

SUPREME COURT OF THE STATE OF WASHINGTON

Received
Washington State Supreme Court

WASHINGTON MOTORSPORTS LIMITED,

Respondent,

vs.

SPOKANE RACEWAY PARK, INC.,

And

SUSAN ROSS, TERRY and BRYAN GRAHAM, and THE MEADOWS AT DRY
CREEK, LLC,

Appellants.

JUL 14 2014

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Ronald R. Carpenter
Clerk

MOTION TO DISQUALIFY COUNSEL FOR RESPONDENT AND STRIKE
ANSWER IN OPPOSITION TO PETITION FOR REVIEW

RICHARD D. WALL, #16581
Attorney for Appellant

Richard D. Wall, P.S.
505 W. Riverside Avenue, Suite 500
Spokane, WA 99201
(509) 747-5646


ORIGINAL

1. Identity of Moving Party and Relief Sought:

Appellants, by and through their attorney, Richard D Wall, move the court for an order disqualifying the law firm of Davidson Backman Medeiros, PLLC, from acting as counsel for Respondent Washington Motorsports Limited Partnership ("WML"). Appellants also seek an order striking the Answer in Opposition to Petition for Review filed by Davidson Backman Medeiros, PLLC, on behalf of WML.

2. Record Relevant to Motion:

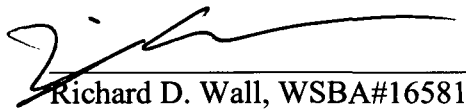
On June 30, 2014, Davidson Backman Medeiros, PLLC, filed a Notice of Withdrawal and Substitution of Counsel on behalf of WML wherein the law firm of Reed & Giesa, P.S. withdrew and Davidson Backman Medeiros, PLLC, appeared as counsel of record for WML. The Notice of Withdrawal and Substitution of Counsel was filed on June 30, 2014. WML's Answer in Opposition to Petition for Review was filed on July 2, 2014, by Davidson Backman Medeiros, PLLC.

3. Grounds for Relief and Argument:

Barry W. Davidson, the appointed Receiver for WML in this action, is a principal in the law firm of Davidson Backman Medeiros, PLLC. Mr. Davidson's act of hiring his own law firm to Represent WML creates both an actual and apparent conflict of interest because Mr. Davidson's personal interest in directing work to his own law firm is in conflict with his obligation to act solely for the benefit of WML and its creditors, including its unit holders. Appellant Susan Ross holds a number of units of ownershi in WML.

Even an apparent conflict of interest will disqualify an attorney from representation regardless of whether an actual conflict exists. *See, Kurbitz v. Kurbitz*, 77 Wn.2d 943, 947, 468 p.2d 673 (1970). Here, there is both an actual and apparent conflict in Mr. Davidson's law firm representing WML when Mr. Davidson is the Receiver and Acting Managing General Partner. The court should enter an order disqualifying Davidson Backman Medeiros, PLLC, from acting as counsel for WML. Because Davidson Backman Medeiros, PLLC, is not qualified to act as counsel for WML, the Answer filed on July 2, 2014, should be stricken.

Respectfully submitted this 9th day of July, 2014.

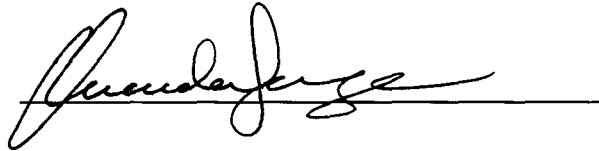

Richard D. Wall, WSBA#16581
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date a true and correct copy of the foregoing was sent
via legal messenger to the following:

Aaron D. Goforth
Davidson Backman Medeiros, PLLC
601 W. Riverside Ave., Suite 1550
Spokane, WA 99201

Dated this 9th day of July, 2014.

A handwritten signature in black ink, appearing to read "Aaron D. Goforth", is written over a horizontal line.