

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 91-32

LAKE LUCERNE CIVIC ASSN., INC.,

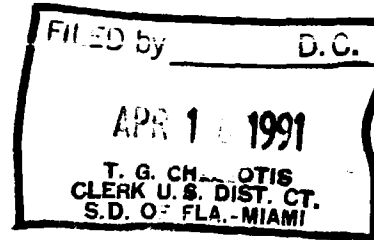
Plaintiff,

vs.

DOLPHIN STADIUM CORP., a
Florida Corporation, et al.,

Defendants.

**ORDER DENYING
MOTION TO RECUSE**



Plaintiffs, Lake Lucerne Civic Association, Inc., et, al., filed a motion to recuse a United States District Judge of the Southern District of Florida under 28 U.S.C. § 144 and 28 U.S.C § 455. The plaintiffs allege three grounds for recusal: (1) Dolphin season tickets; (2) warnings of Rule 11 sanctions and (3) insinuation as to caseload. The court can find no reasonable basis for disqualification on these grounds.

Initially, the plaintiffs have failed to comply with the technical requirements of 28 U.S.C. § 144. Section 144 requires that plaintiffs submit a timely and sufficient affidavit stating that the judge before whom the matter is pending has a personal bias or prejudice. The chief judge cannot evaluate the timeliness or sufficiency of plaintiffs allegations without the statoirly required affidavit. Thus, the court must proceed as though plaintiffs motion is brought under 28 U.S.C.§ 455.

In Parker v. Conners Steel Co., 855 F.2d 1510 (11th Cir. 1988), the court announced an objective standard for § 455 cases. The Parker court stated that "the test is whether an objective,

disinterested lay observer, fully informed of the facts, would entertain a sufficient doubt about the trial judge's impartiality." Id. at 1524. Clearly the goal of the judicial disqualification statute is to foster the appearance of impartiality. Potashnick v. Port City Const. Co., 609 F.2d 1101 (5th Cir. 1980).

After careful review of all of the pleadings submitted by the parties, the court cannot say that objective facts exist that might reasonably cause an objective observer to question Judge Spellman's impartiality. First, the plaintiffs argue that, as a season ticket holder, Judge Spellman has a financial interest in Joe Robbie Stadium. The plaintiffs have not offered any evidence that a season ticket holder has a financial interest in Dolphin Stadium Corporation within the meaning of § 455(b)(4). Moreover there is absolutely no showing on the part of the plaintiffs that the rulings made by Judge Spellman would substantially affect his interest in season tickets.

Next, plaintiffs maintain that a judge's statements regarding Rule 11 sanctions would raise sufficient doubts about a judge's impartiality. Plaintiffs further argue that a judge's desire to reduce his or her caseload, contributes to the appearance of impropriety. The plaintiffs have not offered any support for these contentions. The plaintiffs allegations fall far short of the careful and due diligence required by case law on the subject of individuals wishing to invoke the harsh sanctions of 28 U.S.C. § 455.

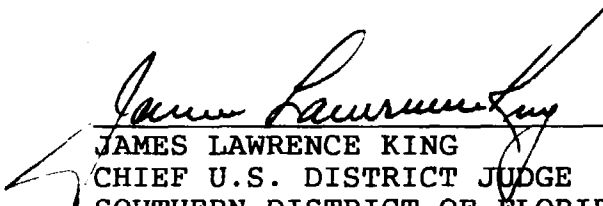
Accordingly, for the reasons mentioned, and the court being

otherwise fully advised, it is

ORDERED and ADJUDGED that the motion to recuse is found to be totally without merit, and is hereby, **DENIED**. It is further

ORDERED and ADJUDGED that the matter is referred to the calendar of the original presiding judge for all further proceedings in the above styled cause.

DONE AND ORDERED in chambers at the United States Courthouse, Federal Courthouse Square, Miami, Florida, this 16th day of April 1991.



JAMES LAWRENCE KING
CHIEF U.S. DISTRICT JUDGE
SOUTHERN DISTRICT OF FLORIDA

cc: All So. Dist. Judges
Glenn J. Waldman, Esq.
H.T. Smith, Esq.
Stephen Reisman, Esq.
Robert L. Krawcheck, Esq.
Tomasina H. Williams, Esq.
Clerk of Court