

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

VITO J. FENELLO, JR. )  
and BEVERLY H. FENELLO, )

Plaintiffs, )

CIVIL ACTION FILE  
NO. 1:11-cv-04139-WSD-AJB

v. )

BANK OF AMERICA, N.A., and )  
THE BANK OF NEW YORK MELLON )  
(as Trustee for CWALT, Inc.), )

Defendants. )

\_\_\_\_\_ )

**DEFENDANTS’ OPPOSITION TO PLAINTIFFS’ MOTION FOR  
JUDICIAL DISCLOSURE AND RECUSAL**

COME NOW, Defendants Bank of America, N.A. and The Bank of New York Mellon, as Trustee for CWALT, Inc. (collectively, “Defendants”), by and through their undersigned counsel, and respectfully move this Court to dismiss Plaintiffs’ Motion for Judicial Disclosure and Recusal. In support thereof, Defendants state as follows:

Plaintiffs request that “any judge assigned to this case, now or hereafter, immediately disclose” a plethora of information. However, Defendants are unaware of any provision in the Federal Rules of Civil Procedure that allows

Plaintiffs to propound judicial discovery on the Court. Accordingly, Defendants contend that Plaintiffs' request is unreasonable, unsupported by law and must be denied.

Next, Plaintiffs contend that "they have recently become aware that Honorable Judge Alan J. Baverman and Honorable Judge William S. Duffey, Jr. have attended" certain events within the last year and "it appears that the law firm representing the [D]efendants was also a speaker for at least one of these events." On this bald allegation, Plaintiffs contend that "should the preceding public information be confirmed, the Plaintiffs would be reasonable in questioning the impartiality of said Judges, who would therefore be obligated to recuse themselves from the case."

However, there is no evidence before the Court to infer that the current judge is not impartial or warrants recusal. Defendants trust the Court to determine whether or not the Court needs to be recused.

This 5th day of January, 2012.

/s/ Andrew G. Phillips  
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*Attorneys for Defendants Bank of America,  
N.A. and The Bank of New York Mellon as  
Trustee for the Certificate Holders of  
CWALT, Inc*

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**CERTIFICATE OF SERVICE, FONT AND MARGINS**

I hereby certify that on January 5, 2012, I electronically filed the foregoing *Defendants' Opposition To Plaintiffs' Motion For Judicial Disclosure And Recusal* with the Clerk of the Court using the CM/ECF System and served a true and correct copy of same on *Pro Se* Plaintiffs via First-Class Mail, postage prepaid, addressed to:

Vito J. Fenello, Jr.  
Beverly H. Fenello  
289 Balaban Circle  
Woodstock, Georgia 30188

I further certify that I prepared this document in 14 point Times New Roman font and complied with the margin and type requirements of this Court.

/s/ Andrew G. Phillips  
Andrew G. Phillips