

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN EAKIN
Plaintiff,

v.

AMERICAN BATTLE MONUMENTS
COMMISSION, *et al*
Defendants

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CASE NUMBER: SA-12-CA-1002-FB(HJB)

PLAINTIFF’S MOTION TO VACATE APPOINTMENT OF PRO BONO COUNSEL

Plaintiff John Eakin, pro se, moves this court to vacate the appointment of Jefferson K. Moore as pro bono counsel. This action would be consistent with the Court’s stated policy of vacating appointments outside of an attorney’s area of expertise.

Mr. Moore has consistently asserted that the case he was appointed to was outside his area of expertise and that he was unhappy to have been appointed. Plaintiff has found that his lack of experience in civil litigation has been a constant hindrance and has significantly disadvantaged Plaintiff.

Plaintiff now believes that Mr. Moore must be dismissed as counsel for Plaintiff to avoid irreparable harm.

On June 13, 2014, Plaintiff and Counsel mutually agreed that he should request the Court’s permission to vacate his appointment. In response, he presented Plaintiff with a motion to withdraw containing a false statement that Plaintiff had encouraged Counsel to violate his professional responsibilities and required that Plaintiff endorse the untrue statement with his signature as a condition of filing.

Since his appointment, Counsel has failed to reasonably communicate with Plaintiff sufficiently to allow him to make informed decisions regarding representation.

Counsel has not diligently represented Plaintiff. Counsel has refused multiple requests from Plaintiff that he require Defendant's response to discovery requests and also by failing to act to prevent probable spoliation of evidence at the heart of this case. Previously, in direct violation of Plaintiff's instructions, Counsel joined Defendants in representing to this Court that discovery was not desired by Plaintiff.

Plaintiff and counsel have discussed the problems and Plaintiff has made a sincere effort to avoid the need for this Court to intervene, however the situation has become intolerable and Plaintiff will be irreparably harmed without immediate action to vacate the appointment of counsel.

Plaintiff is deeply appreciative of the Court's consideration in appointment of pro bono counsel and has made a sincere, though unsuccessful, effort to accommodate Mr. Moore's lack of diligence and cooperation. Plaintiff is well aware of his need for professional legal assistance, however, he has received from Mr. Moore neither legal assistance nor the common courtesy due a client. Plaintiff believes Mr. Moore's actions have infringed Rules 1.01, 1.02, and 1.03 of the Texas Disciplinary Rules of Professional Conduct and further representation will simply aggravate an already intolerable situation.

Plaintiff now moves this Court, pro se, to vacate the appointment and allow Plaintiff to revert to pro se status.

Respectfully submitted,



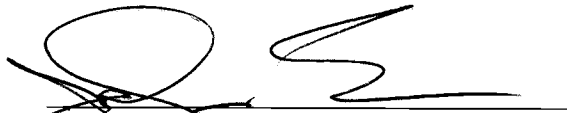
John Eakin, Plaintiff pro se
9865 Tower View, Helotes, TX 78023
210-695-2204 jeakin@airsafety.com

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of July, 2014, a true and correct copy of the foregoing pleading was forwarded to all Counsel by First Class Mail at the following address:

Susan Strawn, Assistant United States Attorney
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216
Sstrawn@usa.doj.gov

Jefferson Moore, Attorney-at-Law
8438 Fountain Circle
San Antonio, Texas 78229
moorelegal@gmail.com

A handwritten signature in black ink, appearing to read 'John Eakin', written over a horizontal line.

John Eakin, Plaintiff pro se
9865 Tower View, Helotes, TX 78023
210-695-2204 jeakin@airsafety.com

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ORDER

On this day, came on for consideration Plaintiff's Motion to Vacate the Appointment of pro bono Counsel. The Court having reviewed said Motion, finds that the Motion should be, and hereby is, GRANTED.

The appointment of Jefferson K. Moore in this case is hereby vacated.

Signed this the _____ day of _____, 2014.

HENRY J. BEMPORAD
MAGISTRATE JUDGE