

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

**The Arkansas State
Conference NAACP, et al.,**

Plaintiffs,

vs.

**The Arkansas Board of
Apportionment, et al.,**

Defendants

Case No. 4:21-cv-1239-LPR

**Plaintiffs' Motion
for Recusal**

The plaintiffs respectfully move the Court for recusal under 28 U.S.C. § 455.

1. The Code of Conduct for United States Judges emphasizes the importance of promoting public confidence in the integrity and impartiality of the judiciary by avoiding impropriety and the appearance of impropriety in all activities.

2. Federal law further provides that a just must recuse “in any proceeding in which his impartiality might reasonably be questioned,” or where “he has a personal bias or prejudice concerning a party.” 28 U.S.C. § 455.

3. According to public records, the Honorable Lee Rudofsky and his wife hosted a fundraiser at his home in 2018 for candidate Leslie Rutledge, one of the named defendants in this case who is also likely to be a witness. (Exhibit 1: Rudofsky Judicial Questionnaire at 25.)

4. According to other public records, Judge Rudofsky also donated \$1,000 to Rutledge in 2017 and \$500 in 2018 to candidate Asa Hutchinson, another one of the named defendants in this case who is likely to be a witness. (Exhibit 2: Political Donations of Lee Rudofsky.)

5. In each case, Judge Rudofsky’s fundraiser and donations were in support of the candidates’ most recent campaign for his or her current term in office.

6. Rutledge is the Attorney General of the State of Arkansas and is a member of the Arkansas Board of Apportionment. Hutchinson is the Governor of the State of Arkansas and is a member of the

Arkansas Board of Apportionment. Together, they constitute two-thirds of the Board.

7. This case challenges the reapportionment plan for the Arkansas House of Representative that the Board of Apportionment recently adopted. The plaintiffs allege that the plan unlawfully dilutes Black voting strength in violation of Section 2 of the Voting Rights Act.

8. Rutledge and Hutchinson are likely to be witnesses in this case because they were key decisionmakers in adopting the challenged plan and because, under the applicable law, their justification for the plan is a relevant circumstance. See, e.g., *Thornburg v. Gingles*, 478 U.S. 30, 45 (1986) (evidence regarding the policy underlying the challenged practice “may have probative value”). It is quite common in redistricting cases to depose the legislators or other officials who were responsible for adopting a challenged plan.

9. This is a case of significant public importance, and one that is likely to be scrutinized closely by the media and by the public at large.

10. Under these circumstances, an objective, knowledgeable member of the public could reasonably doubt Judge Rudofsky’s

impartiality with respect to Rutledge and Hutchinson in this matter, and recusal is therefore appropriate.

11. The plaintiffs submit a memorandum of law in support of this motion.

Accordingly, the plaintiffs pray that the Court grant this motion to recuse.

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