

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

-- Northern Division --

CENTER FOR CONSTITUTIONAL  
RIGHTS, *et al.*

Plaintiffs,

v.

CHIEF JUDGE COL. DENISE LIND, *et al.*,

Defendants.

Civil Action No. 13-1504

---

**PLAINTIFFS' STATEMENT REGARDING DISQUALIFICATION**

Plaintiffs,<sup>1</sup> by their undersigned counsel, hereby respond to the Letter Order of June 6, 2013 (Dkt. No. 16), requesting statements as to whether the parties contend that disqualification of Judge Hollander in this matter is necessitated based on an employment relationship between her adult son and one of the amici who have filed a brief in support of the motion for preliminary injunction. Plaintiffs do not request disqualification, nor do they believe that disqualification is required under 28 U.S.C. § 455 or Canon 3(C) of the Code of Conduct for U.S Judges. Even assuming amici are treated as parties for purposes of disqualification analysis, “an employment relationship between a party and a judge’s son or daughter does not *per se* necessitate a judge’s disqualification.” *In re Kansas Public Employees Retirement Sys.*, 85 F.3d 1353, 1364 (8th Cir. 1996) (collecting cases); *see also Taylor v. Vermont Dep’t of Educ.*, 313 F.3d 768, 795 (2d Cir. 2002) (Sotomayor, J.). “Rather, the determination of whether a conflict exists in a given situation is factually bound.” *Kansas Public Employees*, 85 F.3d at 1364.

---

<sup>1</sup> The Center for Constitutional Rights (CCR), Glenn Greenwald, Jeremy Scahill, Amy Goodman, Kevin Gosztola, Chase Madar, Julian Assange, The Nation Company LP, Democracy Now! Productions, Inc., and WikiLeaks ITC Inc.

The pertinent facts all point away from disqualification. The employer at issue is one of thirty-six parties who joined a single amicus brief. The brief presents a legal argument supporting media access to military-court proceedings. Amici do not request damages (nor as amici could they do so). The possibility that this proceeding would bestow an indirect financial benefit on the amici, although perhaps not impossible to imagine, is nevertheless too tenuous to be meaningful. *See In re Beard*, 811 F.2d 818, 831 (4th Cir. 1987) (whether an interest is disqualifying depends on the “remoteness of the interest and its extent or degree” and “[a]s the interest becomes less direct, it will require disqualification only if the litigation substantially affects that interest”) (citations and quotations omitted). The amicus at issue, Hearst Corporation, reports that it is “one of the nation’s largest diversified media companies”; that it owns 15 daily newspapers, 38 weekly newspapers, nearly 300 magazines, and 29 television stations. Dkt. No. 17 (Amicus Brief), at x. (Radio stations did not even make the list, but it appears there are two. *See* [www.hearst.com/broadcasting](http://www.hearst.com/broadcasting).) Consequently, any indirect financial benefit conferred on Hearst Corporation would have no conceivable effect on one Hearst employee, particularly an employee who has no ownership interest in Hearst, who apparently is not a manager, officer, or director of Hearst, and whose responsibilities do not involve coverage of military-court proceedings. *See Datagate, Inc. v. Hewlett-Packard Co.*, 941 F.2d 864 (9th Cir. 1991) (judge’s son’s 15-year employment by party did not require disqualification when party had 83,000 employees and employee was not in management position, notwithstanding employee’s participation in profit-sharing plan); *Hewlett-Packard Co. v. Bausch & Lomb, Inc.*, 882 F.2d 1556, 1569 (Fed. Cir. 1989) (same); *Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 520, 523 (8th Cir. 1998) (Hanson, J., in chambers) (disqualification not required where judge’s son worked in nonmanagement position at intervenor company with 55,000 employees); *Jenkins v.*

*Arkansas Power & Light Co.*, 140 F.3d 1161, 1164-65 (8th Cir. 1998) (recusal not required where judge's son would be a salaried associate of law firm for party); *Bartholomew v. Stassi-Lampman*, 95 F.3d 1156, 1996 WL 477006, at \*2 (9th Cir. 1996) (same); *United States ex rel. Weinberger v. Equifax, Inc.*, 557 F.2d 456, 463-64 (5th Cir. 1977) (same).

Nor can plaintiffs conceive of any other (nonfinancial) interest of the Judge's son that could be substantially affected by the outcome of these proceedings. See 28 U.S.C. § 455(b)(5)(iii). No other facts suggest that the Judge's impartiality might reasonably be questioned. See 28 U.S.C. § 455(a). For these reasons, Judge Hollander's disqualification is not required under either 28 U.S.C. § 455(a) or (b).

To the extent that waiver of a conflict is permitted, plaintiffs, after considering the disclosure set forth in the June 6 Letter Order, hereby agree within the meaning of 28 U.S.C. § 455(e) and Canon 3(D) that Judge Hollander should not be disqualified.

Respectfully submitted,

Shayana D. Kadidal  
J. Wells Dixon  
Baher Azmy, Legal Director  
Michael Ratner, President Emeritus  
Center for Constitutional Rights  
666 Broadway, 7th Floor  
New York, New York 10012  
kadidal@ccrjustice.org  
Tel: (212) 614-6438  
Fax: (212) 614-6499

Jonathan Hafetz  
169 Hicks Street  
Brooklyn, NY 11201  
Tel: (917) 355-6896

*Counsel for Plaintiffs*

ZUCKERMAN SPAEDER LLP

By: /s/ John J. Connolly  
William J. Murphy (#00497)  
John J. Connolly (#09537)

100 East Pratt St., Suite 2440  
Baltimore, MD 21202-1031  
[jconnolly@zuckerman.com](mailto:jconnolly@zuckerman.com)

Tel: (410) 332-0444  
Fax: (410) 659-0436

*Counsel for Plaintiffs*