

IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI

FILED
SEP 10 2019

EDDIE JEAN CARR, CHANCERY CLERK

BY J. Vann R... D.C.

IN RE: CITY OF JACKSON
WATER BILLING SYSTEM

CAUSE NO. G-2019-782 G/2

ORDER OF THE COURT

BEFORE THIS COURT IS the Defendant's *Motion to Disqualify Plaintiffs' Counsel and for a Protective Order* [Doc. #3]. Defendant, the City of Jackson, Mississippi ("City") seeks to disqualify Plaintiffs counsel and to enjoin said counsel from providing legal assistance and/or further information to Plaintiffs or the media regarding the underlying matters. This Court held hearing on this matter on August 8, 2019; at the conclusion of hearing, this Court also permitted additional submissions. After careful consideration of the foregoing, this Court hereby finds the following, to-wit:

I.

This Court has jurisdiction over the parties and subject matter, herein.

II.

The Plaintiffs herein are represented by Pieter Teeuwissen ("Teeuwissen") and Anthony R. Simon ("Simon") of Simon & Teeuwissen, PLLC, as well as Jeffrey M. Graves ("Graves") of Graves Legal Services, PLLC. Teeuwissen was the City Attorney for the City of Jackson between July 1, 2009 and September 30, 2013. During that time period, he represented the City

in virtually all aspects of the Performance Contracting Agreement between the City and Siemens Industry; specifically, he negotiated two (2) amendments to the Agreement and provided legal support in ensuring enforcement of the Agreement. The Performance Contracting Agreement is the core of both the current litigation as well as a pending lawsuit in the Circuit Court of Hinds County filed by the City against Siemens Industry.

Anthony R. Simon was the City's co-bond counsel on the bond issue authorized and initiated by the governing authorities specifically for the purpose of funding the Agreement. Likewise, Simon is a member of the Simon & Teeuwissen firm. Jeffrey M. Graves has been associated in this matter on behalf of Plaintiffs with the Simon & Teeuwissen firm.

III.

A party seeking to disqualify an attorney must demonstrate that: "(1) there was an actual attorney-client relationship between the movant and the attorney; and, (2) there was a substantial relationship between the subject matter of the prior and current representation." *Williams v. Bell*, 793 So. 2d 609, 612 (Miss. 2001) (citing *Pearson v. Singing River Med. Ctr., Inc.*, 757 F.Supp. 768, 771 (S.D.Miss.1991)). The facts clearly demonstrate and Teeuwissen admits that he had an actual attorney-client relationship with the Defendant City. Likewise, the facts establish that Teeuwissen represented the City in all legal matters involving the Performance Contracting Agreement and two (2) amendments, which are at the core of the current litigation. Therefore, there is a substantial relationship between the subject matter of the prior and current representation. "Once the former client proves that the subject matters of the present and prior representations are 'substantially related,' the court will irrebuttably presume that relevant confidential information was disclosed during the former period of representation." *Pearson v.*

Singing River Med. Ctr., Inc., 757 F. Supp. 768, 770–71 (S.D. Miss. 1991). Accordingly, this Court must irrebuttably presume that relevant confidential information regarding the Performance Contracting Agreement and two (2) of the amendments were disclosed to Teeuwissen during his representation of the City. Teeuwissen’s current representation of Plaintiffs is directly adverse to the City in this case.¹ Therefore, this Court must find that Rule 1.9 of the Mississippi Rules of Professional Conduct serves to disqualify Teeuwissen from representation of Plaintiffs in this action. Furthermore, Rule 1.10 of the M.R.P.C. imputes such disqualification to any lawyers within Teeuwissen’s firm, specifically including Anthony R. Simon. Finally, Jeffrey M. Graves has associated himself with the firm of Simon & Teeuwissen, PLLC, and has been privy to the confidential and privileged information gained during Teeuwissen’s representation of the City. For this reason, disqualification would also be imputed to Graves.

IV.

The Court is mindful of the seriousness of disqualifying an attorney from representation of a client. This Court has considered the MRPC, the standards of the legal profession, the public interest, and the Plaintiffs' rights to choice of counsel. In addition, this Court has reviewed the following factors: “whether a conflict has (1) the appearance of impropriety in general, or (2) a possibility that a specific impropriety will occur, and (3) the likelihood of public suspicion from the impropriety outweighs any social interests which will be served by the lawyer's continued participation in the case.” *Occu-Health, Inc. v. Mississippi Space Servs.*, No. 1:06-CV-159-LG-

¹ Even if most of the relief sought is arguably consistent with the City’s position in it’s lawsuit against Siemens Industry, the request for attorneys fees is clearly adverse.

F.2d. 540, 543-544 (5th Cir.1992). Given the very public nature of the current dispute and the pending Circuit Court litigation, the Court finds that the continued representation of Plaintiffs by current counsel will likely create the appearance of impropriety and will likely continue to create a public suspicion regarding the matter. In addition, the Court finds that Plaintiffs will not be significantly prejudiced by the disqualification of current counsel. The City raised the issue of disqualification in a timely manner and Plaintiffs will have sufficient time to secure additional adequate representation.

Based upon the foregoing, this Court will stay the proceedings herein for thirty (30) days to allow Plaintiffs to obtain subsequent counsel.

V.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT Pieter Teeuwissen, Anthony R. Simon, Simon & Teeuwissen, PLLC, Jeffrey M. Graves, Graves Legal Services, PLLC, and their agents are hereby disqualified from representing the Plaintiffs in this cause of action.

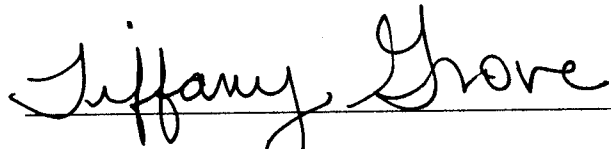
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT Pieter Teeuwissen, Anthony R. Simon, Simon & Teeuwissen, PLLC, Jeffrey M. Graves, Graves Legal Services, PLLC, and their agents are hereby enjoined from providing any further information and/or legal assistance concerning this cause of action to Plaintiffs, subsequent counsel for Plaintiffs and/or any agents of Plaintiffs.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT Pieter Teeuwissen, Anthony R. Simon, Simon & Teeuwissen, PLLC, Jeffrey M. Graves, Graves Legal Services,

PLLC, and their agents are hereby enjoined from making any statements to Plaintiffs' subsequent counsel, the media or the general public concerning the Performance Contracting Agreement between Siemens Industry, Inc. and the City or related matters, without first obtaining leave of this Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT these proceedings shall be stayed for thirty (30) days to allow Plaintiffs to obtain subsequent counsel. Defendant's request for costs in pursuit of this *Motion* is hereby denied.

SO ORDERED, ADJUDGED AND DECREED THIS the 10th day of September, 2019.

A handwritten signature in cursive script that reads "Tiffany Grove". The signature is written in black ink and is positioned above a horizontal line.

CHANCELLOR TIFFANY GROVE