

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D27330
H/hu

_____AD3d_____

Argued - March 1, 2010

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
DANIEL D. ANGIOLILLO
CHERYL E. CHAMBERS, JJ.

2008-11519

DECISION & ORDER

Felix Rivera, respondent, v Lutheran Medical Center, et al., defendants; Morgan, Lewis & Bockius, LLP, nonparty-appellant.

(Index No. 22050/05)

Morgan, Lewis & Bockius, LLP, New York, N.Y. (Michael A. Bloom [pro hac vice], Kevin T. Rover, Debra Morway, and Amanda N. Slatin of counsel), nonparty-appellant pro se.

Alan J. Rich, LLC, Brooklyn, N.Y., for respondent.

In an action, inter alia, to recover damages for employment discrimination in violation of the New York State Human Rights Law, the nonparty Morgan, Lewis & Bockius, LLP, appeals, as limited by its brief, from so much of an order of the Supreme Court, Kings County (Ambrosio, J.), dated October 16, 2008, as, upon determining that it violated former Code of Professional Responsibility DR 2-103(a)(1) (22 NYCRR 1200.8[a][1]), now Rules of Professional Conduct (22 NYCRR 1200.0) rule 7.3, granted that branch of the plaintiff's motion which was to disqualify it from representing certain witnesses in this action.

ORDERED that the order is affirmed insofar as appealed from, with costs.

Contrary to the contention of the nonparty-appellant, the record supports the Supreme Court's determination that it engaged in acts of solicitation of professional employment, in violation of former Code of Professional Responsibility DR 2-103(a)(1) (22 NYCRR 1200.8[a][1]), now Rules

May 11, 2010

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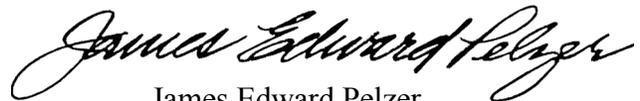
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of Professional Conduct (22 NYCRR 1200.0) rule 7.3. Accordingly, the Supreme Court properly granted that branch of the plaintiff's motion which was to disqualify the nonparty-appellant from representing certain witnesses in this action.

The nonparty-appellant's remaining contention regarding the plaintiff's standing is without merit (*see Maxon v Woods Oviatt Gilman LLP*, 45 AD3d 1376, 1377; *Vegetable Kingdom, Inc. v Katzen*, 653 F Supp 917, 923, n 4).

SKELOS, J.P., SANTUCCI, ANGIOLILLO and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court