

Motion Commotion by Charles Fincher



MOTION FOR RECUSAL

**MOTIONS TO RECUSE:
VIOLATIONS OF GENERAL ORDER 224**

View [Matz' Current Recusal Motions Published on Internet](#)

See also [9th Circuit Standards on Recusal](#)

See also [Bias of Matz](#)

See also [Secret Hearing](#)

See also [Speedy Trial](#)

See also [Waiver of Counsel](#)

See also [Ineffective Assistance of Counsel](#)

See also [Recusal](#)

01.03.03

Court Docket #79

Request that Judge [Recuse](#) himself.

01.03.03

Court Docket #80

Request construed as Motion to Disqualify; Court reminds parties that "firm date set for trial is [01/14/03](#)

01.03.03

Court Docket #81

Referral of Motion to Recuse Pursuant to General Order 224; all proceedings stayed until determination of motion.

01.06.03

Court Docket #89

Order filed by Judge Phillips denying motion to recuse trial judge.

01.22.03

Court Docket #116

Notice of Unauthorized Mailing filed by judge as to defendant.

01.29.03

Court Docket #125, 126, 127 & 128 show "Notice of discrepancy and Order 'Striking' Motions Filed Due to the Discrepancies."

01.29.03

Court Docket #126

[was] Supplemental Affidavit re: Motion to Disqualify judge under [Title 28: 144](#) Thereafter, outside, independent Counsel re-filed those motions directly behind Judge's back, directly at the Clerk of Court window. See 02.04.03

02.04.03

Court Docket #132

Supplemental Affidavit of Defendant In Support of Motion to Disqualify Under [Title 28: 144](#)

02.06.03

Docket #135 "Before issuing any further '**substantive rulings**' in this case, Court will request Clerk to refer pending motion to disqualify judge to Judge Phillips, but **only after results of defendant's competency examination have been forwarded to this court.** (Note however that the judge issued a 'substantive ruling' prior to this statement) Furthermore, "Clerks Office hereby ORDERED not to accept for filing any documents submitted to Court directly by defendant; "(Note how the judge issued a 'substantive ruling' after the above statement)

03.14.03

Docket #139

Court DENIES defendant's 2241 petition filed on 03.13.03 as **being defective on its face**. Court also DENIES motion for hearing regarding motion to recuse this court. (Note: See Docket #147 on 03.20.03, Court does NOT deny defendants 2241 petition filed on 03.13.03 and ... defendant's rights under 28:2241 are NOT affected by Courts statement at status conference on 03.14.03)

03.19.03

Docket # 143

“Court issues order stating that Court would request Clerk to refer defendant’s 2nd supplemental affidavit in support of his motion to disqualify judge to Judge Phillips **after results of defendants competency examination have been forwarded to Court.** Given that defendant has been **ordered to undergo further [examination](#)**¹ and results have not yet been determined, request and referral of motion will be carried out later.”

06.03.03

Docket #162

“Court construes the ‘Supplemental Affidavit of Defendant in Support of this Motion to Disqualify the Judge’ ... as a Motion for Recusal. Therefore, pursuant to General Order 224, the court advises the Clerk that Judge Phillips previously was assigned to rule on (and she denied) an earlier motion by this defendant to recuse this court. This Order inherently supercedes the Courts February 6, 2003 and March 19, 2003 Orders postponing evaluation of the Motion for Recusal until after the results of defendant Sutcliffe’s [competency](#) examination(sic) are forwarded to this court.”

08.01.03

Docket #168

“Referral of motion to disqualify judge/magistrate judge” “Pursuant to General Order 224 referring Supplemental Affidavit of Defendant in Support of this Motion to Disqualify the Judge to judge Phillips; all proceedings stayed until determination.

08.06.03

Docket # 171

“Order filed by judge Phillips DENYING motion for hearing regarding perjury prosecutor [131-1], motion for reconsideration of order based thereon [131-2] CONSTRUED AS MOTION FOR RECUSAL”

08.21.03

Docket # 183

“REQUEST THAT JUDGE A. HOWARD MATZ RECUSE HIMSELF FROM ANY HEARING, RULING OR ADJUDICATING ANY ISSUES IN THE INSTANT CASE

08.22.03

Docket #184

REFERRAL OF MOTION TO DISQUALIFY JUDGE. Pursuant to General Order 224, referring motion [183-1] to Judge Phillips; all proceedings stayed until determination of motion.

08.25.03

Order filed by Judge Phillips DENYING REQUEST THAT JUDGE MATZ RECUSE HIMSELF.

08.27.03

Docket # 188

¹ Actually defendant was ordered to under go “treatment.” See 04.07.30 Transcript, Page 8, Lines 12-14, “And third, **Your Honor did, in fact, speak in terms of restorationional [treatment](#)** ... See also [03.14.03](#)

McAfee makes Oral Motion to RECUSE Matz at competency hearing. Matz summarily denies it.

“Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit ... such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.”
U.S. v. Sibla, 624 F.2d 864 (9th Cir. 1980)

The substantive standard for recusal under [28 U.S.C.S 144 and 28 U.S.C. S 455](#) is the same: “[W]hether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned. ” United States v. Studley, 783 F.2d 934, 939 (9th Cir. 1986) (quotation omitted). Ordinarily, the alleged bias must stem from an

“extrajudicial source.” [Liteky v. United States](#), 114 S. Ct. 1147, 1157 (1994). “[J]udicial rulings alone almost never constitute valid basis for a bias or partiality motion. ” Id. “[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.” Id.