

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA
IN AND FOR PALM BEACH COUNTY CIVIL DIVISION

CASE NO.: 502009CA040800 AG

JEFFREY EPSTEIN,

Plaintiff(s),

vs.

SCOTT ROTHSTEIN, etc., et al.,

Defendant(s).

ORDER ON MOTION TO DISQUALIFY OPPOSING COUNSEL

THIS CAUSE came before the Court upon the Counter-Plaintiff, BRADLEY J. EDWARDS' Motion to Disqualify Counsel for JEFFREY EPSTEIN and, more specifically, Fred Haddad. The Court received evidence and testimony, heard argument of counsel, has reviewed the memorandums filed both in support and opposition to the Motion, and has reviewed the various authorities cited. Based upon the foregoing, it is

CONSIDERED, ORDERED AND ADJUDGED as follows:

The Counter-Plaintiff, BRADLEY J. EDWARDS, seeks to disqualify Attorney Fred Haddad on the basis that Mr. Haddad represents Russell Adler, EDWARDS' former supervisor at the Rothstein Rosenfeldt & Adler law firm. It is unclear the specific Rule Regulating the Florida Bar that EDWARDS contends justifies disqualification. Nevertheless, EDWARDS argues that Mr. Haddad "may" have access to confidential communications or work product information not between EDWARDS' and his attorney in this matter but in the underlying litigation giving rise to the current matter.

Disqualification of one's chosen lawyer is an extraordinary remedy and should be resorted to in very limited circumstances. *See e.g., Frank, Weinberg & Black, P.A. v. Effman*, 916 So.2d 917 (Fla. 4th DCA 2005). In fact, trial courts are instructed to

view with skepticism disqualification motions because they infringe upon a party's right to employ a lawyer of their choice and such motions are often imposed for tactical advantage.

See e.g., Manning v. Cooper, 981 So.2d 688 (Fla. 4th DCA 2009). Disqualification motions should not be used as procedural weapons. *Quail Cruise Ship Management, Ltd. v. Agencia De Viagens CVC Limitada*, 2010 WL 2926042 S.D. Fla. July 2010.

In this case, there is no "conflict of interest" under the Rules Regulating the Florida Bar 4-1.7 or 4-1.9, since Mr. Haddad has never represented any of EDWARDS' clients nor EDWARDS individually. Furthermore, there has been clearly no testimony that Mr. Haddad obtained any confidential or attorney/client or privileged communications involving EDWARDS or his attorneys. Likewise, there is no evidence Mr. Haddad obtained any confidential or privileged information between EDWARDS and his clients in the underlying litigation.

Even if Mr. Haddad had obtained such information, there is no rule of automatic disqualification because an attorney has reviewed or obtained privileged communication or documents. *See Applied Digital Solutions, Inc. v. PDS Acquisition Corp.*, 941 So.2d 404, 408 (Fla. 4th DCA 2006). If counsel had received information, there must be proof that the confidential information was actually disclosed and that this information gives rise to unfair advantage by virtue of that disclosure. *See e.g., Whitner v. First Union National Bank of Florida*, 900 So.2d 366, 370 (Fla. 5th DCA 2005), *Manning v. Cooper*, 981 So.2d 668, 670-671 (Fla. 4th DCA 2008), *Cunningham v. Appel*, 831 So.2d 214, 216 (Fla. 5th DCA 2002). In situations where there has been a disclosure of confidential information, it is necessary the Court conduct a hearing not to just determine if there has been an ethical

violation, but to determine whether as a result one party has obtained an unfair advantage over the other which can only be alleviated by the removal of the attorney. See, *Esquire Care, Inc. v. Maguire*, 532 So.2d 740, 741 (Fla. 2nd DCA 1988). [Emphasis supplied.]

Based upon the evidence presented, the Counter-Plaintiff has failed to meet the extremely high burden of disqualification. While admittedly the circumstances are unique, there is no rule, case law or evidence presented to the Court which would justify disqualification of Mr. Haddad at this time.

DONE AND ORDERED this 13th day of December, 2012 at West Palm Beach,

Palm Beach County, Florida.



DAVID F. CROW
CIRCUIT COURT JUDGE

Copy furnished:

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