

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STATE BAR OF CALIFORNIA,  
Plaintiff,  
v.  
DANIEL EVERETT,  
Defendant.

Case No. [17-cv-03595-SI](#)  
Case No. [17-cv-01716-SI](#)

**ORDER DENYING DEFENDANT’S  
MOTION FOR RECUSAL**

Defendant Daniel Everett attempts for the second time to remove his California State Bar disciplinary proceedings to federal district court under 28 U.S.C. § 1443(1).<sup>1 2</sup> Defendant has also filed multiple motions for recusal of the Undersigned in both the active case, No. 17-cv-03595-SI, and the closed case, which the Court remanded in May, 2017. *See* Case No. 17-cv-03595-SI, Dkt. Nos. 3, 14; Case No. 17-cv-01716-SI, Dkt. Nos. 36, 38. In his motions, defendant argues that the Undersigned has a bias against him and in favor of the State Bar such that she cannot act impartially in these proceedings. The State Bar opposes defendant’s efforts in light of an overarching interest in resolving defendant’s State Bar disciplinary proceedings without further delay. *See* Dkt. No. 13. The Court will forego a detailed recitation of the facts as the parties are well aware of the background of this case. For the reasons set forth below, the Court DENIES defendant’s motions for recusal.

Two statutes govern a judge’s recusal in federal court, 28 U.S.C §§ 144 & 455. The standard under either statute is the same: “[W]hether a reasonable person with knowledge of all of the facts would conclude that the judge’s impartiality might reasonably be questioned.” *United*

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<sup>1</sup> Unless otherwise noted, citations to the docket are in Case No. 3:17-cv-03595-SI.

<sup>2</sup> At this time, the Court reserves ruling on plaintiff’s motion to remand, Dkt. No. 12, and defendant’s motions to proceed *in forma pauperis*, Dkt. Nos. 7, 8.

1 *States v. Hernandez*, 109 F.3d 1450, 1453 (9th Cir. 1997) (quoting *United States v. Studley*, 783  
2 F.2d 934, 939 (9th Cir. 1986)). “Ordinarily, the alleged bias must stem from an ‘extrajudicial  
3 source[,]’” and “judicial rulings alone almost never constitute a valid basis for a bias or partiality  
4 motion.” *Id.* at 1454 (quoting *Liteky v. United States*, 510 U.S. 540, 554-56 (1994)). “[O]pinions  
5 formed by the judge on the basis of facts introduced or events occurring in the course of the  
6 current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality  
7 motion unless they display a deep-seated favoritism or antagonism that would make fair judgment  
8 impossible.” *Id.* (quoting *Liteky*, 510 U.S. at 554-56).

9 Defendant fails to state facts that might reasonably call into question the Undersigned’s  
10 impartiality. First, most of defendant’s bases for his recusal motions are not “extrajudicial,” but  
11 rather have to do with this Court’s decision to remand defendant’s previously removed action,  
12 Case No. 17-cv-01716-SI. Minor mistakes aside, the Court carefully considered all of defendant’s  
13 filings in that case, and held that defendant’s removal was improper. *See* Case No. 17-cv-01716-  
14 SI, Dkt. Nos. 18, 21. Further the Court clarified its original remand order, and reaffirmed its view  
15 that defendant’s State Bar proceedings do not give rise to federal subject matter jurisdiction. *See*  
16 *id.*, Dkt. No. 29. Second, the one “extrajudicial” source defendant identifies as calling into  
17 question the Undersigned’s impartiality, is the Undersigned’s participation in a State Bar event,  
18 “Celebrating Women in Competition Law in California,” on June, 2017. The Undersigned acted  
19 as moderator at the event. Defendant states, without any factual basis, that he is “informed that  
20 [the Undersigned] was compensated for her participation, by at least having her expenses paid  
21 for.” Further Mot. for Recusal, Case No. 17-cv-1716, Dkt. No. 38 ¶ 4. He also paints the  
22 California State Bar as a private organization. Defendant is wrong on all accounts. Not only did  
23 the Undersigned receive no compensation for participating in the event, but the California State  
24 Bar is a governmental entity established by the California constitution. *See* Dkt. No. 13 at 1; Cal.  
25 Const., Art. VI § 9. In any event, were the Undersigned to have received any compensation in  
26 connection with the event, and were the State Bar a private organization as he contends, the level  
27 of compensation would not be sufficient to call into question the Undersigned’s ability to remain  
28 impartial. Defendant has not demonstrated that the Undersigned displays a “deep-seated

1 favoritism or antagonism that would make a fair judgment impossible.” *Hernandez*, 109 F.3d at  
2 1454 (quoting *Liteky*, 510 U.S. at 554-56).

3 The Court finds that defendant’s verified statements are legally insufficient to warrant  
4 recusal and that his motions are interposed for delay. Local Rule 3-14. Defendant’s motions for  
5 recusal, both in Case No. 17-cv-01716-SI, Dkt. Nos. 36, 38, and in Case No. 17-cv-03595-SI, Dkt.  
6 Nos. 3, 14, are hereby DENIED.

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**CONCLUSION**

9 Defendant’s motions for recusal in Case No. 17-cv-01716-SI and 17-cv-03595-SI are  
10 hereby DENIED.

11 This order resolves Dkt. Nos. 3, 14 in 3:17-cv-03595-SI.

12 This order resolves Dkt. Nos. 36, 38 in 3:17-cv-01716-SI.

13 **IT IS SO ORDERED.**

14 Dated: August 2, 2017



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SUSAN ILLSTON  
United States District Judge

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