

STATE OF SOUTH CAROLINA COUNTY OF AIKEN	IN THE COURT OF COMMON PLEAS SECOND JUDICIAL CIRCUIT
Estate of Otis Simmons, Jr., by and through Caleatha S. Gibson, as the Personal Representative, Plaintiff, Vs. Aiken Regional Medical Centers, LLC, and David L. Hatmaker, M.D., Defendants.	C/A 2014-CP-02-00890 [PROPOSED] ORDER DENYING DEFENDANT HATMAKER'S MOTION TO DISQUALIFY PLAINTIFF'S COUNSEL RECEIVED Apr 30 2025 SC Court of Appeals

This matter came before the Court on Defendant David L. Hatmaker's Motion for Disqualification of Plaintiff's Counsel, filed February 19, 2024. A hearing was held on March 7, 2024. All parties were properly represented.

"A motion to disqualify counsel is addressed to the court's discretion. Disqualification is a severe remedy that should not be ordered absent a 'strong showing.'" *Diane C. Bruner and Raymond P. Clement v. Ronald S. Clement*, No. 2003-CP-23-7022, 2005 WL 5533022 (S.C. Com.Pl. Mar. 18, 2005) (quoting *Brown v. Daniel*, 180 F.R.D. 298, 300 (D.S.C. 1998)). The South Carolina Code of Professional Responsibility sets forth the ethical standards for attorneys who practice in this district. See Local Civil Rule 83.I.08 DSC, RDE Rule IV(B) ("The Code of Professional Responsibility adopted by this Court is the South Carolina Rules of Professional Conduct . . . adopted by the Supreme Court of the State of South Carolina . . ."). "The court has a duty to maintain the highest ethical standards of professional conduct to insure and preserve trust in the integrity of the bar." *Latham v. Matthews*, Docket No. 6:08-cv-02995, 2011 WL 52609, at *2 (D.S.C. Jan. 6, 2011). Disqualification is, however, "a drastic remedy, and the moving party has a high standard of proof to demonstrate that disqualification is required." *Id.*

As the Fourth Circuit has noted, “disqualification of a litigant’s chosen counsel for violation of an ethical canon . . . may not be rested on mere speculation that a chain of events whose occurrence theoretically could lead counsel to act counter to his client’s interests might in fact occur.” *Shaffer v. Farm Fresh, Inc.*, 966 F.2d 142, 145 (4th Cir. 1992).

Defendant Hatmaker argues that continued representation of the Plaintiff by Bell Legal Group violates Rules 1.7, 1.9, and 1.10 of the Professional Rules of Conduct. South Carolina Rules of Professional Conduct Rule 1.10 entitled “Imputation of Conflicts of Interest” provides in subsection (a) that “[w]hile lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7, 1.8(c), or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.” Rule 1.10(a),

Defendant Hatmaker presented the case of *In re Brannon*, 428 S.C. 644 (2019), in support of this Motion to the extent that the same concerned conflicts of interest and imputed conflicts of interest in a scenario in which an attorney represented a client in legal matters brought against the client by another law firm. The attorney subsequently joined the law firm that was pursuing the legal matters against his former client. The Court found an imputed conflict of interest that prevented the law firm from pursuing the legal matters against the client.

As to the alleged violations, Defendants’ motion relies on nothing more than conjecture. At the hearing, the Defendant explained that if Mr. Lee, in his former role, learned of any confidential information then he could have disclosed it. The Court finds this argument fails for several reasons. First, Defendants have not provided any evidence that any confidential information was in fact disclosed. Second, only one and a half hours was billed by Mr. Lee, at

Batten and Lee. Third, there is no evidence that Mr. Lee was involved in this case at Bell Legal Group nor ever discussed this case with Bell Legal Group. To rely on a series of inferences that have no factual basis is precisely the sort of speculative, specious claim rejected by the *Shaffer* court. Defendants have not shown that the drastic remedy of disqualification is appropriate.

Further, counsel for the Plaintiff has indicated they have implemented a wall between Mr. Lee and this case thus relieving any potential concern for disclosure of confidential information. Counsel for Plaintiff also informed the Court that they have taken measures to secure the case file to ensure Mr. Lee will not have access to it, materially limiting any risk associated with the continued representation of Bell Legal Group for the Plaintiff.

After consideration of the applicable rules, statutory and case law, this court finds that the Defendant's **MOTION for DISQUALIFICATION of PLAINTIFF'S COUNSEL** should be and therefore **IS DENIED**.

March __, 2025

The Honorable J. Derham Cole



Aiken Common Pleas

Case Caption: Otis Estate Of Simmons Jr , plaintiff, et al VS Aiken Regional
Medical Centers Llc , defendant, et al
Case Number: 2014CP0200890
Type: Order/Disqualify

IT IS SO ORDERED!

s/J. Derham Cole 2053