

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005940

01/09/2025

HONORABLE DANIELLE J. VIOLA

CLERK OF THE COURT
N. Johnson
Deputy

SANDRA RODRIGUEZ

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4375 E BETSY LN
GILBERT AZ 85296

v.

GARDENS GILBERT COMMUNITY
ASSOCIATION, et al.

AUGUSTUS H SHAW IV

JUDGE COFFEY
JUDGE VIOLA

RULING - CIVIL PRESIDING JUDGE

The Court has received Plaintiff's Motion for Judge to Recuse Himself and Stay Due to Second Notice of Appeal Filed, filed December 23, 2024. The Motion was forwarded to the Civil Presiding Judge for consideration and ruling. In reviewing the docket, the Court notes that Plaintiff has filed various Notices of Appeal. The Court did not locate any Rule 54(c) judgment that might otherwise serve to divest this Court of jurisdiction for purposes of ruling on the pending motion. Accordingly, the Court will proceed with considering the motion as to the request for recusal.

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. Under Section 409(B)(5) the sufficiency of any "cause to believe" must be determined by an objective standard, not by reference to the affiant's subjective belief. *See* Rule 42.2(e)(4). Plaintiff did not provide an affidavit. The Court concludes the Motion for recusal should be denied on this basis alone.

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Even if the Court considered the information contained in the motion, it is insufficient to support a change of judge for cause. At the heart of Plaintiff's request is a disagreement with Judge Coffey's decisions in the case. However, disagreement with Judge Coffey's decisions is an impermissible basis to file a motion for change of 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)).

Plaintiff takes issue with various conduct by Defendants and their counsel but the conduct of an opposing party or its lawyer does not establish bias or prejudice on the part of the assigned judge.

IT IS ORDERED denying Plaintiff's Motion to the extent it seeks recusal.

IT IS ORDERED referring the remainder of the Motion requesting a stay to Judge Coffey for further action.