

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DANNIE R. HAYWARD, SR. (#301013)

VERSUS

CIVIL ACTION

JAMES M. LEBLANC, ET AL

NUMBER 10-613-FJP-DLD

ORDER

Before the court is the plaintiff's Motion to Have Defense Attorney Removed From Civil Action Due to Conflict of Interest. Record document number 35.

Plaintiff filed a motion to disqualify the Louisiana Department of Justice, alleging a conflict of interest arising from its representation of some of the same defendants in this action and in another civil rights action filed in the United States District Court for the Western District of Louisiana. Plaintiff argued that counsel with the Louisiana Department of Justice should be removed because he will illegally use information from both cases to further violate his civil rights.

Motions to disqualify counsel are governed by state and national ethical standards adopted by the court. *Horaist v. Doctor's Hosp.*, 255 F.3d 261, 266 (5th Cir. 2001) (citing *FDIC v. U.S. Fire Ins. Co.*, 50 F.3d 1304, 1311 (5th Cir. 1995)). Ethical cannons relevant to a motion to disqualify include 1) the local rules of the district court, 2) the American Bar Association's Model Rules of Professional Conduct, and 3) the forum state's rules of attorney conduct. *Id.* "In considering a disqualification motion, [the court] view[s] the rules in light of the litigant's rights and the public interest considering 'whether a conflict has 1)

the appearance of impropriety, 2) a possibility that a specific impropriety will occur, and 3) the likelihood of public suspicion from the impropriety outweighs any social interests which be served by the lawyer's continued participation in the case." ' *Id.*

The United States District Court for the Middle District of Louisiana has adopted the Rules of Professional Conduct adopted by the Supreme Court of the State of Louisiana. LR 83.2.4.

A review of the court records showed that the plaintiff filed *Dannie Ray Hayward, Sr. V. Forcht Wade Correctional Center, et al*, CV 08-1019-SMH in the United States District Court for the Western District of Louisiana.¹ The only defendant common to both suits is Louisiana Department of Public Safety and Corrections Secretary James LeBlanc. The defendants in each suit are represented by different counsel, although defense counsel are both employed by the Louisiana Department of Justice.

Plaintiff has failed to establish a conflict of interest.

IT IS ORDERED that the plaintiff's Motion to Have Defense Attorney Removed From Civil Action Due to Conflict of Interest is denied.

Signed in Baton Rouge, Louisiana, on May 17, 2011.



MAGISTRATE JUDGE DOCIA L. DALBY

¹ A court may take judicial notice of the record in prior related proceedings. *Missionary Baptist Foundation of America, Inc. v. Wilson*, 712 F.2d 206 (5th Cir. 1983).