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The Honorable John Kennedy
383 Russell Senate Building
Washington, D.C. 20515

Re: Amending 28 U.S.C. § 455

Dear Senator Kennedy:

I am moved by your letter of January 11, 2017 to Governor John Bel Edwards, in which you quote Plato: "Good people do not need laws to tell them to act responsibly, while bad people will find a way around the laws."

As my Louisiana Senator, I write for your help to address a weakness in the referenced judicial recusal law that has been exploited in order to sidestep its intention to require disqualification in "any proceeding in which [the judge's] impartiality might reasonably be questioned."

Finding a way around this law is precisely what my appeal to you is about.

I am a former Research Professor of Biochemistry who had been employed by Tulane University School of Medicine for nearly 20 years. In 1995, I sued the university for discriminatory discharge, and the case was heard by the Hon. Helen "Ginger" Berrigan, Judge, Federal District Court for the Eastern District of Louisiana.

Unknown to me and my attorneys, Judge Berrigan was concurrently employed by Tulane University as an adjunct professor, and also served on the Board of Directors of Tulane's Amistad Research Center. When this was discovered in 1998, I filed a motion for her recusal, which should trigger the response required by the referenced law, at which point 28 U.S.C. § 144 would become operative:

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, *such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.* (Emphasis added)

Despite having full knowledge of the applicable law, Judge Berrigan denied the plaintiff's motion for recusal, and downplayed the significance of her university teaching and board membership by declaring: "There is no basis for the plaintiff's suggestion that [my] impartiality might reasonably be questioned by virtue of these two circumstances..."

That willful disregard of federal statutes was not only felonious, but breached the trust that had been sworn with a solemn oath. Subsequent complaints of judicial misconduct and appeals to the Fifth Circuit Court of Appeals were similarly dismissed.

In 2000, while my case against Tulane was still being litigated, Tulane paid Judge Berrigan \$5,500 to teach a summer course on the Greek Isle of Thessaloniki. Nevertheless, she remained adamant in her refusal to recuse, and continued to dismiss my every cause of action, even in the face of strongly-contested, material issues of fact that should have been allowed to be determined by a jury. She then acted in concert with Tulane to deny a disability benefit to which I was medically eligible (cancer) and entitled through a paid-up-policy offered to Tulane faculty and underwritten by Teachers Insurance and Annuity Association (TIAA).

Clearly, more attention must be given to insure the disqualification of judges from cases in which there is an apparent conflict of interest, and where judges who are adjunct professors preside over cases that involve the educational institutions that employ them.

Presently, guidance is provided by canons on law school teaching as follows:

§ 3.4-3(a) A judge who teaches at a law school should recuse from all cases involving that educational institution as party. The judge should recuse (or remit) from cases involving the university, as well as those involving the law school, where the judge's impartiality might reasonably be questioned in view of the size and cohesiveness of the university, the degree of independence of the law school, the nature of the case, and related factors. Similar factors govern recusal of judges serving on a university advisory board.

§ 4.1 (b) It is permissible for judges to teach in law schools. However, . . . the judge should not participate in any case in which the school or its employees are parties. From: *Guide to Judiciary Policies and Procedures*, Vol. II, Chap. V (reissued 6/15/99).

Unfortunately, these canons do not have the force of law and offer no deterrent to judges. To correct this deficiency and preserve public confidence in the integrity of the judiciary, I propose that the existing recusal statute (28 U.S.C. § 455) be amended with language that will compel the recusal of judges from cases that involve the educational institutions at which they teach.

To this end, I propose the incorporation of a new section, § 455(b)(5)(v), into the United States Code, Title 28, Section 455(b), that would add the following phrase to the recusal statute:

"Serves as an instructor or on an advisory board of an educational institution that is a party to the proceeding."

I am only one of a number of former professors similarly impacted by the failure of adjunct faculty judges to disqualify themselves from cases involving their university. Your help

in amending the existing judicial recusal statute with language that will compel the recusal of judges from cases that involve the institutions at which they teach will bring the promise of "Equal Justice for All" closer to reality.

I would welcome the opportunity to share any information about my case, including a video, with you.

Please let me hear from you.

Respectfully yours,



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