Notice Concerning Waiver of Judicial Disqualification

Date: November 4, 2024

From: Katie Hord Simon, Clerk of Court

To:

Jennifer E. Parsigian (Counsel)

Jeffrey L. Kessler (Counsel)

Matthew R. DalSanto (Counsel) Michael P. Toomey (Counsel)

E. Danielle T. Williams (Counsel)

Anna M. Rathbun (Counsel)
Christopher J. Brown (Counsel)
Christopher S. Yates (Counsel)
Lawrence E. Buterman (Counsel)

Patricia Wilson Magee (Counsel)

Re: 2311 Racing LLC, et al. v. National Association for Stock Car Auto Racing, LLC,

Case No. 3:24-cv-00886-FDW-SCR

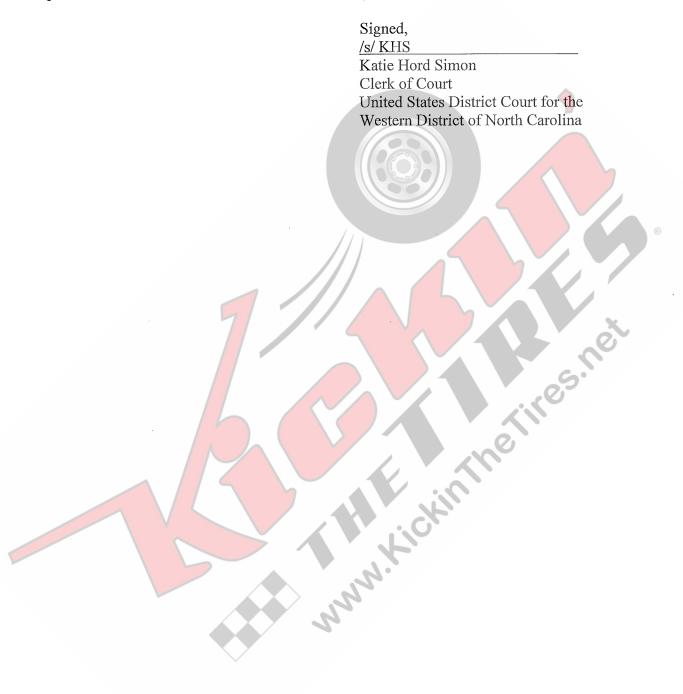
Canon 3D of the Code of Conduct provides (with exceptions not pertinent to this case) that when a judge is disqualified in a proceeding because "the judge's impartiality might reasonably be questioned," the judge may participate in the proceeding only if all the parties and lawyers, after notice of the basis for the disqualification, have an opportunity to confer outside of the presence of the judge and all agree in writing or on the record to waive the disqualification under a procedure independent of the judge's participation.

Unless a waiver is obtained from all parties and all counsel, Judge Whitney intends to disqualify in this proceeding because of these circumstances: Local counsel for Defendants previously served as Judge Whitney's Career Law Clerk and left service with the Court on July 26, 2024.

If you and your clients wish to waive the judge's disqualification, a letter to that effect from you and from your clients must be sent to me no later than 3:00 p.m. today. Should you require additional time, please note that the hearing on Plaintiff's Motion for Preliminary Injunction currently scheduled for 2:00 p.m. today will need to be continued. If all parties waive disqualification, Judge Whitney will proceed with the hearing at 3:30 p.m. today.

A sample waiver letter is enclosed. The letter should be signed and submitted by the attorney of record only after consultation with all of his or her clients in the above-styled and numbered cause. The letter should not be sent to the judge and copies should not be sent to other counsel. **DO NOT E-FILE YOUR LETTERS. SUBMIT THEM DIRECTLY BY EMAIL TO THE CLERK OF COURT.** If all parties submit such letters, this Notice and all responses will be made part of the record, as required by Canon 3D, and the judge will continue participation in the proceeding. If a waiver is not received on behalf of all parties and their respective counsel, this Notice and any

responses will be kept under seal by the clerk and not shown to the judge, nor will the judge be informed of the identity of any party or lawyer who declined to waive the disqualification. If the disqualification is not waived, the case will be reassigned to another judge.



Sample Waiver of Disqualification Letter - CIVIL CASES

NOTICE TO ATTORNEYS: DO NOT E-FILE THIS FORM; SUBMIT DIRECTLY TO THE **CLERK OF COURT**

From:	XXXX XXXX Teffkessler [Address] Winsty & Struck LP
Го:	Clerk of the Court New Jule, New Fork 10166
	United States District Court
	for the western District of North Caroling

[Address]

Date: 11

ABC v. DEF, Case No. Re:

Dear Clerk:

3311 Revening LLG and Front Reve Mobilyer to Inc. I have consulted with my client(s), which are all of the clients that I represent in the above-styled and numbered cause, concerning the Clerk's Notice that Judge white intends to disqualify himself/herself from this case because his /her impartiality might reasonably be questioned. My client(s) and I hereby waive this disqualification. We are willing to proceed forward with Judge Whithey presiding.

Pursuant to Canon 3D of the Code of Conduct, I am submitting this letter to the clerk's office, but I am not copying Judge white, nor am I copying the other counsel of record or the other parties.

Attorney of Record, on behalf of:

Michenty 23 XI Racing