

UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

THOMAS MELONE,

Plaintiff,

v.

MICHAEL F. HANLEY, CAROLYN ANDERSON in her capacity of Chair of the Vermont Professional Responsibility Board, and JON ALEXANDER in his official capacity of Disciplinary Counsel of the Vermont Professional Responsibility Board, JANE DOE, ALEXANDER SHRIVER and BRIAN BANNON in their official capacities as members of Hearing Panel assigned to PRB Case 120-2025,

Defendants.

Case No. 2:26-cv-38

**MOTION FOR RECUSAL OF ALL THE JUDGES OF THE DISTRICT OF VERMONT AND REASSIGNMENT TO ANOTHER JUDGE IN THE SECOND CIRCUIT.**

Plaintiff Thomas Melone pursuant to 28 U.S.C. §455 and Canon 3(C)(1)(a) of the U.S. Code of Judicial Conduct respectfully moves to recuse all of the Honorable judges of the District of Vermont from adjudicating merits of this case. Plaintiff also moves to have this case referred to one of the District of New York or the District of Connecticut for assignment to a judge in said District, sitting by designation. The recusal of all of the judges of this Court would give rise to an “emergency” with respect to the referred case as that term is used in 28 U.S.C. § 636(f).

**MEMORANDUM IN SUPPORT OF MOTION**

As described in the complaint, *see* ECF 1, the Plaintiff has been charged with multiple violations of the Vermont Rules of Professional Conduct. All of the charges are based upon Plaintiff’s exercise of his First Amendment rights.

As alleged in the complaint, Plaintiff alleges that the bar disciplinary machinery is being used to retaliate against Plaintiff for his various litigation involving one of Vermont’s legal elite—Attorney Merrill Bent, who is also the chair of the Judicial Conduct Board, and frequent legal counsel to the Town of Bennington, Vermont (the “Town”). Shortly after Plaintiff publicly

disclosed governmental malfeasance of the Town and Ms. Bent's firm's potential role in it during adversarial proceedings, Attorney Merrill Bent filed a bar disciplinary complaint against Plaintiff, putting the bar disciplinary machinery in action in order to retaliate against Plaintiff and to chill the exercise of his First Amendment rights.

Count VIII of the misconduct petition seeks disbarment. Count VIII is in part based upon the following cases in which Plaintiff has been involved in this District, *see* ECF 1 at 27:

1. *Allco Renewable Energy Ltd. v. Volz*, 5:20-cv-00034-gwc;
2. *Allco Renewable Energy Ltd. v. Kulkin*, 2:20-cv-00044-kjd;
3. *Allco Finance Ltd. v. Roisman*, 2:20-cv-00103-mkl (which was reassigned from Chief Judge Reiss after the remand from the Second Circuit);
4. *Apple Hill Solar LLC v. Cheney*, 2:23-cv-00644-wks;
5. *PLH Vineyard Sky LLC v. Town of Bennington*, 2:23-cv-00645-gwc;
6. *Allco Finance Ltd. v. Roisman*, 2:23-cv-00691-gwc;
7. *PLH Vineyard Sky LLC v. Town of Bennington*, 2:25-cv-00469-wks.<sup>1</sup>

Canon 3(C)(1)(a) of the U.S. Code of Judicial Conduct provides:

Disqualification. (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which: (a) the judge has ... personal knowledge of disputed evidentiary facts concerning the proceeding."

28 U.S.C. §455 provides:

- (a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
- (b) He shall also disqualify himself in the following circumstances:
  - (1) Where he has ... personal knowledge of disputed evidentiary facts concerning the proceeding.

Each of the judges of this District have "personal knowledge of disputed evidentiary facts concerning the" disciplinary proceeding against Plaintiff. That knowledge relates to the facts of each of the above-captioned cases. In the disciplinary case against Plaintiff, disputed evidentiary facts include, without limitation, whether Plaintiff's bringing the above-listed actions, and/or

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<sup>1</sup> ECF 1-11 are the docket sheets from each of the listed cases. These docket sheets were produced to Plaintiff by Defendant Hanley as part of the disclosure of what evidence he is relying on for Count VIII.

Plaintiff's speech or conduct in the above-listed actions, violated the Vermont Rules of Professional Conduct, specifically Rule 8.4(d). As a result, not only does each of the judges of this District have "personal knowledge of disputed evidentiary facts" involved in Count VIII, but at this point it is also unknown whether Plaintiff or Mr. Hanley or the Hearing Panel would seek testimony from any of the judges in this District.

One precedent for the recusal and requested emergency declaration is from another attorney disciplinary action—*McKenna v. Gershkoff*, 1:12-cv-904 (D. R.I.). *See*, ECF No. 4 ("The recusal of all of the judges of this court gives rise to an 'emergency' with respect to the referred case as that term is used in 28 U.S.C. § 636(f).") *See*, **EXHIBIT 1**.

### **CONCLUSION**

For the reasons stated above, Plaintiff respectfully requests that all of the Honorable judges of the District of Vermont recuse themselves from adjudicating merits of this case. Plaintiff also requests that this case remain within the Second Circuit and thus be referred to one of the District of New York or the District of Connecticut for assignment to a judge in said District, sitting by designation. Defendant.

Dated: February 18, 2026

Respectfully submitted,  
THE PLAINTIFF,  
/s/Thomas Melone  
Thomas Melone  
601 S Ocean Blvd.  
Delray Beach, FL 33483  
Phone: (212) 681-1120  
Email: Thomas.Melone@AllcoUS.com

# EXHIBIT 1

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

Keven A. McKenna,  
Plaintiff,

v.

CA 12-904ML

Susan Gershkoff, Marc DeSisto,,  
*and* David Curtin,  
Defendants.

ORDER

All of the judges in the District of Rhode Island have recused from participating in this case. Accordingly, this case shall be referred to the District of New Hampshire for assignment to a judge in that District, sitting by designation.

The recusal of all of the judges of this court gives rise to an “emergency” with respect to the referred case as that term is used in 28 U.S.C. § 636(f). I therefore concur in the assignment of a Magistrate Judge from the District of New Hampshire to perform the duties specified in 28 U.S.C. § 636(a) - (c).

SO ORDERED:

/s/Mary M. Lisi

Mary M. Lisi,  
Chief U.S. District Judge (District of Rhode Island)  
Date: **December 20, 2012**

cc: Keven A. McKenna, pro se

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

Keven A. McKenna,  
Plaintiff,

v.

CA 12-904ML

Susan Gershkoff, Marc DeSisto,,  
*and* David Curtin,  
Defendants

**CONCURRING ORDER**

I concur that \_\_\_\_\_ a district judge in active service,  
shall be designated and assigned to preside over the above-captioned case.

I concur that an emergency exists as specified in the above and that for the duration  
of this case Magistrate Judge \_\_\_\_\_ is assigned to perform such duties  
under 28 U.S.C. §636(a)-(c) as may be assigned to him/her by the District Judge to whom this  
case is assigned.

Date: \_\_\_\_\_

\_\_\_\_\_  
Chief U.S. District Judge  
District of New Hampshire

cc: Keven A. McKenna, pro se