

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

BAC Home Loans Servicing, L.P.,

Plaintiff,

v.

Dala Iguodala, Sarah Iguodala, Mortgage Electronic Registration
Systems, Inc., GreenPoint Mortgage Funding, Inc., Heritage Place
Homeowners Association, f/k/a Washington Terrace Townhouse
Homeowner's Association, Unknown Owners and Nonrecord
Claimants,

Defendants.

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MEMORANDUM OPINION AND ORDER

A substitution of judge for cause should be granted if a judge has been influenced by extra-judicial circumstances to a party's detriment. Dala Iguodala seeks a substitution of judge for cause from Judge Laura C. Liu because she has entered orders during the pendency of his appeals. Since Iguodala failed to allege that extra-judicial circumstances influenced Judge Liu to his detriment or that she harbors deep-seated antagonism or hostility toward him, his request for a substitution of judge for cause must be denied.

FACTS

On July 1, 2013, Iguodala filed a petition¹ for substitution of judge from Judge Liu for cause. Over the course of this litigation, Iguodala has filed various appeals with both the Illinois Appellate Court and the Illinois Supreme Court. Ptn. at ¶¶ 2, 6 & 11. According to Iguodala, these pending appeals divested the circuit court of jurisdiction and would void any orders subsequently entered during the appeals' pendency. *Id.* at ¶¶ 10, 20 & 22. Iguodala complains that, despite these pending appeals, Judge Liu has continued to enter void orders. *Id.* at ¶ 25. By entering these orders, Judge Liu has allegedly violated state law and Iguodala's federal due process rights. *Id.* at ¶¶ 28, 30 & 43.

Iguodala alleges that Judge Liu's failure to stay the entry of any orders during the pendency of his appeals indicates her lack of impartiality and fairness and rises to the level of an appearance of impropriety. *Id.* at ¶¶ 45-46, 53, 55 & 58. Iguodala alleges that, as a result of Judge Liu's conduct, he will not be able to receive a fair trial before her because she is prejudiced against him. *Id.* at ¶¶ 34, 45, 48 & 59. Finally, Iguodala

¹ Although Iguodala titled his filing as a motion, this court will refer to it as a petition. 735 ILCS 5/2-1001(a)(3).

alleges that the defendant, Eugene Hendrix, will be prejudiced if the substitution of judge for cause is not granted. *Id.* at ¶ 60.²

ANALYSIS

The Code of Civil Procedure authorizes the substitution of a judge in a variety of circumstances, including “[w]hen cause exists.” 735 ILCS 5/2-1001(a)(3). Illinois courts have consistently held that, in those instances in which a petition for substitution is filed after a judge has made a substantive ruling, the word “cause” is equated with “actual prejudice.” *In re Marriage of O’Brien*, 2011 IL 109039, ¶ 30. Any lesser standard would permit judge shopping. *Id.*

The burden of establishing actual prejudice is on the party seeking the substitution. *Id.* at ¶ 31. That party must present allegations which, if true, would justify granting substitution for cause. *In re Estate of Wilson*, 238 Ill. 2d 519, 554 (2010), citing *In re Estate of Hoellen*, 367 Ill. App. 3d 240, 248 (1st Dist. 2006), quoting, in turn, *Alcantar v. Peoples Gas Light & Coke Co.*, 288 Ill. App. 3d 644, 649 (1st Dist. 1997). Allegations of bias or prejudice must normally be based on something other than what the judge learned from participating in the case. *In re Estate of Wilson*, 238 Ill. 2d at 554. A judge’s previous rulings almost never constitute a valid basis for a claim of judicial bias or partiality. *Id.*, citing *Alcantar*, 288 Ill. App. 3d at 649; *Williams v. Estate of Cole*, 393 Ill. App. 3d 771, 777 (1st Dist. 2009). As explained in *Eychaner v. Gross*:

“[O]pinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible. Thus, judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge. They *may* do so if they reveal an opinion that derives from an extrajudicial source; and they *will* do so if they reveal such a high degree of favoritism or antagonism as to make fair judgment impossible.”

202 Ill. 2d 228, 281 (2002), quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994) (emphasis in original).

Iguodala’s petition for substitution for cause arises from Judge Liu’s continuing entry of orders during his appeals’ pendency. Ptn. at ¶¶ 2, 6 & 11. According to Iguodala, these orders are void and violate state law and his federal due process rights. *Id.* at ¶¶ 25, 28, 30 & 43. Judge Liu’s alleged persistence in entering orders in his case indicates that she is partial and lacks fairness and constitutes an appearance of


² Alex Ogoke, Iguodala’s attorney, apparently files this motion to substitute judge for cause regularly. During the latest recycling, he apparently failed to change his name of his former client, Alex Hendrix, to his current client, Dala Iguodala.

impropriety. *Id.* at ¶¶ 45-46, 53, 55 & 58. He claims that her continued entry of orders during the pendency of Iguodala's appeals indicates that Judge Liu is prejudiced against him and will deny him a fair trial in her court. *Id.* at ¶¶ 34, 45, 48 & 59. Iguodala states that he will be prejudiced as a result. *Id.* at ¶ 60.

All of Judge Liu's conduct alleged by Iguodala took place in court. He does not allege that any extra-judicial circumstances influenced her to his detriment. Further, even if Judge Liu's orders were void, Iguodala has failed to allege facts indicating that her rulings were anything other than mistaken; there are no allegations to suggest even a hint of deep-seated antagonism or hostility toward Iguodala. Absent any such factual allegations that this court could consider, Iguodala has failed to meet the standard justifying a substitution of judge for cause.

Iguodala's petition is denied with prejudice. This matter is returned to the Presiding Judge of the Chancery Division for reassignment.

Dated: 21 November 2013


John H. Ehrlich
Circuit Court Judge

Judge John H. Ehrlich

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