

**CERTIFICATE OF SERVICE**

**LAMBROS vs. U.S.A., CIVIL NO. 99-CV-28 (Judge Rosenbaum): Criminal No. 4-89-CR-82(5)**

**FOR FILING:**

I hereby state under the penalty of perjury that a true and correct copy of the following:

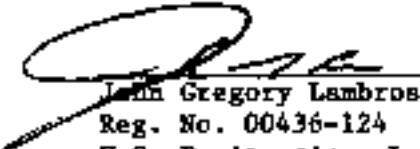
- a. MOTION FOR DISCLOSURE OF DOCUMENTS FILED BY UNITED STATES DISTRICT COURT JUDGE ROBERT G. HENNER IN THIS ACTION FROM APRIL 20, 2001, TO PRESENT. Dated: October 20, 2001.**

was served on the following this 23rd day of October, 2001, via U.S. Mail through the U.S. Penitentiary Leavenworth mailroom/legal mailbox, to:

1. CLERK OF THE COURT  
District of Minnesota  
U.S. Federal Courthouse  
316 North Robert Street  
St. Paul, Minnesota 55101  
U.S. CERTIFIED MAIL NO. 7001-0320-0003-3597-0688

One (1) original and one (1) copy for FILING.

2. U.S. Attorney's Office  
District of Minnesota  
U.S. Federal Courthouse, Suite 600  
300 South 4th Street  
Minneapolis, Minnesota 55415
3. INTERNET RELEASE TO ALL "BOYCOTT BRAZIL" SUPPORTERS AND HUMAN RIGHTS GROUPS GLOBALLY FOR REVIEW, COMMENT, AND RELEASE. Web site: [www.brazilboycott.org](http://www.brazilboycott.org)
4. Lambros family members.

  
\_\_\_\_\_  
John Gregory Lambros  
Reg. No. 00436-124  
U.S. Penitentiary Leavenworth  
P.O. Box 1000  
Leavenworth, Kansas 66048-1000 USA  
Web site: [www.brazilboycott.org](http://www.brazilboycott.org)

1. OK FILE

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

JOHN GREGORY LAMBROS, \*

Petitioner, \*

vs. \*

UNITED STATES OF AMERICA, \*

Respondent. \*

CIVIL FILE NO. 99-28 (RGR)

Criminal File No. 4-89-82(05)

AFFIDAVIT FOR

JAMES M. ROSENBAUM, U.S. District Chief Judge.

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MOTION FOR DISCLOSURE OF DOCUMENTS  
FILED BY UNITED STATES DISTRICT COURT  
JUDGE ROBERT G. RENNER IN THIS ACTION  
FROM APRIL 20, 2001 TO PRESENT.

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NOW COMES the Petitioner, JOHN GREGORY LAMBROS, (hereinafter Movant) and moves this Court under the direction of United States District Chief Judge James M. Rosenbaum, as per his ORDER dated September 14, 2001, filed September 18, 2001, to ORDER United States District Court Judge Robert G. Renner to disclose all documents he has filed in this action to RECUSE HIMSELF from all past, current and future legal action involving Movant LAMBROS, as per Title 28 U.S.C.A. §§ 455(a) and 455(b)(3).

FACTS:

1. Movant filed his "MOTION TO VACATE ALL JUDGMENTS AND ORDERS BY UNITED STATES DISTRICT COURT JUDGE ROBERT G. RENNER PURSUANT TO RULE 60(b)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE FOR VIOLATIONS OF TITLE 28 U.S.C.A. § 455" on April 20, 2001, the day he placed same within the legal mailbox at U.S. Penitentiary Leavenworth.

2. On September 14, 2001, filed on September 18, 2001, United States District Chief Judge James M. Rosenbaum ORDERED the government to respond to Movant LAMBROS' motion to vacate all judgments and orders by Monday, October 22,

2001.

3. Movant LAMBROS has not received any other motions and/or filings from this Court or United States District Court Judge Robert G. Renner as to Judge Renner's affirmative, self-enforcing obligation to recuse himself SUE SPONTE whenever the proper grounds exist nor Judge Renner's motion to transfer this action to Chief Judge Rosenbaum, as per Title 28 U.S.C.A. § 455.

LAW:

4. IN RE BERNARD, 31 F.3d 842 (9th Cir. 1994), "Motion to disqualify judge must be decided by very judge whose impartiality is being questioned. 28 U.S.C.A. § 455." Id. at Head Note 2, page 842. "Under canons of judicial ethics, every judicial officer must satisfy himself that he is actually unbiased toward parties and that his impartiality is not reasonably subject to question. Id. at Head Note 1, page 842.

5. U.S. vs. OLANDER, 584 F.2d 876, 883 (9th Cir. 1978), "It was not improper for judge Boldt to pass on the motion to disqualify. The law is clear that he must determine whether the affidavit is sufficient, if true, to require that he recuse himself. Only if he finds it thus sufficient is he required to have another judge hear the motion. [28 U.S.C.A. § 455]." Also see, Head Note 10, page 877.

6. LEVITT vs. UNIVERSITY OF TEXAS AT EL PASO, 847 F.2d 221, 226 (5th Cir. 1988), "The judge can himself decide whether the claim asserted is within § 455. If he decides that it is, then a disinterested judge must decide what the facts are. See 13A C. Wright, A. Miller & E. Cooper, Federal Practice and Procedure § 3550 (1984) and the cases cited there." Id. at 226.

7. U.S. vs. SIBLA, 624 F.2d 864, 865 - Head Notes 5 & 7 (9th Cir. 1980), "Statute pertaining to a judge's disqualification of himself includes no provision for referral of the question of recusal to another judge; if the judge sitting on a case is aware of grounds for recusal under said statute, the judge

has a duty to recuse himself or herself. 28 U.S.C.A. § 455." *Id.* at Head Note 5, page 865; "A party submitting a proper motion and affidavit to disqualify the judge gets two (2) bites of the apple; if, after considering all the circumstances, the judge declines to grant recusal under statute pertaining to a judge's disqualification of himself, the judge **STILL MUST DETERMINE THE LEGAL SUFFICIENCY OF THE AFFIDAVIT** under statute pertaining to disqualification on the basis of an **AFFIDAVIT** alleging personal bias or prejudice; and if that **AFFIDAVIT** is sufficient on its face, the motion must be referred to another judge for a determination of its merits. 28 U.S.C.A. §§ 144, 455, 455(a), (b)(1)." *Id.* at Head Note 7, page 865.

8. IN RE VIRGINIA ELEC. & POWER CO., 539 F.2d 357, 358, Head Note 4 (4th Cir. 1976), "No one judge may, as a matter of discretion, disqualify other judges. 28 U.S.C.A. § 455."

9. U.S. vs. CERCEDA, 139 F.3d 847, 850, Head Notes 4 & 6 (11th Cir. 1998), "Judge is under affirmative, self-enforcing obligation to recuse himself sua sponte whenever proper grounds exist, and is required to resolve any doubts in favor of disqualification. 28 U.S.C.A. § 455(a)." *Id.* at Head Note 4, Page 850; "Judge's subjective knowledge may be relevant to question of actual bias, but concern underlying recusal statute is not whether the judge is actually biased but simply whether it might appear so. 28 U.S.C.A. § 455(a)." *Id.* at Head Note 6, Page 850.

10. LILJEBERG vs. HEALTH SERVICES ACQUISITION CORP., 100 L.Ed.2d 855 (1988), Violation of Title 28 U.S.C.A. § 455(a) which requires judge to DISQUALIFY HIMSELF in any proceeding in which his impartiality might reasonably be questioned DOES NOT REQUIRE SCIENTER, although judge's lack of knowledge of disqualifying circumstances may bear on question of remedy.

11. IN RE WIREBOUND BOXES ANTITRUST LITIGATION, 724 F.Supp. 648 (D. Minn. 1989), "Judge's impartiality must be judged, for recusal purposes, from prospective of reasonable, uninvolved observer in light of FULL RECORD, and not simply in light of isolated incident. 28 U.S.C.A. § 455(a)." *Id.* at Head Note 3;

"Rather, the court's impartiality must be judged from the perspective of a reasonable, uninvolved observer 'in light of the full record, not simply in light of an isolated incident.' IN RE FEDERAL SKYWALK CASES, 680 F.2d 1175, 1183-84 (8th Cir.) cert. denied, 74 L.Ed.2d 383 (1982)." Id. at 651.

12. IN RE FEDERAL SKYWALK CASES, 680 F.2d 1175, Head Note 8 (8th Cir. 1982), "Claim of bias of judge must be evaluated in the light of the FULL RECORD, not simply in the light of an isolated incident. 28 U.S.C.A. § 455(a)."

13. MOODY vs. SIMMONS, 858 F.2d 137, 138, Head Notes 1 and 3 (3rd Cir. 1988), "Judge should have recused at time he acknowledged that his impartiality could reasonably be questioned; thus, judge was not empowered to perform judicial actions thereafter." Id. at Head Note 1; "Once judge has disqualified himself, he or she may enter no further orders in case; his power is limited to performing ministerial duties necessary to transfer of case to another judge." Id. at Head Note 3.

14. KENDRICK vs. CARLSON, 995 F.2d 1440, 1441, Head Note 3 (8th Cir. 1993), "United States Attorney serves as counsel to government in ALL PROSECUTIONS brought in his district while he is in office and, therefore, he is PROHIBITED FROM LATER PRESIDING OVER THOSE PROSECUTIONS AS JUDGE. 28 U.S.C.A. § 455(b)(3)."

15. U.S. vs. GREENSPAN, 26 F.3d 1001 (10th Cir. 1994) Recusal on ground that judge's impartiality might reasonably be questioned is to be judged on record; it is not question of either government or defendant bearing burden of proof. 28 U.S.C.A. § 455(a).

16. CREEVES vs. SOUTHERN CLAYS, INC., 797 F.Supp. 1570, Head Notes 11, 12, & 14 (M.D.Ga. 1992), "Whenever it appears that disqualification of judge may be required pursuant to the disqualification of judge statute, judge must either withdraw from case or MAKE FULL DISCLOSURE ON RECORD SO THAT PARTIES MAY CONSIDER A WAIVER. 28 U.S.C.A. § 455(a)" Id. at Head Note 11, Page 1571; "Disqualification of a judge statute contemplates voluntary disclosure by judge rather than compulsory discovery from judge. 28 U.S.C.A. § 455." Id. at Head Note 12, Pages 1571-1572;

"Compulsory discovery process addressed to presiding judge in aid of motion to disqualify that judge is not available to litigant upon initial presentation of motion or request for such discovery in district court; discovery of other persons may be pursued in appropriate cases. 28 U.S.C.A. §§ 144, 455(a, e)." Id. at Head Note 14, Page 1572.

17. USA vs. FELDMAN, 983 F.2d 144 (9th Cir. 1992), "When judge determines that recusal is appropriate, judge has no discretion to recuse by subject matter or only as to certain issues and not others; rather, recusal must be from whole proceeding, entire stage of litigation. 28 U.S.C.A. §§ 144, 455, 455(d)(1)." Id. at Head Note 1, Page 144.

18. U.S. vs. MOODY, 977 F.2d 1420, 1423 (11th Cir. 1992), "There is no question that a federal judge may perform ministerial acts even after he has disqualified himself from a particular case. See IN RE CEMENT ANTITRUST LITIGATION, 673 F.2d 1020, 1024-25 (9th Cir. 1982)(judge who was disqualified by reason of a financial interest could reassign a case)."

19. U.S. vs. GREENSPAN, 26 F.3d 1001 (10th Cir. 1994), Judge MUST DOCUMENT REASONS FOR DECISION ON RECUSAL MOTION so that it may be reviewed, if necessary. 28 U.S.C.A. § 455(a).

20. IN RE HALE, 980 F.2d 1176, 1178 (8th Cir. 1992), "A motion for recusal rests in the 'sound discretion of the trial judge and the standard of review on appeal is whether the judge abused his or her discretion.' [28 U.S.C.A. 455(a)]."

21. EL FENIX de PUERTO RICO vs. THE M/Y JOHANNY, 36 F.3d 136, 141 (1st Cir. 1994), "The proper approach under subsection 455(e) REQUIRES the trial judge to place ON THE RECORD ALL FACTS RELATING TO ANY ALLEGED APPEARANCE OF LACK OF IMPARTIALITY and then leave entirely to the parties whether to waive disqualification under section 455(a)." Id. at 141.

22. GEO. WASHINGTON HOME OWNERS ASSOC. vs. WIDNALL, 863 F.Supp. 1423, 1430 (D.Colo. 1994) "Recusal under § 455 is to be judged on THE RECORD. It is not a question of either movants or opponents bearing a burden of proof. Rather

recusal is an action taken by the judge, and the JUDGE MUST DOCUMENT THE REASONS FOR HIS DECISION SO THAT THE DECISION MAY BE REVIEWED, IF NECESSARY, BY AN APPELLATE COURT. GREENSPAN, 26 F.3d at 1007. The decision to recuse is committed to the sound discretion of the district court." Id. at 1430.

23. MASS. SCHOOL OF LAW AT ANDOVER vs. AMER. BAR ASS'N, 872 F.Supp. 1346 (E.D.Pa. 1994), "When proceedings are brought under 28 U.S.C. § 455(a), a judge NEED NOT ACCEPT AS TRUE THE MOTION'S FACTUAL ALLEGATIONS, BUT MAY CONTRADICT THEM WITH FACTS DRAWN FROM HIS OWN PERSONAL KNOWLEDGE. U.S. vs. BALISTRIERI, 779 F.2d 1191, 1202 (7th Cir. 1985); see also U.S. vs. SCIARRIA, 851 F.2d 621, 625 n. 12 (3rd Cir. 1988). Id. at 1349.: "Judge's FAILURE TO INFORM PARTY DIRECTLY of facts which its own attorney already knew did not give rise to such questions about judge's impartiality as would warrant recusal. 28 U.S.C.A. § 455(a)." Id. at Head Note 11, Page 1347.

CONCLUSION:

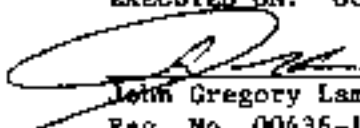
24. Movant LAMBROS believes Judge Renner was required to document the reasons for his decision to recuse himself or not to recuse himself in this action before forwarding this action to Chief Judge Rosenbaum. See, U.S. vs. GREENSPAN, 26 F.3d 1001, 1007 (10th Cir. 1994).

25. Movant LAMBROS is requesting that a FULL RECORD be developed in this action.

26. Movant LAMBROS requests this court to ORDER the release of all documents filed by United States District Court Judge Robert G. Renner in this action from April 20, 2001 to present, as to his recusal.

27. I declare under penalty of of perjury that the foregoing is true and correct, as per Title 28 U.S.C.A. § 1746.

EXECUTED ON: October 20, 2001

  
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