

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Vela v. City of Visalia

No. 1:25-cv-00323-KES-EPG (E.D. Cal. May 21, 2025) · No. 1:25-cv-00323-KES-EPG · Decided May 21,
2025

SUMMARY

The United States District Court for the Eastern District of California denied Plaintiff Pastor Isabel Vela’s motion to disqualify counsel representing the City of Visalia and individual defendants. The court found no demonstrated violation of California’s Rules of Professional Conduct or other impermissible conflict, and held that California Government Code sections 995 and 995.2 did not provide a basis for the motion.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 21, 2025
DOCKET	1:25-cv-00323-KES-EPG
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, proceeding pro se in a removed civil-rights action, moved to disqualify defense counsel representing the City of Visalia and individual defendants. The court denied the motion.
STANDARD OF REVIEW	Disqualification of counsel is committed to the trial court's discretion and is generally disfavored, requiring a clear showing of a conflict or other ethical violation.
PRECEDENTIAL VALUE	unpublished
PARTIES	Pastor Isabel Vela v. City of Visalia, Michael Morgantini, Martin Aguilar, Miguel Leon

TOPICS

- civil procedure
- civil rights
- government liability
- municipal law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether defense counsel should be disqualified from jointly representing the City of Visalia and the individual defendants based on an alleged conflict of interest or lack of independence.
2. Whether California Government Code sections 995 and 995.2 provide a basis for plaintiff to seek disqualification of counsel representing a public employee.

HOLDINGS

1. The motion to disqualify defense counsel was denied because plaintiff did not show a violation of the California Rules of Professional Conduct, an impermissible conflict, or any other basis for disqualification.
2. California Government Code sections 995 and 995.2 do not authorize plaintiff to disqualify counsel; section 995 permits a public entity to provide a defense to an employee, while section 995.2 permits the entity to refuse a defense in specified circumstances.

KEY QUOTATIONS

“Because disqualification is a drastic measure, it is generally disfavored and should only be imposed when absolutely necessary.” (at 2)

“This section allows a public entity to defend an employee; it does not permit Plaintiff to move to disqualify counsel for a public employee.” (at 3)

“This section permits a public entity to refuse to provide a defense on certain grounds; it does not permit Plaintiff to move to disqualify counsel for a public employee.” (at 3)

FACTUAL BACKGROUND

Plaintiff challenges the seizure of a vehicle and the validity of a related search warrant. The City of Visalia and individual defendants Michael Morgantini, Martin Aguilar, and Miguel Leon were represented by the same defense counsel. Plaintiff argued that common representation could create bias, undermine counsel's independence, and impair protection of his constitutional rights.

PROCEDURAL HISTORY

Plaintiff's civil case was removed on March 17, 2025. Plaintiff moved on April 4, 2025, to disqualify counsel for the City and individual defendants; defendants opposed, and plaintiff filed no reply. The court denied the motion.

DISPOSITION

other

CASES CITED

- Lennar Mare Island, LLC v. Seadfast Insurance Co., 105 F. Supp. 3d 1100, 1007-08 (E.D. Cal. 2015)
- Visa U.S.A., Inc. v. First Data Corp., 241 F. Supp. 2d 1100, 1103-04 (N.D. Cal. 2003)
- United States v. Wunsch, 84 F.3d 1110, 1114 (9th Cir. 1996)
- Concat LP v. Unilever, PLC, 350 F. Supp. 2d 796, 814 (N.D. Cal. 2004)
- Gregori v. Bank of Am., 207 Cal. App. 3d 291, 300-01, 254 Cal. Rptr. 853 (1989)
- Optyl Eyewear Fashion Int'l Corp. v. Style Cos., 760 F.2d 1045, 1050 (9th Cir. 1985)
- Miller v. Allstate Ins. Co., 585 F.3d 1168 (9th Cir. 2009)
- United States v. Pineda, 556 F.3d 1180 (9th Cir. 2009)
- Noble v. City of Miami, 121 F.3d 918 (11th Cir. 1997)
- McKinney v. Pate, 20 F.3d 1550 (11th Cir. 1994)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA
 9 10 PASTOR ISABEL VELA, Case No. 1:25-cv-00323-KES-EPG 11 Plaintiff, 12 v. ORDER
 DENYING MOTION TO DISQUALIFY COUNSEL 13 CITY OF VISALIA, et al., (ECF No. 6)
 14 Defendants. 15 16 I. INTRODUCTION 17 Plaintiff proceeds pro se in this civil case removed
 on March 17, 2025. Generally, 18 Plaintiff challenges the seizure of a vehicle and validity of a
 related search warrant.

(ECF No. 1). Now before the Court is Plaintiff's motion, filed on April 4, 2025, to disqualify
 defense 19 counsel from representing Defendants Michael Morgantini, Martin Aguilar, and Miguel
 Leon. 20 (ECF No. 6). Defendants, all represented by the same counsel, opposed the motion on
 April 18, 21 2025. (ECF No. 10). Plaintiff has not filed a reply, and the time to do so has expired.

See Local 22 Rule 230(d) (providing 10 days for a reply after an opposition is filed). For the
 reasons given 23 below, the Court will deny Plaintiff's motion to disqualify counsel. 24 II.
 DISCUSSION 25 In Lennar Mare Island, LLC v. Seadfast Insurance Co., the Court provided the
 following 26 relevant standards regarding disqualification of counsel: 27 This District has adopted
 the Rules of Professional Conduct of the State Bar of 28 California, and any applicable state court
 decisions, as its own standards of 1 professional conduct.

E.D. Cal. L.R. 180(e). The District's local rules require both familiarity and compliance with
 California's Rules. Id. 2 3 If an attorney or firm takes on a representation in violation of these
 rules, a client 4 may move for disqualification. See E.D. Cal. L.R. 110 ("Failure of counsel... to
 comply with these Rules... may be grounds for imposition... of any and all 5 sanctions authorized
 by statute or Rule or within the inherent power of the Court."); Visa U.S.A., Inc. v. First Data
 Corp., 241 F.Supp.2d 1100, 1103 6 (N.D.Cal.2003) ("The right to disqualify counsel is within the
 discretion of the trial court as an exercise of its inherent powers.") (citing United States v. Wunsch,
 7 84 F.3d 1110, 1114 (9th Cir.1996))....

8 Disqualification is a blunt tool meant to encourage wide berth of ethical grey areas, its ruthlessness warranted only after a clear showing of conflict. On the one 9 hand, “[b]ecause disqualification is a drastic measure, it is generally disfavored 10 and should only be imposed when absolutely necessary.” *Concat LP v. Unilever, PLC*, 350 F.Supp.2d 796, 814 (N.D.Cal.2004).

See also *Gregori v. Bank of Am.*, 11 207 Cal.App.3d 291, 300–01, 254 Cal.Rptr. 853 (1989) (“[M]otions to disqualify counsel often pose the very threat to the integrity of the judicial process that they 12 purport to prevent.”); *Visa*, 241 F.Supp.2d at 1104 (“[S]uch requests ‘should be subjected to particularly strict judicial scrutiny.’ ” (quoting *Optyl Eyewear Fashion 13 Int’l Corp. v. Style Cos.*, 760 F.2d 1045, 1050 (9th Cir.1985))).

14 105 F. Supp. 3d 1100, 1007-08 (E.D. Cal. 2015) (alterations within parentheses in original). 15 Generally, Plaintiff argues that defense counsel cannot properly represent both the City of 16 Visalia and the individual Defendants because counsel may have some bias in their favor, may 17 not truly be independent, may not protect his rights, and it may send the wrong message.

For 18 example, he states, among other things: 19 City attorneys may feel loyalty to the police force or have relationships within the department, leading to an unconscious or conscious bias in favor of the officer. 20 21 If the city attorney is defending the officer, it could undermine the independence of the legal process.

The city attorney may be more concerned about preserving 22 the reputation of the police department or avoiding financial liability for the city, 23 rather than fully addressing constitutional violations or the harm caused to the plaintiff. 24 25 If the city attorney is focused on protecting the officer, they may not fully engage in defending the plaintiff’s constitutional rights.

26 27 Since the city attorney’s primary responsibility is to represent the interests of the 28 city, they may not have the same level of motivation to push for justice on behalf 1 of the plaintiff. 2.... When a city attorney defends an officer against constitutional violations, it can 3 send the message that the city or police department is not truly concerned with 4 upholding citizens’ rights or holding officers accountable.

(ECF No. 6, p. 2, 3). 5 Defendants argue that Plaintiff provides no bases to disqualify their counsel. (ECF No. 6 10). The Court agrees. 7 First, Plaintiff has not shown any violation of the Rules of Professional Conduct of the 8 State Bar of California, any impermissible conflict, or any other basis to disqualify defense 9 counsel from representing Defendants in this case.

Rather, the authority he relies on, Cal. Gov’t 10 Code § 995, 995.2, is inapposite. 11 Except as otherwise provided in Sections 995.2 and 995.4, upon request of an 12 employee or former employee, a public entity shall provide for the defense of any civil action or proceeding brought against him, in his official or individual capacity 13 or both, on account of an act or omission in the scope of his employment as an employee of the public entity.

14 For the purposes of this part, a cross-action, counterclaim or cross-complaint 15 against an employee or former employee shall be deemed to be a civil action or proceeding brought against him. 16 Cal. Gov't Code § 995. This section allows a public entity to defend an employee; it does not 17 permit Plaintiff to move to disqualify counsel for a public employee.

18 Section 995.2(a) permits a public entity to “refuse to provide for the defense of a civil 19 action or proceeding brought against an employee or former employee” for a variety of reasons, 20 including if “[t]he act or omission was not within the scope of his or her employment” or “[h]e or 21 she acted or failed to act because of actual fraud, corruption, or actual malice.” This section 22 permits a public entity to refuse to provide a defense on certain grounds; it does not permit 23 Plaintiff to move to disqualify counsel for a public employee.

24 Plaintiff also cites caselaw to support his position. (ECF No. 6, pp. 4-6). As an initial 25 matter, the Court notes that these citations (with an exception discussed below) do not bring up 26 the cases as Plaintiff cites them: *Miller v. Allstate Ins. Co.*, 585 F.3d 1168 (9th Cir. 2009); *United 27 States v. Pineda*, 556 F.3d 1180 (9th Cir. 2009); and *Noble v. City of Miami*, 121 F.3d 918 (11th 28 Cir.

1997). Plaintiff is advised that he must ensure that he accurately cites cases in his legal briefs 1 | going forward. The only properly cited case, *McKinney v. Pate*, 20 F.3d 1550 (11th Cir. 1994), 2 | concerns due process violations, not disqualification of counsel, and the Court fails to see how it 3 | supports Plaintiff's motion at all. 4 Il. ORDER 5 For the reasons given above, IT IS ORDERED that Plaintiff's motion to disqualify 6 defense counsel is denied.

(ECF No. 6). IT IS SO ORDERED. 8 | Dated: _ May 21, 2025 [spe ey ☐☐ UNITED STATES MAGISTRATE JUDGE 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28