



September 29, 2020

U.S. Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
Attn: Office of the Clerk
40 Foley Square
New York, NY 10007

Re: #20-2180-cv, Selina Soule, et al., Petitioners, Letter, 09/29/20

Dear Clerk,

On July 6, 2020, Petitioners filed a petition for a writ of mandamus pursuant to Fed. R. App. P. 21, arising out of statements made and an order entered by the District Court that so seriously compromised the appearance of impartiality that Petitioners believe that recusal is required under 28 U.S.C. § 455(a). In the nearly three months that have elapsed since that filing, this Court has neither set a time for Respondents to answer pursuant to Fed. R. App. P. 21(b)(1), nor denied the petition pursuant to that same section.

Meanwhile, briefing on Respondents' motion to dismiss below was completed on September 25, 2020. That is problematic for the district court and all the parties because courts commonly consider it inappropriate to proceed on other aspects of a case while a motion for recusal under 28 U.S.C. § 455(a) is pending. *See, e.g., Conklin v. Warrington Twp.*, 476 F. Supp. 2d 458, 466 (M.D. Pa. 2007) (staying proceedings pending resolution of mandamus petition seeking recusal under § 455); *Doehla v. Wathne Ltd., Inc.*, No. 98 Civ. 6087 CSH, 1999 WL 1125118, at *3 (S.D.N.Y. Dec. 8, 1999) (staying decision on pending motions "pending resolution of the recusal issue"); *German v. Fed. Home Loan Mortg. Corp.*, 943 F. Supp. 370, 372 (S.D.N.Y. 1996) (noting that court stayed resolution of all pending motions pending resolution of recusal, which was then granted). Accordingly, Petitioner respectfully suggests that this Court set a time for Respondents (Defendants below) to answer Petitioners' mandamus petition pursuant to Fed. R. App. P. 21(b)(1), so that the status of that petition may be resolved promptly, before the district court feels compelled to act on the motion to dismiss.

Respectfully Submitted,

s/Roger G. Brooks
Roger G. Brooks
Counsel for Petitioners

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CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2020, I electronically submitted the foregoing letter request via email to the Court's electronic mailbox pursuant to Local Rule 25.2. Service on counsel for all parties will be accomplished via email copy to the following addresses:

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s/ Roger G. Brooks
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