

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF HINDS COUNTY,  
MISSISSIPPI

EATON CORPORATION, ET AL.

**FILED**

PLAINTIFFS

VS.

JAN 20 2011

NO.251-04-642CIV

JEFFREY D. FRISBY, ET AL.

BARBARA DUNN, CIRCUIT CLERK

BY  D.C.

DEFENDANTS

**OPINION/ORDER DENYING EATON'S MOTION TO RECUSE TRIAL JUDGE**

THE COURT, having considered Plaintiffs'/Counter-Defendants' Motion to Recuse Trial Judge, the Response by the Defendants/Counter-Claimants, the Reply by the Plaintiffs/Counter-Defendants and other submissions by the parties, and the Court being otherwise fully advised in the premises, without necessity of a hearing as permitted by U.C.C.C.R. 1.15, hereby finds that the Motion is not well-taken, and should be DENIED, based on the following:

**Facts and Procedural History**

On January 4, 2011, the undersigned was sworn into the office of Hinds County Circuit Judge, thereby inheriting all cases pending on the former docket of Judge W. Swan Yerger, including the subject lawsuit. On January 4, 2011, the Eaton Plaintiffs filed the instant Motion to Recuse Trial Judge, alleging that the undersigned should recuse himself, because "[c]onfidence in the integrity of the Circuit Court would best be served by committing the resolution of these disputed facts to a special judge having no affiliation with Hinds County, the witnesses, the parties or this Court." *Plaintiffs' Motion to Recuse Trial Judge*, pg. 6.

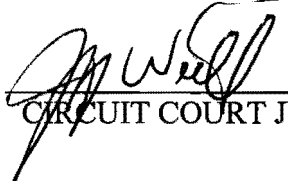
**Analysis**

Pursuant to Canon 3(E) of the Mississippi Code of Judicial Conduct, a judge must recuse himself in proceedings in which his impartiality may be questioned by a reasonable person knowing all of the circumstances. Further, Mississippi law is clear that when considering a

Motion for Recusal, the legal presumption is “that a judge, sworn to administer impartial justice, is qualified and unbiased. To overcome the presumption, the evidence must produce a ‘reasonable doubt’ (about the validity of the presumption).” *Bryan v. Holzer*, 589 So.2d 641, 654 (Miss. 1991) (internal citations omitted)). In the opinion of the Court, there is no evidence, nor can there be, that the prior involvement of former Judge DeLaughter and other former Hinds County employees in proceedings regarding the above-referenced matter will have any effect, whatsoever, on this judge’s ability to be fair and impartial. Further, there is no evidence that can produce a “reasonable doubt” as to this judge’s impartiality, as required. *Id.* This judge was not a Hinds County official at the time of the events involving then-Judge DeLaughter and other employees, and this judge has no disqualifying knowledge of the same. In addition, Plaintiffs’ Motion for Recusal, based upon the same grounds, has been denied previously by former Judge Yerger. *See January 21, 2010 Opinion/Order Denying Eaton’s Motion to Vacate Order of Reference and to Set for Trial*, pg. 3-4. Accordingly, based upon the applicable law and the grounds asserted by the Defendants/Counter-Claimants, the Plaintiffs’/Counter-Defendants’ Motion for Recusal is not well-taken and should be DENIED.

**IT IS, THEREFORE, HEREBY ORDERED AND ADJUDGED** that the Plaintiffs’/Counter-Defendants’ Motion for Recusal be, and the same hereby is, **DENIED**.

**SO ORDERED AND ADJUDGED** this the 19 day of January, 2011.

  
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CIRCUIT COURT JUDGE