

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

DELVONN HECKARD,

Plaintiff,

v.

MAYOR EDWARD MURRAY,

Defendant.

No. 17-2-09152-9SEA

ORDER ON PLAINTIFF'S MOTION
TO CHANGE VENUE AND FOR
SANCTIONS AGAINST ROBERT
SULKIN'S LEGAL TEAM

The Plaintiff has requested a change of venue based on pretrial publicity alleging that publicity in regards to Plaintiff's counsel is such that a fair trial cannot be had in King County Superior Court. Additionally, Plaintiff has requested sanctions against Defense counsel. In connection with Plaintiff's Motions, the Court reviewed the following:

- (1) Plaintiff's Motion to Change Venue and for Sanctions Against Robert Sulkin's Legal Team;
- (2) Defendant's Response to Plaintiff's Motion to Change Venue and for Sanctions Against Robert Sulkin's Legal Team;
- (3) Declaration of Robert M. Sulkin in Response to Plaintiff's Motion to Change Venue and for Sanctions Against Robert Sulkin's Legal Team and Exhibits A-EE attached thereto; and
- (4) Plaintiff's Reply on Motion to Change Venue & Sanctions Against Attorney Robert Sulkin's Legal Team;
- (5) Declaration of Lincoln C. Beauregard on Reply of Motion to Change Venue and for Sanctions and Exhibit 1 attached thereto;
- (6) Declaration of Julie A. Kays in Support of the Motion for Change of Venue and Sanctions Against Robert Sulkin's Legal Team and Exhibits A -B attached thereto;

- (7) Defendant's Surreply to Strike Plaintiff's Reply in Support of Motion to Change Venue and Sanctions Against Robert Sulkin's Legal Team; and
- (8) Second Declaration of Robert M. Sulkin in Support of Defendant's Surreply to Strike Plaintiff's Reply in Support of Motion to Change Venue and Sanctions Against Robert Sulkin's Legal Team.

The Court has also reviewed the records on file. And being otherwise fully advised herein, now, therefore, the court finds as follows:

The case of *Unger v. Caushon*, 118 Wn.App. 165, 73 P.3d 1005 (2003) sets forth the following factors which must be considered in determining whether a change of venue is proper:

- (1) The inflammatory or non-inflammatory nature of the publicity.
- (2) The degree to which the publicity was circulated throughout the community;
- (3) The length of time elapsed from the dissemination of the publicity to the date of trial;
- (4) the care exercised and the difficulty encountered in the selection of the jury;
- (5) the familiarity of the prospective or trial jurors with the publicity and the resultant effect upon them;
- (6) the challenges exercised by the defendant in selecting the jury, both peremptory and for cause;
- (7) the connection of government officials with the release of the publicity;
- (8) the severity of the charge; and
- (9) the size of the area from which the venire is drawn

Both counsel for the Plaintiff and counsel for the Defense have used media coverage in an effort to draw attention to this matter— in a case of this nature this is not uncommon.

1 What the court did find uncommon, unacceptable and sanctionable was the abuse of the
2 court process in filing documents that were non-responsive to court pleadings, irrelevant
3 and immaterial to the issues before the court, and tactically engaged in for the purpose and
4 apparent intent of potentially prejudicing the administration of justice. Plaintiff counsel's
5 assertions that any party has been enjoined from exercising their first amendment rights
6 are entirely incorrect. However, abuse of the court process will not be tolerated. In dealing
7 with the media, this Court certainly cautions circumspection and urges restraint, but at a
8 minimum reminds counsel, yet again, that their behavior reflects on our system of justice
9 as a whole and that they must conduct themselves in manner consistent with the ideals and
10 standards established for the legal profession.

11 Plaintiff's counsel contends that it is publicity about himself and his law firm that is so
12 inflammatory that a fair trial cannot be had. The irony of this contention is not lost upon
13 the Court. Regardless, the Court does not find Plaintiff's argument meritorious, and will
14 not insulate counsel from their own strategic machinations. Counsels' opinions about each
15 other, public opinion about attorneys in general, or media slant are not, without more,
16 correlative to prejudice to the *parties*. Let it be clear, this case is not about the attorneys,
17 their feelings, or wishes. Plaintiff's counsel fails to show how opinions about the attorneys
18 necessarily prejudice their clients. Furthermore, any trial in this case will not take place
19 for a significant period of time, the venire will be drawn from King County at large and be
20 of significant size to account for any challenges to be exercised by the parties.

21 It is clear that counsel for each of the parties, in their own fashion, have engaged in
22 a strategy of using the fourth estate as a tool to produce an extravagant spectacle. While
23 the denizens of the Emerald City may be impressed by the wizardry of it all, this Court is
24 not. This Court is obligated to look to the substance behind the curtain – look to the facts,
25 the evidence and the law. In doing so, the Court finds that the Plaintiff has failed to
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1 establish that a change of Venue is necessary or proper under the circumstances or that the
2 actions of Defendant's counsel merit sanctions.
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4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion
5 to Change Venue and for Sanctions against Robert Sulkin's Legal Team is DENIED.
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8 IT IS SO ORDERED.

9 DATED this 26 day of May, 2017.
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13 Honorable Veronica Alicea Galván
14 King County Superior Court Judge
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