

Filed
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Amalia Rodriguez-Mendoza
District Clerk
Travis District

CAUSE NO. D-1-GN-09-000251

NATHAN HECHT,

Plaintiff

vs.

TEXAS ETHICS COMMISSION,

Defendant

§ IN THE DISTRICT COURT

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§

OF TRAVIS COUNTY, TEXAS

250 JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Nathan Hecht ("Plaintiff Hecht") files this Original Petition against the Texas Ethics Commission (the "Commission").

I. DISCOVERY CONTROL PLAN

1. Discovery in this case will be conducted under Level 2 pursuant to Texas Rule of Civil Procedure 190.3.

II. PARTIES

- 2. Plaintiff Hecht is an individual who resides in Travis County, Texas.
- 3. The Texas Ethics Commission is a state agency and can be served at 201 East 14th Street, 10th Floor, Austin, TX 78701.

III. JURISDICTION AND VENUE

4. Jurisdiction and venue are proper pursuant to Texas Government Code § 571.133.

IV. TEX. R. CIV. P. 54

5. All conditions precedent have been performed or have occurred.

V. FACTS

6. In 2006, the law firm of Jackson Walker L.L.P. represented Plaintiff Nathan Hecht before the State Commission on Judicial Conduct and a Special Court of Review. Plaintiff Hecht prevailed in this proceeding, a proceeding that affected the free speech rights of all Texas judges. Jackson Walker determined how much to charge Plaintiff Hecht by following the ethical guidelines for Texas lawyers in the Texas Disciplinary Rules of Professional Conduct (the “Rules”). Under Rule 1.04, lawyers must charge reasonable fees. What is a reasonable fee is based on a number of factors. The factors that lawyers can consider when setting fees include:

- (1) the time and labor required, the novelty and difficulty of the legal questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

In addition, the Preamble to the Rules states that lawyers should do public interest work. Lawyers can fulfill that responsibility by providing legal services for free, or at a reduced

rate, in several areas, including civil rights law, public rights law and the administration of justice. Based on these guidelines, Jackson Walker charged and collected from Plaintiff Hecht what it believed to be a reasonable fee for a case that involved important free speech issues. The fee was less than it would have been had Jackson Walker charged Plaintiff Hecht on a straight hourly basis. Lawyers frequently charge less than a straight hourly fee once they weigh the Rule 1.04 factors and their obligation to provide public interest legal services.

7. In July 2007, a complaint against Plaintiff Hecht was filed with the Commission. The complaint alleged that Jackson Walker's fee, reduced from the flat hourly rate, was a political contribution that exceeded the contribution limits set forth in the Election Code and that Plaintiff Hecht failed to report this contribution on his campaign finance reports. The Commission conducted a formal hearing on the complaint, Sworn Complaint SC-2707161, and issued a final decision on December 11, 2008. The Commission ruled Jackson Walker's fee reduction was a campaign contribution which Plaintiff Hecht failed to report.

VI. CAUSE OF ACTION

8. Plaintiff Hecht files this de novo appeal of the Commission's final decision. The Commission's decision requires attorneys to ignore their Rules of Professional Conduct and charge judges differently than any other client. The Commission's decision contradicts the Commission's own longstanding position that a discount is not a political contribution if it is typical of industry practice. The Commission itself mandates that

politicians and judges be charged for goods and services like any other customer. Nevertheless, the Commission's decision creates a different legal fee structure for judges alone. Under this new structure, adjustments to legal bills to establish a reasonable fee turn into improper campaign contributions. At the same time, representation of a Texas judge for free does not violate the Election Code. This distinction makes no sense. Mandating that Texas lawyers charge Texas judges differently than Texas lawyers charge any other client also makes no sense.

PRAYER

For the foregoing reasons, Plaintiff respectfully requests that the Court reverse the Commission's final decision in Sworn Complaint SC-2707161.

Respectfully submitted,

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