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Pfaelzer Again Removes Self From Scientology Case

U.S. District Court Judge Mariana Pfaelzer, for the second time, has recused herself from a controversial Church of Scientology case, it was learned yesterday.

In each instance, she stepped aside shortly after the Ninth U.S. Circuit Court of Appeals was asked to forcibly remove her.

The attorney seeking her disqualification, Jerold Fagelbaum of Myerson & Kuhn, said yesterday he thinks the judge is now permanently off the case. Fagelbaum is representing church defectors who are being sued by the church for allegedly purloining and selling secret church courses.

The first time Pfaelzer recused herself was in March of last year. She had previously shunned a request from the defendants to disqualify herself based on the law firm she had once worked for—Wyman, Bautzer, Christensen, Kuchel & Silbert—coming into the case as the plaintiff's lawyers.

After U.S. District Court Judge Harry Hupp ruled there was no basis for disqualification, the defendants sought a writ from the Ninth Circuit Court of Appeals. After the petition was filed and before there was any action on it, Pfaelzer, without explanation, voluntarily recused herself.

However, a week later, the Wyman firm withdrew, and Pfaelzer had the case reassigned to her.

Late last year, Fagelbaum asked Pfaelzer to leave the case in light of new information that she had engaged in an allegedly improper ex parte communication with two members of the Wyman firm, assuring them she would not step aside if the firm came into the case. She declined.

History Repeated

This year, history repeated itself with Hupp ruling there was no basis for disqualification, and the defendants seeking a writ from the Ninth Circuit Court of Appeals. Again, after the petition was filed and before there was any action on it, Pfaelzer, without explanation, voluntarily recused herself.

Fagelbaum said yesterday he received notice of the action on Friday. He noted that Pfaelzer directed that the case be given to Judge James Ideman.

Ideman presently has another Church of Scientology case before him.

Pfaelzer was out of the country yesterday and was unavailable for comment.

"Plaintiffs placed the court in a very difficult

position," Fagelbaum commented. "Under the circumstances, it was right for the judge to step down."

He remarked that in light of Pfaelzer acting without giving a reason, one is left to speculate as to what it was that prompted her decision.

Remove Doubt

Fagelbaum went on to say: "One could conclude that the court thought that this was the best way to remove any doubt" as to the impartiality of the trial.

In the petition to the Ninth Circuit, Fagelbaum had argued:

"Judge Pfaelzer and the Plaintiffs have created the indelible impression in the eyes of any disinterested observer that Plaintiff and the District Court are allies and, thereby, have irretrievably destroyed any appearance of impartiality by the District Court. As reluctant as the District Court may have been to allow Plaintiffs' action to dictate the result, anything but the grant of Defendants' Petition will unavoidably and substantially encroach upon the District Court's impartiality and will serve to advance the perception that Plaintiffs have succeeded in currying good favor with Judge Pfaelzer by retaining the District Court's former law firm."