

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

**Christopher Mathiesen v. Timothy P. Burns, Jeffrey J. Funke,
Stephanie F. Stacy, William B. Cassel, Jonathan J. Papik, Jason M.
Bergevin, John R. Freudenberg, Lindsey Miller-Lerman, Ryan
Dougherty, Cody S. Barnett, Christian T. Williams, Keith A. Harvat,
and Justin D. Eichmann**

Mathiesen · No. 8:25CV716 · Decided February 9, 2026

SUMMARY

The United States District Court for the District of Nebraska denied Christopher Mathiesen’s motion to disqualify the Nebraska Attorney General from representing several state court judges in their official and individual capacities. The court found no present actual material conflict of interest. The court also denied without prejudice Mathiesen’s motion for leave to amend because he failed to comply with the local rule requiring an unsigned proposed amended complaint identifying the proposed amendments.

CASE DETAILS

COURT	United States District Court for the District of Nebraska
WRITING FOR THE COURT	Jacqueline M. DeLuca
JURISDICTION	United States District Court for the District of Nebraska
DECIDED	February 9, 2026
DOCKET	8:25CV716
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to disqualify the Nebraska Attorney General from representing certain defendants in their official and individual capacities and moved under Federal Rule of Civil Procedure 15(a)(2) for leave to amend to add parties and an abuse-of-process claim.
STANDARD OF REVIEW	The moving party bears the burden of proving that disqualification is required. Motions to disqualify counsel are subject to particularly strict scrutiny because of their potential for abuse. Leave to amend under Rule 15(a)(2) is committed to the court's discretion, subject to the applicable federal and local rules.

PRECEDENTIAL VALUE

Unpublished district court memorandum and order; no precedential designation appears in the source.

TOPICS

[motion to amend](#) [civil procedure](#) [pleadings](#) [civil rights](#)

PRACTICE AREAS

[Civil procedure](#) [Legal ethics and attorney disqualification](#) [Civil rights litigation](#)

QUESTIONS PRESENTED

1. Whether the Nebraska Attorney General should be disqualified from representing state court judges in their official and individual capacities based on a concurrent conflict of interest.
2. Whether Plaintiff should be granted leave under Federal Rule of Civil Procedure 15(a)(2) to file a second amended complaint adding parties and an abuse-of-process claim despite failing to comply with the local rule governing amendment motions.

HOLDINGS

1. Representation of a state official in both official and individual capacities does not, by itself, create a concurrent conflict of interest. Disqualification requires an actual material conflict; a potential conflict arising from differing possible defenses is insufficient until it matures into an actual material conflict.
2. Leave to amend was properly denied without prejudice because Plaintiff failed to comply with the local rule requiring an unsigned copy of the proposed amended complaint that clearly identifies the proposed amendments.

KEY QUOTATIONS

“Separate representation is not required until any ‘potential conflict matures into an actual material conflict.’” (I. Motion to Disqualify)

“When it comes to disqualifying counsel at the pretrial stage, the Court of Appeals takes a very dim view of such a ruling.” (I. Motion to Disqualify)

“A district court appropriately denies the movant leave to amend if ‘there are compelling reasons such as undue delay, bad faith, or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the non-moving party, or futility of the amendment.’” (II. Motion to Amend)

FACTUAL BACKGROUND

The Nebraska Attorney General represented several Nebraska state court judges in both their official and individual capacities, and Plaintiff sought disqualification based on an asserted concurrent conflict of interest. Plaintiff identified only theoretical or potential differences between the State's interests and the judges' individual interests and did not show an actual material conflict. Plaintiff also sought to add Joshua R. Shasserre

and Jennifer A. Huxoll as parties and add an abuse-of-process claim, but did not file the proposed second amended complaint required by the local rules.

PROCEDURAL HISTORY

Plaintiff had already amended his complaint once. He then filed a motion to disqualify counsel and a second motion for leave to amend. The district court denied the disqualification motion and denied the amendment motion without prejudice because Plaintiff failed to submit a signed proposed amended complaint clearly identifying the proposed amendments.

DISPOSITION

other

CASES CITED

- Awnings v. Fullerton, 912 F.3d 1089, 1096 (8th Cir. 2019)
- J. Swanson & Co., LLC v. Rejuvenating Nutrition Coaching, LLC, No. 23-cv-1323, 2024 WL 4544137, at *5 (D. Minn. Apr. 25, 2024)
- Sundquist v. Nebraska, No. 8:14CV220, 2015 WL 6118515, at *1-*2 (D. Neb. Oct. 16, 2015)
- Harker v. Comm'r, 82 F.3d 806, 808 (8th Cir. 1996)
- Turner v. AIG Domestic Claims, Inc., 823 F. Supp. 2d 899, 905 (D. Neb. 2011)
- Christians v. Young, No. 4:20-CV-4083, 2024 WL 4291285, at *1-*2 (D.S.D. Sept. 25, 2024)
- Johnson v. Bd. of Cnty. Comm'rs for Cnty. of Fremont, 85 F.3d 489, 493 (10th Cir. 1996)
- Dunton v. Suffolk Cnty., 729 F.2d 903, 907 (2d Cir. 1984)
- Sherman v. Winco Fireworks, Inc., 532 F.3d 709, 715 (8th Cir. 2008)