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FILED
BY PAMELA PENDILL
DEPUTY

MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

Daniel K. O'Connell & Valery A. O'Connell)
& on behalf of themselves as members of)
Glastonbury Landowners Association.)

Cause No. DV-11-114

Plaintiff(s),)

v.)

Glastonbury Landowners Association, Inc.)
& current GLA Board of Directors)

Defendant(s))

**PLAINTIFFS MOTION REPLY
FOR SANCTIONS & REMOVAL OF
LIMITED SCOPE REPRESENTATIVE**

Plaintiffs & GLA members-Daniel & Valery O'Connell, hereby give reply to Defendants answer to a motion for sanctions against GLA Defendants AND separate sanctions against Alanah Griffith, "Attorney of limited scope [representation] for Defendants."

FACTUAL ARGUMENTS AND BRIEF

(Note: cases DV-12-220 & 164 are on appeal and have no bearing on this sanctions motion.)
In re Marra, 2004 MT 8, ¶ 9, 319 Mont. 213, 87 P.3d 384 (quoting Geoffrey C. Hazard, Jr. & W. William Hodes, The Law of Lawyering § 14.4 (3d ed., 2003)). "[, s]omething more important is also at stake here: the public perception of lawyers and of the administration of justice."

Defendants admit the GLA corporation Directors are non-attorneys, and admit that no attorney is involved with the counterclaim, except for Alanah Griffith who stated she is "limited scope representative pursuant to M.R.P.Conduct., Rule 1.2(c)" for the counterclaim. However, M.R.P.Conduct, Rule 4.3(b) clearly states Alanah Griffith's "limited representation ... is considered to be unrepresented..." for the counterclaim.

Griffith and Defendants motion answer asks the court to ignore these rules of professional conduct and Opinion below, because they claim these rules DO NOT apply to

themselves. Thus according to Griffith & GLA Corporate Defendants, the only fact in dispute is whether or not these rules and Opinion (below) apply to themselves:

Ethics Opinion 000008 quoted in the sanctions motion was read and understood by Defendants and Alanah Griffith. **Ethics Opinion 000008** was upheld by the Supreme Court and clearly says, "Representatives of corporations not admitted to practice law may not represent such corporations... Corporation representatives who are not attorneys may not engage in any activity which constitutes the practice of law." Also "the pro se question... is not difficult. A corporation is an artificial entity created by law, and not a natural person. As such it cannot (being an artificial entity) represent itself as an individual could. Its officers or representatives would, in effect, be representing another." The motion also clearly quoted **M.R.P. Conduct. Rule 4.3(b)**, "An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with **Rule 1.2(c)** is considered to be unrepresented for purposes of this Rule... (d) An attorney's violation of this Rule may subject the attorney to sanctions provided in **Rule 11**." The motion also quoted **M.R.P. Conduct. Rule 5.5(b)**, "A lawyer shall not: assist a person [GLA Defendants] who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law."

Whether or not the GLA corporation is allowed to represent itself pro se with "limited representation," is a definite NO said the Ethics Committee above in 1985 and upheld by the courts since then. This sanction motion made the GLA Defendants aware of this restriction. As an attorney, Alanah Griffith is required to know pro se restriction on corporations have been upheld for decades now. Griffith and Defendants clearly read these rules and Opinion quoted above in the motion and can no longer feign ignorance.

Plaintiffs' sanction motion cited the term "unrepresented" seven times, and seven times it was given context, explanation, definition, and argument why it applies to the counterclaim. Yet Defendants answer to this motion completely avoided answering this fact that the GLA corporation "limited representation ... is considered to be unrepresented." In other words, the GLA Corporation failed to refute the motion fact that their counterclaim is "unrepresented" by an attorney, because Griffiths "limited representation ... is considered to be unrepresented." As a result Defendants failed to defend against the substance of this sanction motion.

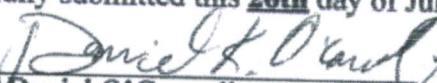
Most importantly this motion put Griffith and Defendants on notice that they were in violation of these rules and Opinion, yet Defendants and Griffith refuse to correct their actions in willful violation of these rules and Opinion. **M.R.P. Conduct. Rule 4.3(b)** says "An attorney's violation of this Rule [Rule 1.2(c)] may subject the attorney to sanctions provided in **Rule 11**." Griffith admits she assisted the GLA Corporation & Directors to file, serve, and draft the counterclaim, counterclaim motion, counterclaim response & answer to this motion. Sanctions

are warranted against the GLA Corporate Defendants AND against Attorney Alanah Griffith, who willfully continues to "assist" the GLA corporation in "the unauthorized practice of law" four separate times. Griffith has an ethical obligation to inform her clients that she can not actively or passively assist in their fraudulent conduct; for which assisting clients in the "unauthorized practice of law" "can amount to a misrepresentation and can also have the effect of assisting a fraudulent act by a client, thus implicating the lawyer in the client's wrongdoing." ABA Center for Professional Responsibility, *A Legislative History of the Model Rules of Professional Conduct* 215 (1999). Thus GLA & Griffith breached a covenant of good faith and fair dealing during the course of this action, and Griffith committed malpractice for breach of ethics and breach of law §37-1-410, MCA, part (12) "assisting in the unlicensed practice of a profession or occupation" of law licensed under Title 37, Ch. 61.

Griffith's erroneous conclusion stating these rules of professional conduct & Ethics Opinion (above) do not apply to her is absurd, considering GLA Corporate Defendants are not attorneys. Griffith failed to fulfill her legal obligations per §37-1-410, MCA, part (12) & failed to fulfill ethical obligations, a violation of Rule 1.2(d), M.R.P.C. See State Bar of Montana Advisory Ethics Opinion 87-0326. Neglect of an attorney's responsibilities under the Rules "compromises the independence of the profession and the public interest which it serves." M. R. Pro. C. Preamble, ¶ 13. *Krutzfeldt Ranch, LLC, v. Pinnacle Bank*, 2012 MT 18 ¶35. Hence, Griffith's willful violations above and GLA Corp. willful "unauthorized practice of law" warrant sanctions.

Respectfully submitted this 26th day of July, 2013.

Signed


Daniel O'Connell

Signed:


Valery O'Connell

Certificate of Service

A true and correct copy of forgoing document(s) were sent to the following parties via first class mail on this same day to:

Sixth Judicial District Clerk of Court
414 E. Callender St.
Livingston, Mt. 59047

Alanah Griffith
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Bozeman, Mt. 59715

Hon. Judge David Cybulski
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Plentywood, Mt. 59254

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By


Daniel O'Connell

By:


Valery O'Connell

