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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ANDREW U.D. STRAW,

11 Plaintiff,

12 v.

13 AVVO, INC.,

14 Defendant.

CASE NO. C20-0294JLR

ORDER DENYING
VOLUNTARY RECUSAL

15 **I. INTRODUCTION**

16 Before the court is *pro se* Plaintiff Andrew U.D. Straw's motion to recuse. (Mot.
17 (Dkt. # 59).) The undersigned has considered the motion and declines to recuse himself
18 voluntarily from this case for the reasons set forth below. The court DIRECTS the Clerk
19 to refer the motion to Chief Judge Ricardo S. Martinez for further review.

20 **II. BACKGROUND**

21 On February 24, 2020, Mr. Straw filed his complaint and application to proceed *in*
22 *forma pauperis* in this matter. (See IFP Mot. (Dkt. # 1); IFP Order (Dkt. # 3); Compl.

1 (Dkt. # 4.) He amended his complaint on April 9, 2020. (*See* Am. Compl. (Dkt. # 13);
2 *see also* 3/11/20 Order (Dkt. # 10) (granting Mr. Straw’s motion to amend and for U.S.
3 Marshal service of the amended complaint).) Mr. Straw asserted claims against
4 Defendant Avvo, Inc. (“Avvo”) for defamation; tortious interference with prospective
5 contractual relations; intentional infliction of emotional distress; and violations of Title II
6 of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165. (*See generally id.*)
7 These claims arose from statements that Avvo published on Mr. Straw’s profile in a
8 directory of lawyers on the Avvo.com website. (*See generally id.*)

9 On August 27, 2020, the court granted Avvo’s motion to dismiss Mr. Straw’s
10 amended complaint and granted Mr. Straw leave to amend. (*See* 8/27/20 Order (Dkt.
11 # 44).) Mr. Straw filed his second amended complaint on August 28, 2020. (*See* 2d Am.
12 Compl. (Dkt. # 45).) On November 9, 2020, the court granted Avvo’s motion to dismiss
13 Mr. Straw’s second amended complaint—this time with prejudice and without leave to
14 amend—because Mr. Straw did not address the deficiencies identified in the court’s prior
15 order. (*See* 11/9/20 Order (Dkt. # 55); *see also* Judgment (Dkt. # 56).)¹ Mr. Straw
16 appealed the dismissal to the Ninth Circuit Court of Appeals. (*See* Not. of Appeal (Dkt. #
17 57).) His appeal is still pending. (*See generally* Dkt.)

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21 ¹ During the proceedings in this court, Mr. Straw filed fifteen motions and numerous
22 “notices.” (*See* 8/27/20 Order at 4 (listing eleven motions and eleven “notices” that Mr. Straw
filed between being granted leave to proceed in forma pauperis and the date of the court’s order);
11/9/20 Order at 1-2 (listing four additional motions).)

III. ANALYSIS

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2 Mr. Straw moves, pursuant to 28 U.S.C. §§ 144 and 455, for the recusal of the
3 undersigned. (*See generally Mot.*) He argues that recusal is necessary because Avvo’s
4 law firm, Davis Wright Tremaine LLP (“DWT”), employs an attorney who formerly
5 served as one of the undersigned’s law clerks while Mr. Straw’s case was pending in this
6 court. (*Id.* at 1-2.) He contends that “the existence of [the law clerk] on the roster of
7 attorneys at DWT . . . favors the trial judge’s clerk, his firm, and that firm’s clients.” (*Id.*
8 at 2.) As a result, according to Mr. Straw, the undersigned violates his duty to be fair and
9 impartial by continuing to preside over this case. (*Id.*) Mr. Straw asserts that because
10 “Avvo has been wrong so severely in injuring [him] and with its false statements to
11 courts and poor ethical judgment, taking data not allowed to be republished and
12 publishing it to injure [him] over [his] objections, [he] want[s] a trial judge who has NO
13 CONNECTION whatsoever to Avvo, its parent companies, or its lawyers.” (*Id.* at 3.) If
14 there is no such judge in this district, he asks that the Chief Judge of the Ninth Circuit
15 “find someone who is unconnected and disinterested.” (*Id.*)

16 Under the Local Civil Rules for the Western District of Washington, “[w]henever
17 a motion to recuse directed at a judge of this court is filed pursuant to 28 U.S.C. § 144 or
18 28 U.S.C. § 455, the challenged judge will review the motion papers and decide whether
19 to recuse voluntarily.” Local Rules W.D. Wash. LCR 3(f). “If the challenged judge
20 decides not to voluntarily recuse, he or she will direct the clerk to refer the motion to the
21 chief judge, or the chief judge’s designee.” *Id.* “The substantive standard for recusal
22 under 28 U.S.C. § 144 and 28 U.S.C. § 455 is the same: Whether a reasonable person

1 with knowledge of all the facts would conclude that the judge's impartiality might
2 reasonably be questioned." *United States v. McTiernan*, 695 F.3d 882, 891 (9th Cir.
3 2012) (internal quotation marks and alterations omitted).

4 The undersigned declines to recuse voluntarily from this case. The fact that a
5 former law clerk now works for a law firm that represents a party in a matter before the
6 court does not, without more, provide a basis for recusal. *See Omni Innovations LLC v.*
7 *Smartbargains.com LP*, No. C06-1129JCC, 2009 WL 3248084, at *2 (W.D. Wash.
8 Oct. 9, 2009) ("A rule barring former law clerks and externs, much less their entire law
9 firms, from appearing in a particular court would be unreasonable and unjustified.").
10 Moreover, the attorney to whom Mr. Straw refers in his motion did not work on Mr.
11 Straw's case while he served as a law clerk and, according to DWT, has not worked on
12 Mr. Straw's case since joining that firm. *See Hussain v. Nevada Sys. of Higher Educ.*,
13 458 F. App'x 659, 662 (9th Cir. 2011) (affirming denial of motion to disqualify judge
14 where defense counsel's firm employed former law clerk and where former clerk did not
15 work on case); *see also* Wash. R. Prof'l Conduct 1.12(a) (providing that a former judicial
16 law clerk may not represent a party in a case in which the former clerk participated
17 personally and substantially while employed as a clerk). Because the undersigned
18 harbors no bias against Mr. Straw or in favor of Avvo or its attorneys, he declines to
19 recuse himself voluntarily.

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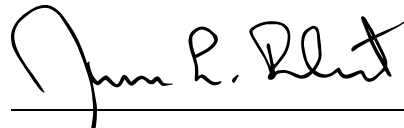
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IV. CONCLUSION

For the foregoing reasons, the undersigned declines to recuse himself voluntarily from this case. Pursuant to Local Civil Rule 3(f), the court DIRECTS the Clerk to refer Mr. Straw's motion (Dkt. # 59) to Chief Judge Ricardo S. Martinez for further review.

Dated this 21st day of April, 2021.



JAMES L. ROBART
United States District Judge