

**Rosado v Edmundo Castillo Inc.**

2007 NY Slip Op 32520(U)

August 13, 2007

Supreme Court, New York County

Docket Number: 0603214/2004

Judge: Charles E. Ramos

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SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: Ramos  
Justice

PART 53m

W. Alfredo Rosado et al

INDEX NO.

603214/04

MOTION DATE

- v -

MOTION SEQ. NO.

005

Edmundo Castillo Inc et al

MOTION CAL. NO.

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to/for \_\_\_\_\_

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

Cross-Motion:  Yes  No

Upon the foregoing papers, It is ordered that this motion

**FILED**

AUG 15 2007

NEW YORK  
COUNTY CLERK'S OFFICE

Dated: 8/13/07

**CHARLES E. RAMOS**

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST

REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK:COMMERCIAL DIVISION

-----X  
WILFREDO ROSADO, individually and derivatively  
as a shareholder on behalf of CASTILLO ROSADO,  
INC., EDMUNDO CASTILLO, LLC, EDMUNDO CASTILLO  
INTERNATIONAL, S.r.l.,

Plaintiffs,

-against-

EDMUNDO CASTILLO INC., MONEY TREE.,  
B&D FINANCIAL STRATEGIES, INC., EDMUNDO  
CASTILLO and DENISE CASSANO,

Defendants.  
-----X

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**Charles Edward Ramos, J.S.C.:**

Plaintiffs' counsel, Ms. Dolly Caraballo, moves to disqualify this Court and to have this matter assigned to another justice on the basis of her service on a judicial screening panel. By this motion to recuse, Ms. Caraballo has demonstrated a disappointing lack of understanding of the ethical implications of her actions and of the clear applicable rules.

Ms. Caraballo serves on the newly constituted Independent Judicial Election Qualification Commission (the "Panel") which was created pursuant to Part 150 of the Rules of the Chief Administrative Judge. The purpose of this Panel is to screen candidates for election in order to enhance the public's confidence in the process of electing Judges and Justices. Service by an attorney on such a panel is *pro bono publico*. That is, as a participating member, Ms. Caraballo acts without compensation in service to society. Of course, there should be no doubt that an attorney does benefit from serving on a judicial screening panel, but the benefit to the attorney is intended to

be incidental. The attorney's reputation is enhanced within the profession and such service expands her/his experience. The attorney/member should never seek to obtain a direct benefit by the strategic use of the fact of their panel membership, especially in pending litigation. To be asked to serve on a screening panel is an honor.

In contrast, Ms. Caraballo has violated two cardinal rules of judicial screening panel service. In the first instance, knowing that this Court's candidacy would be reviewed by the Panel she sits on, Ms. Caraballo has made direct contact in a letter demanding that this Court recuse. Such direct contact is an *ex parte* communication in the context of the screening panel process and should be viewed as an end run around the Panel's Chair and Administrator.

Her second violation, is to threaten this Court with this motion in light of the clear rule that she, not this Court, "shall" disqualify herself.

Presumably, the Commission requires its members to read and understand Rule 150. Therefore, Ms. Caraballo has either not bothered to read the Rule or has determined to misrepresent the state of the law in this area when she states in her affidavit:

I researched the issue but could not find a situation directly on point.

Rule 150 could not be more clear or directly on point. It states:

150.9 (b) Conflicts of interest

A member shall recuse himself or herself from participating in a commission proceeding where the member has a relationship with the candidate...which could reasonably render the member's participation unfair to the public or

any candidate, or which might cause others to perceive that such participation is inappropriate or unfair.

At no place do the Rules suggest that the disqualification problem is the candidate's.

Ms. Caraballo's actions in seeking to use her Panel status for her own professional/personal advantage undermines the very purpose of independent screening panels just at the moment in history when the United States Supreme Court is about to hear argument in the case of *Lopez-Torres v New York Board of Elections* (which case challenges New York State's judicial selection process). Ms. Caraballo's sense of timing is uncanny.

This Court has urged Ms. Caraballo and her adversaries, (who complain in their opposition that Ms. Caraballo has repeatedly and without substance, accused them of unprofessional conduct) to ready this case for trial. This Court has only one desire in this case. That is to have it finally and fairly adjudicated on its merits. This Court is confident that it can do so.

The motion to recuse is denied.

Dated: August 13, 2007

**FILED**  
AUG 15 2007  
NEW YORK  
COUNTY CLERK'S OFFICE

J.S.C.  
**CHARLES E. RAMOS**

Counsel are hereby directed to obtain an accurate copy of this Court's opinion from the record room and not to rely on decisions obtained from the internet which have been altered in the scanning process.