

In the United States Court of Federal Claims

No. 95-468 C
(Filed January 31, 2005)

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ASTORIA FEDERAL SAVINGS
& LOAN ASSOCIATION,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

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Winstar-related case; motion for
judicial disqualification under
28 USC § 455.

Frank Eisenhart, Dechert LLP, Washington, D.C., for plaintiff. J. Gregory Dyer,
Jennifer Arnold, Dechert LLP, Washington, D.C., of Counsel.

David M. Cohen, Director, Commercial Litigation Branch, Civil Division, Department of
Justice, with whom was Stuart E. Schiffer, Deputy Assistant Attorney General, Washington,
D.C., for defendant.

MEMORANDUM OPINION AND ORDER

WOLSKI, Judge.

For the reasons fully explained in the Opinion and Order in First Federal Savings Bank of
Hegewisch, No. 93-162 C, also filed today, defendant's motion for the disqualification of the
undersigned from hearing this case, pursuant to 28 U.S.C. § 455(a) and § 455(b)(2), is DENIED.

Just as was the case in Hegewisch, neither Mr. Charles J. Cooper nor any other lawyer
with Cooper, Carvin & Rosenthal, PLLC, or with Cooper & Kirk, PLLC, served as plaintiff's
lawyer in this matter. See Ex. 1 to Pl.'s Mem. in Opp'n to Def.'s Mot. to Recuse ¶ 8 (Eggleston
Aff.); Ex. 2 to id. ¶¶ 2, 5 (Eisenhart Aff.). Nor had any of the payments made by plaintiff to the
joint fund for shared expenses of the Plaintiffs' Coordinating Committee ("PCC") been used for
any attorneys' fees. See Ex. 1 to id. ¶ 10; Ex. 2 to id. ¶ 7; Ex. 3 to id. ¶¶ 3, 7 (Sisson Decl.). Nor
has Cooper & Kirk or Cooper, Carvin & Rosenthal, on behalf of the PCC or any of its clients,
filed any briefs in this matter.

Neither I nor anyone with whom I was associated in private practice served as a lawyer concerning the matter in controversy in this case, and it is not reasonable to question my impartiality in this matter. Accordingly, the motion for disqualification is **DENIED**.

**IT IS SO ORDERED.**

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**VICTOR J. WOLSKI**  
Judge