

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

LAWRENCE F. JASPER, II, et al,

Plaintiffs,

v

Case No. 15-147901-CB

Hon. Wendy Potts

BLOOMFIELD VILLAGE INVESTOR
HOLDINGS, LLC,

Defendant.

OPINION AND ORDER RE: PLAINTIFFS' MOTION TO REMOVE JAFFE, RAITT, HEUER
& WEISS PC AS ATTORNEY FOR DEFENDANTS

At a session of Court
Held in Pontiac, Michigan

On
JAN 05 2016

Plaintiffs Lawrence Jasper and Omega Investments, Ltd move the Court to disqualify Jaffe Raitt Heuer & Weiss, PC as attorneys for Defendants on the ground of an alleged conflict of interest. Plaintiffs claim that Jasper met with Jaffe attorney Thomas Coughlin to discuss his case regarding the Bloomfield Park property and, under MRPC 1.7, Jaffe is now barred from representing Defendants in this case. The Court is exercising its discretion to decide the motion without a hearing. MCR 2.119(E)(3).

Plaintiffs bear the burden of demonstrating the conflict and showing specifically how prejudice will result. *Rymal v Baergen*, 262 Mich App 274, 319; 686 NW2d 241 (2004). To prevail on their claim of a conflict of interest, Plaintiffs must demonstrate that they had an attorney-client relationship with Jaffe. No formal contract is necessary to create an attorney-client relationship, which may be implied from the conduct of the parties. *Macomb County Taxpayers Ass'n v L'anse Creuse Public Schools*, 455 Mich 1, 11; 564 NW2d 457 (1997). An

attorney-client relationship exists when a client seeks and receives the advice and assistance of an attorney in matters pertinent to his profession. *Macomb County, supra*.

Plaintiffs provide no evidence that they sought advice from Jaffe or received any advice or assistance from Jaffe. Plaintiffs assert, without any evidentiary support, that Jasper met with Coughlin and discussed his case. Although Defendants concede that Coughlin and Jasper met and discussed the Bloomfield Park project, Coughlin claims in an affidavit that he did not discuss Jasper's potential claims or theories in this case and did not give Jasper any advice. Coughlin further asserts that the discussion was brief and when he realized that Jaffe attorney George Sumnik drafted the Sheriff's deed for the Bloomfield Park foreclosure, he promptly ended the discussion and told Jasper that Jaffe could not represent him. Thus, Plaintiffs fail to demonstrate that they had an attorney-client relationship with Jaffe or that a conflict of interest exists that would justify disqualifying Jaffe from representing Defendants.

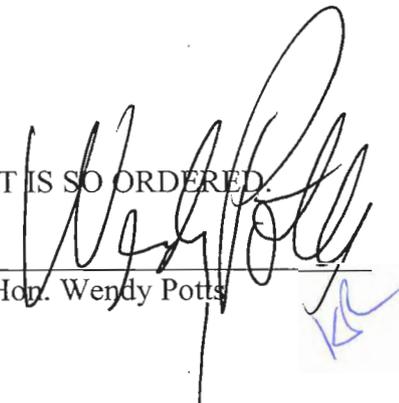
Plaintiffs also appear to be asserting that Defendants are using Jaffe to commit illegal or fraudulent acts and thus Jaffe must withdraw from representing Defendants under MRPC 1.16. However, because Plaintiffs fail to explain what the alleged illegal or fraudulent conduct is or provide evidence to support this claim, they are not entitled to disqualification on this ground either.

For all of these reasons, the motion is denied.

Dated:

JAN 05 2016

IT IS SO ORDERED.



Hon. Wendy Potts