**IN THE STATE COURT OF DEKALB COUNTY**

**STATE OF GEORGIA**

**JOSHUA J’VON BAILEY, by and }**

**through his conservator and next friend, }**

**and NICOLA D. HATTEN, individually }**

**and as temporary administrator of the }**

**ESTATE OF LORENZO MATTHEWS, }**

**}**

**Plaintiffs, }**

**} CIVIL ACTION**

**v. }**

**} FILE NO.: 08A:94489 -3**

**DEKALB COUNTY; TORREY }**

**THOMPSON, individually and in his }**

**official capacity as an Officer of the }**

**DEKALB COUNTY POLICE }**

**DEPARTMENT; and RONALD KNOCK, }**

**individually and in his official capacity as }**

**an Officer of the DEKALB COUNTY }**

**POLICE DEPARTMENT, }**

**}**

**Defendants. }**

**CONDITIONAL RECUSAL ORDER**

In accordance with the Commentary on Canon 3(E) of the Georgia Code of Judicial Conduct, which provides that “Judges should disclose on the record information that the court believes the parties or their lawyers might consider relevant to the question of disqualification, even if they believe there is no legal basis for disqualification,” this civil case involving, inter alia, DeKalb County comes before the Court *sua sponte*.

At a pretrial conference in the case, the Court raised the issue of disqualification based on the case of *Wayne Purdom and Catherine Purdom, Plaintiffs v. Blue Cross and Blue Shield of Georgia, Inc. and DeKalb County, Georgia, Defendants*, involving a medical reimbursement claim arising out of the employee benefits of the judge presiding in this case, and requested counsel to indicate by February 1 whether any party wished the judge to recuse himself. All counsel having affirmatively indicated that they did not wish the recusal of the judge, and the litigation over medical reimbursement now having been resolved, the Court returns to the issue *sua sponte.*

The Court does not regard this claim or the resolution of it as creating any actual bias for or against any party to this case. The Court does view this as a matter which might cause a reasonable person to question the Court’s impartiality and as a matter that would possibly give rise to the appearance of impropriety in the absence of a remittal of disqualification.

Canon 3(F) of the Georgia Code of Judicial Conduct, provides that

Judges disqualified by the terms of Section 3E may disclose on the record the basis of their disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

*Id*. (Remittal of Disqualification). Should a party or attorney not choose to forego recusal, counsel are instructed not to identify the objector to the court.

**ACCORDINGLY, IT IS HEREBY ORDERED** that the parties have until February 26, 2010, at 1:00 p.m. within which to consult and consent to the undersigned handling the case, by filing a written remittal of disqualification, signed by all counsel after consultation with their respective clients. Otherwise, **the undersigned judge will stand recused**.

**SO ORDERED**, this \_\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**WAYNE M. PURDOM, JUDGE**

**STATE COURT OF DEKALB COUNTY**

Copy to: All parties