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<hr/> <p>In re the Marriage of</p> <p>Bryan Spofford, Petitioner,</p> <p>and</p> <p>Lisa Spofford, n/k/a Lisa Laizure Respondent.</p>	
ORDER	

This matter comes before the Court on Petitioner’s Motion to Disqualify Judge Tidball Pursuant to C.R.C.P. Rule 97. Having reviewed the Motion, Response and Reply, the court file, and the applicable legal authority, the Court enters the following Order.

A judge is disqualified from presiding over an action in which she has a private interest, “or has been of counsel for any party, or is or has been a material witness, or is so related or connected to any party or his attorney as to render it improper” for the judge to hear the case. C.R.C.P. Rule 97; *Russell v. Wheeler*, 165 Colo. 296 (1968). Legal rulings against a party by the judge on issues properly before that judge do not constitute grounds for disqualification. *In the Interest of S.G.*, 91 P.3d 443 (Colo. App. 2004); *Holland v. Bd. of County Commissioners*, 883 P.2d 580 (Colo. App. 1994). Here Petitioner seeks disqualification of this Court based on a multitude of unsupported accusations of improper judicial conduct. The crux of Petitioner’s argument is that this Court is biased against him as evidenced by rulings in favor of Respondent and against Petitioner. Adverse rulings do not constitute grounds for disqualification. *See Id.* Petitioner’s remaining allegations are untimely and without merit. *See Aaberg v. District Court of Seventh Judicial Dist.*, 136 Colo. 525 (1958). Therefore, Petitioner’s Motion to Disqualify Judge Tidball is DENIED.

Respondent seeks an award of attorneys’ fees for costs incurred by responding to Petitioner’s Motion. A trial court may award attorneys’ fees against a *pro se* party if the party clearly knew or reasonably should have known that his action was substantially frivolous, groundless, or vexatious. C.R.S. § 13-17-102(6). An action is “frivolous” if the proponent can present no rational argument based on the evidence or law to support the claim. *Double Oak Constr., LLC v. Cornerstone Dev. Int’l, LLC*, 97 P.3d 140 (Colo. App. 2003). An action is “groundless” if the allegations are not supported by any credible evidence at trial. *Collins v.*

Colo. Mountain College, 56 P.3d 1132 (Colo. App. 2002). An action is “vexatious” if it was brought in bad faith to annoy or harass, and “includes conduct that is arbitrary, abusive, stubbornly litigious, or disrespectful of truth.” *Bockar v. Patterson*, 899 P.2d 233 (Colo. App. 1994).

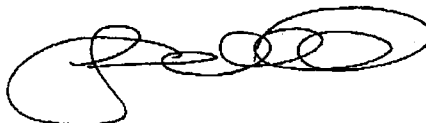
Here, Petitioner clearly knew or reasonably should have known that his motion was substantially frivolous, groundless, or vexatious. In fact, most of the allegations contained in Petitioner’s motion have already been decided against Petitioner. On September 2, 2003, Petitioner filed a motion to change venue on the basis that Respondent’s attorney is married to a Jefferson County District Court Judge. This Court notes that Petitioner’s motion to change venue consisted of the same arguments as the instant motion to disqualify. Petitioner’s motion to change venue was denied by the Magistrate. Petitioner appealed to the District Court and this Court upheld the Magistrate’s determination. Finally, Petitioner appealed to the Court of Appeals and the appeal was dismissed. Yet, Petitioner nevertheless brought this motion based on the same allegations that were previously decided against him.

Moreover, Petitioner’s motion to disqualify failed to present any rationale argument and was not supported by any credible evidence. Petitioner’s conduct in filing the motion to disqualify after his previous motion to change venue was decided against him, was arbitrary, abusive, and stubbornly litigious. Finally, the outrageous allegations contained in Petitioner’s motion to disqualify are disrespectful of the truth. *See Bockar*, 899 P.2d at 234. Therefore, this Court finds that Petitioner’s motion to disqualify was substantially frivolous, groundless, and vexatious and that Petitioner clearly knew or reasonably should have known that the motion was substantially frivolous, groundless, or vexatious. Accordingly, Respondent is entitled to an award of attorneys’ fees for costs associated with responding to Petitioner’s motion to disqualify. Respondent shall file an Affidavit of Attorney Fees and Costs within 20 days of the date of this Order. Respondent shall file any objection within 10 days of the filing of the Affidavit. If either party intends to assert their right to a hearing on the reasonableness of attorney fees and costs requested, such request shall be filed within 10 days of any objection by Petitioner or the Court shall consider any right to a hearing waived and will decide the issue of attorney fees and costs incurred on the papers.

SO ORDERED.

Dated this 14th day of September, 2006.


BY THE COURT:



Jane A. Tidball
District Court Judge

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