

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PRECEDENTIAL VALUE	unpublished district court order; precedential status not stated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)

OPINION

Witt

PER CURIAM.

1 2

3 UNITED STATES DISTRICT COURT

4 NORTHERN DISTRICT OF CALIFORNIA

5 SAN JOSE DIVISION

6 7 JEREMY WITT, Case No. 5:25-cv-02776-BLF 8 Plaintiff,

ORDER DENYING SECOND MOTION

9 v. TO DISQUALIFY

10 PATRICK ROSS, et al., [Re: ECF No. 86] 11 Defendants. 12 13 Before the Court is pro se
Plaintiff Jeremy Witt's second motion to disqualify Gordon 14 Finwall, attorney for Defendant
Patrick Ross. ECF No. 86 ("Mot."); ECF No. 104 ("Reply"). 15 Mr. Ross opposes the motion.
ECF No. 96 ("Opp."). The Court previously denied Mr. Witt's first 16 motion to disqualify Mr.
Finwall. ECF No. 75 ("Order"). 17 The motion is DENIED.

18 I. BACKGROUND

19 Mr. Witt filed this civil action on March 24, 2025, alleging causes of action for malicious 20
prosecution and intentional infliction of emotional distress ("IIED"). ECF No. 1. On April 2, 21
2025, Mr. Finwall sent a meet-and-confer letter to Mr. Witt's counsel at the time, in which he 22
argued that the malicious prosecution claim was barred by the decision in *Siam v. Kizilbash*, 23
130 Cal. App. 4th 1563 (2005), and the IIED claim was barred by California's litigation privilege.
24 Order at 2. In response to that letter, Mr. Witt's counsel filed an amended complaint adding a
25 third cause of action for abuse of process. ECF No. 11. 26 On May 7, 2025, Mr. Finwall sent
Mr. Witt's counsel a second meet-and-confer letter, 27 incorporating the arguments from the first
letter and arguing that the litigation privilege also 1 representations as to his domicile, Mr. Finwall
also notified Mr. Witt's counsel that Mr. Ross 2 disputed the diversity allegation in the first
amended complaint. ECF No. 28-1 Ex. A. Mr. Witt's 3 counsel subsequently withdrew from this
case, leaving Mr. Witt pro se. Order at 3. 4 Mr. Witt moved to disqualify Mr. Finwall, accusing
him of a variety of ethical violations 5 including "deliberate interference with Plaintiff's legal
representation, manipulation of opposing 6 counsel, and abusive litigation conduct." ECF No. 27
at 2–3. Mr. Witt also argued that 7 "[d]isqualification is also appropriate where the attorney is
likely to be a material witness on 8 contested factual matters." *Id.* at 2. The Court denied the
motion. Order at 4–5. Mr. Witt filed 9 this second motion, again urging that Mr. Finwall cannot
"continue[] to act as advocate where he 10 is a necessary witness." Mot. at 2.

11 II. LEGAL STANDARD

12 Rule 3.7(a) of the California Rules of Professional Conduct provides that "[a] lawyer shall
13 not act as an advocate in a trial in which the lawyer is likely to be a witness unless the lawyer's
14 testimony relates to an uncontested issue or the nature and value of the legal services rendered
in 15 the case." Disqualification under Rule 3.7 is disfavored and permitted only in narrow 16

circumstances, with the burden on the moving party to demonstrate that the attorney’s testimony is 17 (1) relevant, (2) material, and (3) unobtainable elsewhere. Doe v. Yim, 55 Cal. App. 5th 573, 583 18 (2020).

19 III. DISCUSSION

20 Mr. Witt argues that Mr. Finwall’s “personal involvement spans nearly every disputed 21 event,” including: (1) “[t]he June 6, 2023 TRO violation and resulting false police report by 22 Patrick and Sherry Ross; (2) “communications with Plaintiff’s former attorneys Hackett and 23 Farley; (3) “[t]he extortion letter authored by or in coordination with attorney Trask citing 24 Mr. Finwall’s authority; (4) “[c]ommunications with witness Melanie Abea regarding release of 25 the June 6, 2023 police report; and (5) “[c]ontinuous coordination with Trask and the Ross 26 defendants in preparing filings now before this Court.” Mot. at 2. None of these allegations even 27 remotely suggest that Mr. Finwall must be disqualified. 1 civil harassment actions giving rise to the June 6, 2023, “violation.” ECF No. 96-1 (“Finwall 2 || Decl.”) § 23. Second, the Court has already explained that Mr. Finwall’s discussions with 3 || Mr. Witt’s previous counsel regarding jurisdiction was not improper. Order at 5. Third, the so- 4 called “extortion letter” Mr. Witt invokes apparently refers to a settlement proposal, which is 5 || hardly inappropriate. Finwall Decl. § 23. Fourth, Mr. Witt fails to explain what the 6 || communications with Ms. Abea (Mr. Witt’s prior attorney) were or why Mr. Finwall must be 7 deposed in connection therewith. Fifth, it is unsurprising that Mr. Finwall has communicated with 8 Mr. Ross (his client). To the extent that Mr. Finwall has communicated with Ms. Trask, Mr. Witt 9 fails to explain why such communications warrant disqualification.

10 || IV. ORDER

11 For the foregoing reasons, IT IS HEREBY ORDERED that the motion is DENIED. 12 || Mr. Witt is ADVISED that future frivolous motions will result in the imposition of sanctions. 14

Dated: December 19, 2025

2 TH LABSON FREEMAN

16 United States District Judge 18 19 20 21 22 23 24 25 26 27 28