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Limited Disclosure of Case Information to Prospective Defense Counsel Not Sufficient to Warrant Disqualification of Law Firm

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In an unpublished opinion, the California Court of Appeal, Third Appellate District, affirmed a trial court's denial of a plaintiff's motion to disqualify the defendant's attorneys. (*Cottini v. Enloe Medical Center*, C062904, Nov. 5, 2010.) The plaintiff's counsel spoke with an attorney with whom he was co-counsel on two unrelated cases. In the conversation, he referred to an unidentified negligence and abuse of dependent adult case he was handling. He identified the expert with whom he was consulting and provided information about his opinions. The plaintiff's lawyer knew that the other attorney was considering taking a position with a defense firm, but did not know which firm. He later learned that the attorney had joined the firm representing the defendant in the negligence action.

The trial court denied the plaintiff's motion to disqualify the defense firm, finding there was no attorney-client relationship between the plaintiff and the second attorney, a prerequisite to disqualification, and there was not enough of a disclosure to outweigh the defendant's right to counsel of its choice. The court of appeal affirmed. The court found the record did not establish that any information was given to the second attorney to assist him in representing the plaintiff or that the conversation gave rise to an attorney-client relationship. Further, the court found that the alleged information provided was described only in conclusory terms which did not merit disqualification. In summary, the record was insufficient to show that the trial court abused its discretion in denying the motion to disqualify.