

714-800
LAKE OZARK

2 attorneys out in Sunshine case

Harms, Rives disqualified by Miller County judge

Deanna Wheeler
deanna.wheeler@lakesunonline.com

What Happened

A judge has ordered two of the three attorneys off the case in the three-way lawsuit stemming over allegations of the city of Lake Ozark violating a Sunshine Law request.

Miller County judge Kenneth Oswald disqualified city attorney Jay Harms and Charles Clark's attorney, Steve Rives, from working the case.

Developer Gary Prewitt's attorney, Dan Zmijewski, will be the only returning attorney.

Oswald made the decision during session Thursday morning.

The decision comes just as the special master appointed to review the former city administrator's computer was set to send a copy of the hard drive. The information could reveal if any new documents pertaining to Prewitt's Sunshine Law request was recovered.

He Said - He Said

The city of Lake Ozark wanted Rives off the case because of his history with the city as its former city attorney and prosecutor.

The city felt it would have been impossible for Rives not to use privileged information to help his case against the city creating a conflict of interest if he remained Clark's attorney.

Rives filed motions to have Harms removed from the case because he provided legal advice to Clark when Clark was employed by the city as its administrator.

It was advice, Harms said, had he fol-

lowed, the entire lawsuit could have potentially been avoided.

Harms also argued that he provided legal advice to Clark based on his employment with the city, and that he did not give advice personally.

Rives argued Harms' points that as city prosecutor, he did not have access to a lot of privileged information that could benefit the case.

Background

Prewitt filed a lawsuit against the city April 6 after making two Sunshine Law requests for documents relating to tax increment financing districts within city limits.

The first request was returned without any emails included. Prewitt' second request related specifically to email correspondence.

Sometime before that request was fulfilled, emails on the city administrator's computer were deleted.

In court documents, Clark said the emails were not a matter of open record.

The city attempted to recover the deleted documents but had no way of knowing if everything was restored.

While they continued their search, city officials terminated Clark, and Prewitt filed suit against the city for an alleged Sunshine Law violation.

The city's efforts were halted when Oswald ordered the computer be locked up in the evidence locker of the police department and a special master to review the hard drive.

Shortly after, Lake Ozark filed a cross-claim against Clark in an attempt to hold him responsible for the missing emails. Clark responded by filing a counter claim. He is asking for a little more than \$10,000 for withholding pay plus accrued vacation.

Lake Sun
Camdenton, MO
Circ. 4852
From Page:
10
7/10/2009
14158

