

FILED & ENTERED

AUG 28 2017

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
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**NOT FOR PUBLICATION**

**UNITED STATES BANKRUPTCY COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

**LOS ANGELES DIVISION**

In re:

C&M RUSSELL, LLC

Debtor.

Case No. 2:11-bk-53845-RK

Chapter 11

Adv. No. 2:16-ap-01577-RK

**ORDER DENYING PLAINTIFF'S MOTION  
TO RECUSE**

**Vacated Hearing:**

MATTIE BELINDA EVANS, an Individual,  
Chief Executive Manager as Real Party in  
Interest for C&M RUSSELL, LLC, and  
Trustee of Mattie B. Evans Family Trust,

Plaintiff,

vs.

ALAN G. TIPPIE, an individual, attorney  
for **SULMEYERKUPETZ**, a professional  
corporation, and DOES 1 through 100,  
inclusive

Defendants.

Date: August 29, 2017

Time: 3:00 p.m.

Courtroom: 1675

1 Pending before this court is the Motion to Recuse (“Motion”), filed by Plaintiff  
2 Mattie Belinda Evans (“Plaintiff”) on July 11, 2017, Electronic Case Filing Number  
3 (“ECF”) 33. On August 24, 2017, the court entered an order vacating the hearing on the  
4 Motion on August 29, 2017 at 3:00 p.m. and taking the Motion under submission, ECF  
5 41. Having reviewed the moving papers and evidence filed in support thereof, the court  
6 hereby orders that the Motion is DENIED for the reasons set forth below.  
7

8 Federal Rules of Bankruptcy Procedure 5004(a) provides that “[a] bankruptcy  
9 judge shall be governed by 28 U.S.C. § 455, and disqualified from presiding over the  
10 proceeding or contested matter in which the disqualifying circumstances arises or, if  
11 appropriate, shall be disqualified from presiding over the case.” Under 28 U.S.C.  
12 455(a), a judge “shall disqualify himself in any proceeding in which his impartiality might  
13 reasonably be questioned.”  
14

15 As her first argument for recusal, Plaintiff asserts that this court’s decisions  
16 “accept[ing] the REMOVAL of Plaintiffs’ [complaint],” denying Plaintiff’s motion for  
17 remand and decision to “conduct a trial” warrant recusal. ECF 33 at 2, lines 11-15.  
18 “The standard for recusal under 28 U.S.C. §§ 144, 455 is ‘whether a reasonable person  
19 with knowledge of all the facts would conclude that the judge’s impartiality might  
20 reasonably be questioned.’” *United States v. Studley*, 783 F.2d 934, 939 (9<sup>th</sup> Cir.  
21 1986)(citations omitted). “The alleged prejudice must result from an extrajudicial  
22 source; a judge’s prior adverse ruling is not sufficient cause for recusal.” Moreover, as  
23 the Supreme Court has stated, “Judicial rulings alone almost never constitute a valid  
24 basis for a bias or partiality motion.” *Liteky v. United States*, 510 U.S. 540, 555 (1994)  
25 (citation omitted). “Almost invariably, they are proper grounds for appeal, not for  
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1 recusal.” *Id.* Thus, the court determines that plaintiff’s first argument for recusal lacks  
2 merit because she bases her request for recusal on the court’s prior judicial rulings  
3 alone.

4 As her second argument, Plaintiff contends that “certain statements and  
5 instructions” made by this court at a hearing on September 18, 2012 for Debtor C&M  
6 Russell, LLC’s Motion for Order Dismissing Chapter 11 case demonstrate racial bias  
7 against her and her sons. *Id.* at lines 8-10. However, Plaintiff fails to identify to any  
8 specific statements or instructions made by this court at the September 18, 2012  
9 hearing evidencing racial bias, and in considering the Motion, the court has carefully  
10 and thoroughly reviewed the transcript of the hearing on September 18, 2012 attached  
11 to the Motion and could not find any statement that showed any racial bias or prejudice  
12 against Plaintiff and her sons. Thus, the court determines that Plaintiff’s second  
13 argument based on alleged racial bias lacks merit. Furthermore, Plaintiff failed to cite in  
14 the Motion to any fact that may lead a reasonable person with knowledge of all the facts  
15 to conclude that this court’s impartiality might reasonably be questioned, and thus, the  
16 court determines that Plaintiff’s argument based on lack of impartiality lacks merit  
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20 For the foregoing reasons, the court denies the Motion.

21 IT IS SO ORDERED. ###

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23  
24 Date: August 28, 2017



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26 Robert Kwan  
27 United States Bankruptcy Judge  
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