

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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**CIVIL MINUTES - GENERAL**

<b>Case No.</b>	CV 12-8759-R (PJWx)	<b>Date</b>	October 31, 2012
<b>Title</b>	DANIEL DAVID DYDZAK V. ARNOLD SCHWARZENEGGER, ET AL.		

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<b>Present: The Honorable</b>	CHRISTINA A. SNYDER
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Catherine Jeang

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants

Not Present

Not Present

**Proceedings:**      **(In Chambers:) PLAINTIFF’S MOTION TO DISQUALIFY THE HON. MANUEL L. REAL** (filed October 29, 2012)

On October 29, 2012, plaintiff Daniel David Dydzak filed a motion to disqualify the Honorable Manuel L. Real, United States District Judge. Dkt. No. 12. The motion was randomly assigned to this Court for ruling. Dkt. No. 13. Plaintiff brings his motion pursuant to 28 U.S.C. § 455(a), (b)(1), (b)(2), and (b)(4), which require disqualification, *inter alia*, where a judge’s “impartiality might reasonably be questioned.”

As an initial matter, it appears this action was dismissed with prejudice on October 29, 2012. Dkt. No. 11. In light of the fact that no action is pending, it appears that the motion to recuse is moot. Plaintiff’s motion fails on this ground alone.

In addition, even if this Court construes plaintiff’s motion as a motion to reconsider the dismissal with prejudice *and* to disqualify Judge Real, plaintiff’s motion is without merit. Judge Real did nothing more than enforce the unambiguous vexatious litigant order issued by Judge Coughenour in Case No. 11-cv-5560, Dkt. No. 35.<sup>1</sup> The order clearly barred plaintiff from initiating any further litigation in this or any other federal court based on his disbarment. *Id.* at 10. Moreover, that Judge Real is a defendant in a separate matter brought by plaintiff is not—without more—sufficient grounds to disqualify him in other matters. In order to prevail, plaintiff must set forth facts that show that a judge’s impartiality might reasonably be questioned. Here, plaintiff has asserted no facts that give rise to a question regarding Judge Real’s impartiality.

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<sup>1</sup> The Honorable Judge John C. Coughenour, District Court Judge for the Western District of Washington, sitting by designation of the Chief Judge of the Ninth Circuit.

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There is simply no showing that Judge Real acted improperly in this case by enforcing the order of Judge Coughenour.

In accordance with the foregoing, plaintiff's motion to disqualify is hereby DENIED.

IT IS SO ORDERED.

Initials of Preparer

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CMJ