179, 190–91 (2018)
31. “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.
32. “A clearly erroneous interpretation or application of a law or rule will constitute a manifest abuse of discretion. *Id.*” *Id.*
33. The Court then lied about granting an oral motion for extension of time to serve the summons. Even the lie was legal error, as ARCP Rule 4(i)(2) makes such a motion in writing mandatory.

WHEREFORE, Separate Defendant Laura Lynn and Counterclaimant Laura Lynn Hammett, prays that her Motion for Recusal of Judge Susan K. Weaver be granted, in this and all cases present and future.

This 23rd day of September, 2021.

Respectfully submitted,

/S/ Laura Lynn Hammett

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CERTIFICATE OF SERVICE

I hereby certify that, on September 23, 2021 I electronically filed the Separate Defendant Laura Lynn and Counterclaimant Laura Lynn Hammett's Motion for Recusal of Judge Susan K. Weaver and Brief in Support with the Clerk of the Court using the eFlex Electronic Filing System, which shall send notification of such filing to all counsel of record.

September 23, 2021

/S/ Laura Lynn Hammett

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