

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA**

**Robert Price v. Costco Wholesale Corporation**

No. 1:25-cv-00807-SAB (E.D. Cal. Nov. 3, 2025) · No. 1:25-cv-00807-SAB · Decided November 3, 2025

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**OPINION**

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF  
CALIFORNIA 10 11 ROBERT PRICE Case No. 1:25-cv-00807-SAB 12 Plaintiff, ORDER  
DENYING DEFENDANT’S MOTION TO DISQUALIFY PLAINTIFF’S 13 v. COUNSEL 14  
COSTCO WHOLESALE CORPORATION, (ECF No. 6) 15 Defendant. 16 17 Currently before  
the Court is Defendant’s motion to disqualify Downtown L.A. Law Group 18 (“DTLA Law”) as  
counsel for Plaintiff.

(ECF No. 6.) Having considered the motion, opposition 19 and reply papers, the declarations and  
exhibits attached thereto, and arguments presented at the 20 October 8, 2025 hearing, as well as  
the Court’s file, the Court issues the following order. 21 I. 22 BACKGROUND 23 On August 27,  
2024, Plaintiff filed a complaint against Defendant Costco Wholesale 24 Corporation  
(“Defendant” or “Costco”) in the Superior Court of California alleging premises 25 liability and  
negligence when he was injured on Defendant’s premises.

(ECF No. 1. Ex. D.) In 26 his complaint, Plaintiff alleges that on or about October 24, 2022, he  
was walking within the 27 parking lot of the premises when he “stepped on an unmarked and/or  
unsecured unknown object 1 25.)

The case was removed to this Court on July 2, 2025. (Id.) On July 28, 2025, Defendant 2 filed the  
motion to disqualify DTLA Law as counsel for Plaintiff, along with its request for 3 judicial  
notice in support of the motion to disqualify. (ECF Nos. 6, 6-4.) 4 Plaintiff is currently represented  
by Sako Demirjian of DTLA Law. Anthony Werbin 5 (“Werbin”) is currently an attorney at DTLA  
Law but is not counsel of record in this case.

Prior 6 to joining DTLA Law, Werbin was counsel for Costco on 21 cases from July 5, 2017 to  
January 7 16, 2020. (ECF No. 6-1; Ruijters Decl., ¶ 2.) During that period, Werbin billed 1,195  
hours of 8 time. (Id. at ¶ 8.) Werbin’s representation involved personal injury matters, including  
trip-and- 9 fall, and slip-and-fall injuries. (Id. at ¶ 3.) Notably, Werbin served as one of Costco’s  
trial counsel 10 in a personal injury matter in Guo Jun Chen v. Costco Wholesale Corporation,  
(Los Angeles 11 County Superior Court, Case No. BC654699), which went to trial on May 29,  
2019, with a verdict 12 rendered on June 4, 2019.

(Id. ¶ 4.) 13 While representing Costco, Werbin was lead counsel and “handled virtually every aspect 14 of Costco’s file, which included, but was not limited to, developing strategy, communicating with 15 Costco employees as well as its claims administrator Gallagher Bassett, reviewing confidential 16 and privileged documents, preparing responses to discovery, preparing witnesses to testify at 17 depositions, defending numerous depositions of Costco employees, and developing litigation 18 strategy.” (Id. at ¶ 5.)

In connection with this representation, “Werbin was privy to Costco’s pre- 19 litigation strategies, case handling procedures, attorney-client communications, confidential and 20 proprietary information about Costco’s operations, confidential client documentation, policies 21 and procedures, and trade secrets.” (Id. at ¶ 6.) Further, on March 19, 2019, Werbin attended a 22 one-day California Defense Counsel Conference that Costco held for its panel of California 23 defense attorneys to discuss California litigation, provide information, and share defense tools 24 and strategies with its defense counsel.

(Id. at ¶ 7.) 25 Defendant is concerned that Werbin has not been properly screened from participation in 26 cases involving Costco since the beginning of his employment at DTLA Law. (ECF No. 6-1., p. 27 2.) In Werbin’s prior declarations in opposition to the same motion, he admits that he “brought a 1 with his prior firm ended but allegedly prior to joining DTLA Law Group.

(ECF No. 6-4, Ex. B 2 at ¶ 11.) However, a notice of settlement in the Staats case was filed and signed by Werbin on 3 behalf of the Downtown LA Law Group. (ECF No. 6-4, Ex. A.) 4 Plaintiff attests that Werbin has not worked on the defense of any Costco’s files for five 5 years and seven months. (ECF No. 13, pp. 3-4.) Any information he may possess concerning the 6 defense of such claims is derived from his own personal knowledge and experience accumulated 7 during his eight years as a defense attorney, and not from any prior representation for Defendant.

8 (Id.) Additionally, Werbin is not assigned as counsel in this case and has no access to any 9 documents or information related to this matter. (Demirjian Decl., ¶¶ 4-5.) DTLA Law manages 10 its practice by dividing into various teams, which do not share personnel, workloads, or case files. 11 (Id. at ¶ 9.) Werbin's team is not assigned any Costco cases. (Id.)

12 In December 2021, DTLA Law implemented an ethical wall to prevent any attorney or 13 employee from viewing documents or information related to a matter they were not assigned to. 14 (Id. at ¶¶ 6-9.) As a result, Werbin is effectively isolated from all Costco-related matters and was 15 unaware that this case is being handled by DTLA Law. (Id. at ¶¶ 4-9.)

Although the Staats case 16 predates the implementation of this ethical wall, the wall had already been in place for 17 approximately two years before DTLA Law was retained in this matter. (ECF No. 13, p. 6; Id. 18 ¶¶ 6–9.) 19 II. 20 LEGAL STANDARD 21 In federal court, motions to disqualify counsel are decided under state law.

In re Cnty. of 22 L.A., 223 F.3d 990, 995 (9th Cir. 2000); Hitachi, Ltd. v. Tatung Co., 419 F. Supp 1158, 1160 23 (N.D. Cal. 2006); Local Rule 180(e). Under California law, “the starting point for deciding a 24 motion to disqualify counsel is the recognition of interests implicated by a motion.” Hitachi, 419 25 F.Supp.2d at 1160.

The movant bears the burden of proof. Hernandez v. Guglielmo, 796 F. Supp. 26 2d 1285, 1289 (D. Nev. 2011). The decision to grant a motion to disqualify based on conflict of 27 interest lies within the trial court’s discretion. Id. Disqualification motions involve 1 client, and the financial burden imposed on a client to replace disqualified counsel. Id. at 1161.

2 “Disqualification is a blunt tool meant to encourage wide berth of ethical grey areas, its 3 ruthlessness warranted only after a clear showing of conflict.” Lennar Mare Island, LLC v. 4 Steadfast Ins. Co., 105 F.Supp.2d 1100, 1107 (E.D. Cal. 2015). Merely anticipatory or 5 speculative concerns are insufficient to justify disqualification. Agena v. Cleaver-Brooks, Inc., 6 428 F. Supp. 3d 267, 273 (D.

Haw. 2019). Because “disqualification is a drastic measure, it is 7 generally disfavored and should only be imposed when absolutely necessary.” Id. (quoting 8 Concat LP v. Unilever, PLC, 350 F.Supp.2d 796, 814 (N.D. Cal. 2004)). 9 III. 10 DISCUSSION 11 A. Judicial Notice 12 Under the Federal Rules of Evidence, a court may take judicial notice of a fact that is “not 13 subject to reasonable dispute in that it is either (1) generally known within the territorial 14 jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to 15 sources whose accuracy cannot reasonably be questioned.” Fed.

R. Evid. 201(b). Judicial notice 16 may be taken “of court filings and other matters of public record.” Reyn’s Pasta Bella, LLC v. 17 Visa USA, Inc., 442 F.3d 741, 746 n.6 (9th Cir. 2006). Documents in the public record may be 18 judicially noticed to show, for example, that a judicial proceeding occurred, that proceedings are 19 ongoing, or that a document was filed in a particular case.

Lee v. City of Los Angeles, 250 F.3d 20 668, 689-90 (9th Cir. 2001). Federal courts may also take notice of proceedings if those 21 proceedings have a “direct relation” to matters at issue. U.S. Ex. Rel. Robinson Rancheria 22 Citizens Council v. Borneo, Inc., 971 F.2d 244, 248 (9th Cir. 1992). 23 Defendant requests that the Court take judicial notice of a notice of settlement from a 24 matter in which Werbin represented a client adverse to Costco in December of 2020 and a 25 declaration from Werbin from a prior opposition to Defendant’s motion to disqualify DTLA Law 26 in June of 2023.

(ECF No. 6-4.) Plaintiff opposes Defendant’s request stating that the Court may 27 take judicial notice only for the existence of these documents, not for the truth of the matters 1 Because the

requested documents have a direct relation to matters at issue in this case, the Court GRANTS Defendant's request.

However, the Court takes judicial notice only of the existence of these documents, not of the truth asserted in them. *BP W. Coast Prods. LLC v. May*, 434 F. Supp. 2d 898, 906 (D. Nev. 2004). The question before the Court is whether DTLA Law should be disqualified from continuing to represent Plaintiff in this action.

In considering this issue, the Court turns to the California Rule of Professional Conduct 1.10(a). Rule 1.10(a) provides that no lawyer associated in a law firm shall knowingly represent a client when any of them, practicing alone, would be prohibited from doing so, unless the prohibited lawyer: (i) "did not substantially participate in the same or a substantially related matter"; (ii) "is timely screened from any participation in the matter and is apportioned no part of the fee therefrom"; and (iii) "written notice is promptly given to any affected former client..." See Cal. R. Prof.

Conduct 1.10(a)(2)(i)-(iii). Without commenting on the substantial participation or timeliness of the screen, the Court notes that Plaintiff offers no evidence that DTLA Law gave written notice to Defendant, in violation of Rule 1.10(a)(2)(iii).<sup>1</sup> At the hearing in this matter, Plaintiff proffers that DTLA Law did not need to provide written notice to Defendant as Werbin is not representing Plaintiff in this case.

Additionally, Plaintiff agreed it was not the firm's position to send the notice even when. Despite Defendant's claim that DTLA Law failed to provide notice, this is not the first time Defendant has brought a motion for disqualification against DTLA Law based on the same facts presented. See *Zapon v. Costco Wholesale Corp.*, 2021 U.S. Dist. LEXIS 150180 (C.D.

Cal. Aug. 10, 2021); *Cochran v. Costco Wholesale Corp.*, 2021 Cal. Super. LEXIS 71114 (Oct. 25, 2021); *Monroy v. Costco Wholesale Corp.*, 2022 Cal. Super. LEXIS 39607 (July 1, 2022); *Vaxmonsky v. Costco Wholesale Corp.*, 2022 U.S. Dist. LEXIS 246194 (C.D. Cal. July 27, 2022); *Diaz v. Costco Wholesale Corp.*, 2022 Cal. Super. LEXIS 58285 (Sept. 20, 2022); *Sierra v. Costco Wholesale Corp.*, 630 F. Supp. 3d 1199 (N.D.

Cal. 2022); *Ramos v. Costco Wholesale Corp.*, 2022 U.S. Dist. LEXIS 235796 (C.D. Cal. Nov. 23, 2022); *Rodas v. Costco Wholesale Corp.*, 2023 Cal. Super. LEXIS 12322 (Feb. 8, 2023); *Reid v. Costco Wholesale Corp.*, 2023 U.S. Dist. LEXIS 84304 (C.D. Cal. Apr. 20, 2023); *Galvan v. Costco Wholesale Corp.*, 2023 Cal. Super. LEXIS 68018 (Sept. 6, 2023); *Noris-Barrera v. Costco Wholesale Corp.*, 2023 U.S. Dist.

LEXIS 218279 (N.D. Cal. Dec. 6, 2023); *Aguilar v. Costco Wholesale Corp.*, 2024 U.S. Dist. LEXIS 78460 (C.D. Cal. Jan. 29, 2024); *Vankiet Tran v. Costco Wholesale Corp.*, 2024 U.S. Dist. LEXIS 60789 (S.D. Cal. Apr. 2, 2024); *Fanai v. Costco Wholesale Corp.*, 2024 Cal. Super.

LEXIS 572 (Jan. 12, 2024); *Nabizada v. Costco Wholesale Corp.*, 2024 Cal. Super. LEXIS 1686 (Jan.

19, 2024); *Thurber v. Costco Wholesale Corp.*, 2024 Cal. Super. LEXIS 59181 (Nov. 21, 2024); *Wayfer 26 v. Costco Wholesale Corp.*, 2025 U.S. Dist. LEXIS 6308 (E.D. Cal. Jan. 10, 2025); and *Cardenas v. Costco Wholesale Corp.*, 2025 Cal. Super. LEXIS 25679 (May 28, 2025). Based upon the reading of Rule 1.10(a)(2)(iii), the purpose of the notice requirement is to ensure that the former client is informed of such representation so that compliance with the rule is maintained and objections may be raised.

Defendant has been aware that Werbin is affiliated with 1 Werbin is a member of the firm. It is the Court's interpretation that the firm is required under 2 Rule 1.10(a)(2)(iii) to provide written notice. Failure to do so constitutes a violation, as all three 3 prongs must be satisfied. 4 Notwithstanding Plaintiff's failure to provide written notice, Rule 1.10 is a "rule of 5 prohibition, not disqualification." *Alvarez v. Bayrock Multifamily LLC*, 2021 Cal. Super.

LEXIS 6 14139, at \*8 (May 5, 2021). The Rule itself does not dictate the Court's ultimate decision but 7 instead offers guidance in understanding the California Supreme Court's thinking regarding this 8 analysis. Accordingly, having found a violation of Rule 1.10(a)(2), the Court now turns to 9 whether disqualification is appropriate. See *Klein v. Facebook, Inc.*, 2021 U.S. Dist.

LEXIS 10 135218, at \*15-16 (N.D. Cal. July 20, 2021). 11 The Court first considers whether a substantial relationship exists between Werbin's 12 previous representation and the instant case before turning to the issue of whether any conflict is 13 imputed to DTLA Law that requires its disqualification in the instant action. 14 1. Whether a Substantial Relationship Exists Between Werbin's Previous Representation of Costco and the Current Case 15 "To determine whether there is a substantial relationship between successive 16 representations, a court must first determine whether the attorney had a direct professional 17 relationship with the former client in which the attorney personally provided legal advice and 18 services on a legal issue that is closely related to the legal issue in the present representation." 19 *City & Cnty. of San Francisco v. Cobra Sols., Inc.*, 38 Cal. 4th 839, 847 (2006).

If the former 20 representation involved such a direct relationship with the client, the former client need not prove 21 that the attorney possesses actual confidential information. *Id.* Instead, the attorney is presumed 22 to possess confidential information if the subject of the prior representation put the attorney in a 23 position in which confidences material to the current representation would normally have been 24 imparted to counsel.

*Id.* 25 Here, Defendant asserts that Werbin was counsel for Costco in 21 cases from July 2017 26 through January 2020 for personal injury matters substantially similar to Plaintiff's case. (Ruijters 27 Decl., ¶ 2.) Werbin served as trial counsel for Defendant in the case of *Guo Jun Chen v. Costco*

1 Wholesale Corporation (Los Angeles County Superior Court, Case No. BC654699), and he 2 attended a Costco Defense Attorney Conference in which Costco discussed various defense tools 3 and strategies relating to defending slip and fall cases.

(Id. at ¶¶ 4, 7.) Throughout Werbin’s 4 representation of Costco, he handled every aspect of Costco’s file, including developing strategy, 5 communicating with Defendant’s employees and warehouses, reviewing confidential and 6 privileged documents, defending depositions of Costco employees, and developing litigation 7 strategy. (Id. at ¶ 5.) 8 In opposition, Plaintiff argues disqualification is not warranted because Defendant fails to 9 identify any confidential information that Werbin possesses that is materially related to the case 10 at issue.

(ECF No. 13, p. 9.) Werbin previously spent five years in insurance defense before 11 representing Costco, during which he developed his own strategies and experience as an attorney. 12 (Id. at p. 11.) Moreover, Werbin’s representation of Costco occurred over five years ago, and 13 disqualification at this point would be punitive in nature. (Id. at p. 9) Plaintiff further contends 14 that exposure to a “general playbook” of information, as well as the overall structure and practices 15 of a company, is insufficient by itself to warrant disqualification.

(Id. at pp. 10-11.) Because 16 Defendant fails to identify any confidential information that Werbin possesses that is materially 17 related to the case at issue, Defendant cannot meet its burden. (Id. at p. 12.) 18 The Court finds that Defendant has demonstrated the existence of a substantial relationship. 19 Based on the information presented, Werbin had a direct relationship with Costco through his 20 prior representation and the services provided are closely related to the present legal issue.

21 Because the representations are substantially related, Werbin’s access to confidential information 22 is presumed. Accordingly, disqualification of Werbin is warranted. 23 2. Whether Werbin’s Disqualification is Imputed to DTLA Law 24 Because the Court has concluded that Werbin would be disqualified from representing 25 Plaintiff in this action, the question is whether Werbin’s disqualification is imputed to DTLA 26 Law.

27 California employs a burden-shifting approach to determine whether a law firm should be 1 disqualified: 2 Once the moving party in a motion for disqualification has established that an attorney is tainted with confidential information, a rebuttable presumption arises 3 that the attorney shared that information with the attorney’s law firm.

The burden then shifts to the challenged law firm to establish that the practical effect of formal 4 screening has been achieved. 5 *Kirk v. First Am. Title Ins. Co.*, 183 Cal. App. 4th 776, 809-810 (2010). The California Court of 6 Appeals recognized that the essential elements of an ethical screen are “timeliness and the 7 imposition of prophylactic measures.” *Id.* While effective screening varies from case to case, 8 typical elements of an effective wall include: 9 [1] physical,

geographic, and departmental separation of attorneys; [2] prohibitions 10 against and sanctions for discussing confidential matters; [3] established rules and procedures preventing access to confidential information and files; [4] procedures 11 preventing a disqualified attorney from sharing in the profits from the representation; [5] continuing education in professional responsibility; and [6] 12 notice to the former client.

13 Id. at 810-13 (quoting *Henriksen v. Great am. Savings & Loan*, 11 Cal. App. 4th 109, 116 n.6 14 (1992)). “The efficacy of any particular ethical wall is not to determine whether all of a prescribed 15 list of elements (beyond [the essential elements]) have been established;” rather, it is a guide for 16 courts in determining whether a law firm has established an effective ethical wall sufficient to 17 rebut the presumption that confidences were or will be shared.

Id. 18 Defendant contends that Werbin’s disqualification must be imputed to all attorneys at 19 DTLA Law because the firm failed to provide written notice to Costco and did not implement an 20 ethical wall in a timely manner. (ECF No. 6-1, pp. 8-9.) Defendant argues that to be considered 21 timely, screening should be implemented before the challenged representation begins or before 22 the hiring of the disqualified attorney.

(Id. at p. 9.) Defendant points to Werbin’s prior 23 declaration, where he says that he successfully resolved a case (“Staats”) against Costco shortly 24 after leaving his previous firm but allegedly before joining DTLA Law. (Id.)

However, Werbin 25 signed and filed a notice of settlement in that same case as an attorney affiliated with DTLA Law. 26 (Id.) According to Defendant, this inconsistency demonstrates that no effective screen was in 27 place at the commencement of Werbin’s employment with DTLA Law. (Id.) Defendant further 1 asserts that DTLA Law’s active marketing of Werbin’s experience and “unique perspective” 2 supports an inference that confidential information regarding Costco has been, and likely will 3 continue to be, shared with other attorneys at the firm.

(Id.) 4 Plaintiff rebuts Defendant’s argument by clarifying that Werbin has never been assigned 5 as counsel in this matter, has no access to any documents or information related to it, and will not 6 receive any profits from DTLA Law’s representation. (ECF No. 13, p. 13.) Additionally, in 7 December of 2021, DTLA Law implemented a change to its software and file management system 8 prohibiting any attorney not assigned to a matter from accessing any documents or information 9 related to it.

(Id.) This change occurred within two years of DTLA Law’s retention of Werbin. 10 (Id.) Moreover, all attorneys at DTLA Law are instructed of the screening procedures and are 11 required to comply, under penalty of disciplinary action up to and including termination. (Id. at 12 p. 14.)

The firm also organizes its cases into various teams, each composed of separate attorneys, 13 paralegals, and office staff. (Id.) These teams do not share cases, case files, or personnel. (Id.) 14 Plaintiff asserts Werbin and his team have no knowledge of any cases involving Defendant, nor 15 of their existence. (Id.)

Because Werbin is neither affiliated with nor working on the present 16 matter and because no confidential information concerning Defendant has been or will be shared, 17 Plaintiff argues disqualification of DTLA Law is unwarranted. 18 The Court finds that DTLA Law has met its burden of showing that it timely and effectively 19 screened Werbin from this case.

Werbin cannot access any documents related to this case due to 20 the software and file management system change implemented by DTLA in December of 2021. 21 While it is unclear when Werbin brought the Staats case, the change in software occurred about 22 two years prior to DTLA's retention of Plaintiff in this matter, which demonstrates that preventive 23 measures were implemented before this litigation started.<sup>2</sup> Furthermore, Werbin will not share in 24 any of the profits from DTLA's representation of this matter, has physical and departmental 25 separation from attorneys handling cases against Defendant, and the firm has established 26 prohibitions and sanctions for discussing confidential matters.

Accordingly, Werbin's 27 2 While courts have reached differing conclusions on this issue, the Court is persuaded by DTLA Law's argument. This finding aligns with the most recent orders on this issue. See Cardenas, 2025 Cal. Super. LEXIS 25679; Wayfer, 1 | disqualification is not imputed to DTLA Law. 2 IV. 3 CONCLUSION 4 Based on the foregoing, the Court DENIES Defendant's motion to disqualify DTLA Law 5 | from representing Plaintiff in this matter.

6 7 T IS SO ORDERED. Ze Be g Dated: \_ November 3, 2025 IF; STANLEY A. BOONE 9 United States Magistrate Judge 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28