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BILL YOUNGKIN
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Re: Cause No. 14-001392-CV-361; Clayton Williams Energy, Inc. v. Robert A. Williamson et al; in the 361st District Court, Brazos County, Texas.

Mr. Webb and Mr. George:

As you know, Matt Doss and I represent Gloria Neal, Earl White, Michael A. White, and Betty White in the case listed above. On behalf of my clients, I must demand that you cease and desist from representing Eli Rebich against my clients in this lawsuit. Multiple grounds for disqualification exist, namely that your representation of Mr. Rebich against my clients in this lawsuit violates Texas Disciplinary Rules of Professional Conduct (notably due to an attorney conflict of interest), and the fact that both of you will be fact witnesses at the trial in this case concerning my clients' fraud claims against Mr. Rebich.

Disciplinary Rule 1.09(a)(3) states that, "[w]ithout prior consent, a lawyer who personally has formerly represented a client in a matter shall not thereafter represent another person in a matter adverse to the former client... if it is the same or a substantially related matter." Comment 4A to that rule elaborates:

...The "same" matter aspect of this prohibition prevents a lawyer from switching sides and representing a party whose interests are adverse to a person who sought in good faith to retain the lawyer. *It can apply even if the lawyer declined the representation before the client had disclosed any confidential information...* The "substantially related" aspect, on the other hand, has a different focus. Although that term is not defined in the Rule, it primarily involves situations where a lawyer could have acquired confidential information concerning a prior client that could be used either to that prior client's disadvantage or for the advantage of the lawyer's current client or some other person...

Disciplinary Rule 1.09(a)(3), Comment 4A (emphasis added); *see also Wasserman v. Black*, 910 S.W.2d 564, 567 (Tex. App.—Waco 1995, orig. proceeding) (Rule 1.09 was “designed primarily to address situations where an attorney seeks to represent a wholly new client in litigation against a former client,” but “the rule also applies under these facts where an attorney represents multiple parties and a conflict arises among them.”)

In this case, you expressly agreed to represent my clients in the case listed above, they disclosed confidential information to you, and you even filed an answer on their behalf before withdrawing. You were also made aware that my client had been advised by Eli Rebich's landment that Rebich would pay the cost of their defense and any adverse judgment. After your withdrawal I sent a demand letter to Eli Rebich through your firm notifying you and Mr. Rebich that my clients intended to seek legal action against Rebich if he did not follow through on the promises made to and relied upon by my clients. Since then, you have not only appeared on behalf of Mr. Rebich and his companies against my clients, but you have filed counter-claims against my clients seek damages in excess of \$1,000,000.00.

Under the foregoing circumstances, Disciplinary Rule 1.15(a)(1) requires you to withdraw from representation of Mr. Rebich and his companies against my clients in this lawsuit. That same rule may require you to withdraw for another reason, *i.e.*, both of you are fact witnesses in this case. Before withdrawing representation of my clients, you acknowledged in writing that Mr. Rebich originally agreed to pay for my clients' legal representation in this case. That agreement now underlies part of my clients' claims against Mr. Rebich, et al. I intend to call both of you as witnesses, and I intend to subpoena your communications with Mr. Rebich, et al. to show that he agreed to retain and pay your firm to represent my clients before subsequently renegeing. According to Disciplinary Rule 3.08(b), you must at least obtain a waiver from your client to the extent that you will be compelled to provide adverse testimony.

My clients have not waived nor consented to the conflicts of interest that exist or any other basis for disqualification and must now insist that you either voluntarily withdraw from this case, or they will seek an order from the Court ordering your disqualification. My clients also request a copy of their entire file kept and maintained by your firm as well as a copy of the communications with Mr. Rebich regarding this matter. Please produce those records to my office at your earliest convenience. If you intend to withhold any records, I respectfully request that you prepare a privilege log and make the records available for Judge Smith to conduct in camera inspection to determine whether a valid privilege objection exists to prevent production of those documents.

If you doubt whether you must withdraw from this case, I urge you to call the State Bar of Texas Ethics Hotline (800-532-3947), where you can obtain independent legal guidance at no charge. Please let me know with seven (7) days of the date of this letter whether or not you intend to withdraw your representation of Eli Rebich in this case. If I do not hear from you that you intend to voluntarily withdraw from the case within that time period, I will file a motion seeking your disqualification, and I may also request sanctions to cover the legal fees incurred by my clients for my preparation and argument of the motion at a hearing before Judge Smith.

Should you have any questions or concerns regarding this matter, please feel free to contact me. Thank you in advance for your attention to these matters.

Sincerely,


BILL YOUNGKIN