

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Jeremy Witt v. Patrick Ross, et al.

Witt · No. 5:25-cv-02776-BLF · Decided December 19, 2025

SUMMARY

The United States District Court for the Northern District of California denied Plaintiff Jeremy Witt’s second motion to disqualify defense attorney Gordon Finwall. Applying California Rule of Professional Conduct 3.7, the Court held that Witt had not shown that Finwall’s testimony would be relevant, material, and unobtainable elsewhere, and warned that future frivolous motions could result in sanctions.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Beth Labson Freeman
JURISDICTION	United States District Court for the Northern District of California
DECIDED	December 19, 2025
DOCKET	5:25-cv-02776-BLF
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a second motion to disqualify defense counsel under California Rule of Professional Conduct 3.7(a), arguing that counsel was a necessary witness. The district court denied the motion.
STANDARD OF REVIEW	Disqualification under California Rule of Professional Conduct 3.7(a) is disfavored and permitted only in narrow circumstances; the moving party must show that the attorney's testimony is relevant, material, and unobtainable elsewhere.
PRECEDENTIAL VALUE	unpublished district court order; precedential status not stated

TOPICS

- civil procedure
- sanctions
- torts

PRACTICE AREAS

- civil procedure
- legal ethics
- torts

QUESTIONS PRESENTED

1. Whether defense counsel should be disqualified under California Rule of Professional Conduct 3.7(a) because he was allegedly a necessary witness concerning disputed events.
2. Whether the facts alleged by Witt established that counsel's testimony was relevant, material, and unobtainable elsewhere.

HOLDINGS

1. The motion to disqualify Gordon Finwall was denied because Witt did not demonstrate that Finwall's testimony was relevant, material, and unobtainable elsewhere, and the allegations did not remotely establish that disqualification was required.

KEY QUOTATIONS

“Disqualification under Rule 3.7 is disfavored and permitted only in narrow circumstances, with the burden on the moving party to demonstrate that the attorney’s testimony is (1) relevant, (2) material, and (3) unobtainable elsewhere.” (at 1)

“For the foregoing reasons, IT IS HEREBY ORDERED that the motion is DENIED.” (at 2)

FACTUAL BACKGROUND

Witt alleged that defense attorney Gordon Finwall was personally involved in events underlying Witt's claims, including communications with former counsel, a settlement proposal, communications with a former attorney and witness, and coordination with defendants. Witt argued that Finwall could not continue as an advocate because he was a necessary witness. The court found that the allegations did not establish that Finwall's testimony was necessary or could not be obtained elsewhere.

PROCEDURAL HISTORY

Jeremy Witt filed the action on March 24, 2025, asserting malicious prosecution and intentional infliction of emotional distress claims, later adding an abuse-of-process claim. After Witt's counsel withdrew, Witt proceeded pro se and filed an initial motion to disqualify Gordon Finwall, which the court denied. Witt then filed the second motion addressed in this order, and the court denied it while warning that future frivolous motions could result in sanctions.

DISPOSITION

other

CASES CITED

- Siam v. Kizilbash, 130 Cal. App. 4th 1563 (2005)
- Doe v. Yim, 55 Cal. App. 5th 573, 583 (2020)

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