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Plaintiffs Firm Partner Denied Admission in Iowa Case After Rare Challenge to Pro Hac Vice App

Jessica Dean acknowledged the inaccuracies and revealed that the issues ran “deeper than what has been raised” by defendants Ford Motor Co. and Honeywell.

By Jane Wester | April 20, 2021



Courtesy photo

An Iowa judge in March took the unusual step of denying the pro hac vice application of Texas attorney Jessica Dean, a partner at the plaintiffs firm Dean Omar Branham Shirley, after two defendants in an asbestos case pointed out that she had omitted information from her application.

Dean acknowledged the inaccuracies and revealed that the issues ran “deeper than what has been raised” by defendants Ford Motor Co. and Honeywell. In a March 9 filing in Iowa District Court for Pottawattamie County, Dean explained that a firm employee had repeatedly “submitted and signed pro hac vice applications without obtaining the review, approval, or signature of the attorneys in question.”

The employee, a paralegal, was terminated, Dean wrote. While the employee had submitted applications on behalf of other attorneys without their review, the issue was particularly serious for Dean because her application contained several inaccurate answers, including the claim that she had never been denied admission in any jurisdiction. In fact, she had been denied pro hac vice admission in a case in Connecticut after failing to mention that she had been involved in a previous case in the state, according to court records.

In addition to terminating the employee, Dean Omar held a meeting to remind all its other staff and attorneys that no documents should be submitted without the review and approval of the signing attorney, according to the March 9 filing.

During a March 24 hearing, Judge Richard Davidson expressed alarm that such a meeting would be needed.

"I don't want to belittle the fact that—that it's a two-page application," he said. "But it's just beyond belief that a firm would have to have a meeting that says 'Listen, when an attorney is signing a document to the Court, we need to make sure that it's been properly reviewed and signed.' What am I to make of pleadings, motions, response to motions that are fact-based?"

Dean emphasized that only one employee had failed to follow that process, but Davidson said he would like to see the attorneys draft, review and sign the applications themselves.

At the end of the hearing, Davidson decided to deny Dean's application but grant admission to her colleagues.

"I believe today, and in your response, you've been candid with the court," Davidson told Dean. "But I'm left with the inaccuracies in your initial application for pro hac vice, and they cannot be ignored."

Dean's partner Trey Branham, who acknowledged during the hearing that "the buck stops with us," addressed the situation in a statement.

"There is no question that what happened in Iowa represents a failing on our part to file a properly executed application with the court," he said. "We have apologized for the error, and have made changes to our processes to prevent this from happening again. Jessica is a distinguished attorney, admitted before state and federal courts across the nation during the past 18 years of practice. We would not expect this incident to have any effect on her ability to gain pro hac admission before any other court."

Mihailis Diamantis, an associate professor at the University of Iowa College of Law focusing on corporate crime, said Ford and Honeywell's opposition to Dean's application seems to have been well-founded.

"The attorney's excuse is that some 'rogue' paralegals submitted the erroneous applications under her signature but without her knowledge," Diamantis said. "Even if that is true, it sounds like the attorney is more a victim of her firm's mismanagement than of any gamesmanship on the part of the defendant corporations. They should better train [and] oversee their paralegals."

Mark Zauderer, a partner at Ganfer Shore Leeds & Zauderer in New York, said incidents such as this are unusual, partly because pro hac vice applications tend to be so routine.

"I've never seen a circumstance like this in my years of practice, but it would not shock me if it occurs sometimes," he said. "Perhaps the reason we don't see more of it is because, to the extent it occurs, it's not picked up by a lawyer on the other side or the court on its own."

Davidson's ruling serves an important purpose beyond Dean's individual case, Zauderer said.

"I think this court did the profession a service by taking the time to address the issue of careless and possibly fraudulently submitted sworn statements to the court," Zauderer said. "It's not every day that the court addresses that issue and I think the hearing that took place here should serve as a reminder that affidavits submitted by lawyers are a serious business."

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