

STATE OF MICHIGAN
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

GRR CAPITAL FUNDING, LLC,
an Indiana limited liability company,

Plaintiff,

vs.

STEVEN D. BENNER,

Defendant.

Case No. 11-08297-CH

HON. CHRISTOPHER P. YATES

ORDER DENYING DEFENDANT BENNER'S MOTION FOR JUDGE YATES
TO RECUSE HIMSELF FROM THE CASE PURSUANT TO MCR 2.003(C)(1)(a)

Defendant Steven Benner and his entities have engaged in a substantial amount of litigation in this Court both before and after the inception of the Specialized Business Docket. In requesting recusal of the undersigned judge under MCR 2.003, Benner accurately points out that "Judge Yates is very familiar with the Defendant, and the Defendant's affiliated companies, having presided over many, many of Defendant's prior cases and court hearings, and Judge Yates has repeatedly ruled against the Defendant, and Defendant's affiliated companies[.]" Inferring bias from this pattern of adverse rulings, Benner has asked the Court to step aside from this case. Unfortunately for Benner, the record contains nothing that warrants recusal, so the Court shall continue to handle this case with the same dispassionate analysis that the Court applies in every other case on its docket.

To be sure, MCR 2.003(C)(1)(a) and (b) provide for disqualification based on a judge's bias, but nothing in the record, the Court's approach, or the Court's knowledge of Defendant Benner lends any support to Benner's claim of bias. Prior to handling cases involving Benner, the Court possessed no knowledge of Benner or his businesses. And since the Court began handling Benner's cases, the

Court has had no contact with Benner or any of his legal adversaries outside the courtroom. Indeed, the Court has steadfastly avoided contact with Benner and his adversaries off the record because the cases involving Benner have often been acrimonious.

The Court acknowledges that Defendant Benner has certainly lost his fair share of motions before the Court. Benner appears to conclude that those adverse outcomes establish bias simply on the basis of the Court's pattern of rulings, but "[t]he mere fact that a judge ruled against a litigant, even if the rulings are later determined to be erroneous, is not sufficient to require disqualification or reassignment" of a case. *In re Contempt of Henry*, 282 Mich App 656, 680 (2009). "[J]udicial rulings, in and of themselves, almost never constitute a valid basis for a motion alleging bias, unless the judicial opinion displays a 'deep-seated favoritism or antagonism that would make fair judgment impossible' and overcomes a heavy presumption of judicial impartiality." *Id.* The Court's rulings on issues involving Benner have consistently been dispassionate, leaving no room for any argument that those decisions, in and of themselves, warrant disqualification.¹

Defendant Benner further insists that the Court has gained knowledge of Benner's litigation in previous cases that should preclude the Court from presiding over the instant case. But the United States Supreme Court itself has observed that "not subject to deprecatory characterization as 'bias' or 'prejudice' are opinions held by judges as a result of what they learned in earlier proceedings." *Liteky v United States*, 510 US 540, 551 (1994). Indeed, having the same judge preside over several cases involving a single defendant is quite common. *See id.* Thus, the mere fact that the Court has

¹ Most of the Court's opinions in cases involving Defendant Benner are readily available on the public website of the Specialized Business Docket at www.accesskent.com. Although Benner was also involved in cases with the Court before the inception of the Specialized Business Docket, the majority of Benner's cases with the Court were assigned to the Specialized Business Docket as a matter of Michigan law under MCL 600.8035(3).

obtained knowledge about Benner and his businesses from presiding over other cases cannot support disqualification in the instant case. In sum, the Court finds no basis for recusal or disqualification with respect to the instant case.² Consequently, IT IS ORDERED that Benner's "*Ex Parte* Motion Requesting Judge Yates to Recuse Himself From the Case, Pursuant to MCR 2.003" shall be denied. If Benner wishes to contest this ruling, he may ask for consideration by the Chief Judge of the Kent County Circuit Court, The Honorable Donald A. Johnston, by filing a request for review.³ See MCR 2.003(D)(3)(a)(i).

IT IS SO ORDERED.

Dated: January 5, 2016



HON. CHRISTOPHER P. YATES (P41017)
Kent County Circuit Court Judge

² Notwithstanding the Court's conclusion that no basis for recusal or disqualification exists as a matter of Michigan law, the Court nonetheless would immediately ask to have the instant case reassigned if the Court had any doubts about its ability to act in an unbiased manner in resolving the dispute presented in this action. Contrary to Defendant Benner's fears, the Court harbors absolutely no bias or prejudice against him, either personally or professionally. In the Court's view, Benner has suffered many defeats in his litigation before the Court simply because his positions have not been supported by the facts and the law. In spite of its rulings against Benner in other cases, the Court is absolutely committed and duty-bound to afford Benner completely unbiased treatment in this case and in all other actions he may have before the Court in the future.

³ According to MCR 2.003(D)(3)(a), the Court bears the responsibility of deciding a motion to disqualify in the first instance. Then, if the litigant is dissatisfied with the Court's ruling, further review is prescribed as follows: "in a court having two or more judges, on the request of a party, the challenged judge shall refer the motion to the chief judge, who shall decide the motion de novo[.]" See MCR 2.003(D)(3)(a)(i).