

STATE OF MAINE
PENOBSCOT, SS.

SUPERIOR COURT
CIVIL ACTION
Docket No. CV-06-296
JLB PEN-8/6/2007

Sunbury Primary Care, P.A.,
Plaintiff/Counterclaim
Defendant

FILED & ENTERED
SUPERIOR COURT
AUG 06 2007
PENOBSCOT COUNTY

v. Order (Motion to Disqualify;
Motion for Enlargement)

Corey Webb,
Defendant/Counterclaim
Plaintiff

DONALD L. GARBRECHT
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Sunbury Primary Care, P.A. has moved to disqualify Corey Webb's counsel of record, Gregory A. Brodek, Esq. and Brodek's law firm, Duane Morris LLP, as Webb's attorneys in this case. The court has reviewed the parties' submissions associated with the motion.

In an order of even date, the court has examined and adjudicated a similar motion filed by Sunbury in a separate action, *Sunbury Primary Care, P.A. v. Jennifer Trimble* (Superior Court, Penobscot County, CV-07-9). Many of the circumstances relevant to the disqualification issue there are similar or identical to the challenge raised here. The court incorporates those aspects of the motion in *Trimble* into this case.

The salient points established by the record at bar are that Brodek, as former counsel to Sunbury, was materially involved in developing the employment contract ultimately used when Sunbury hired Webb to an employment position as physician's assistant. In fact, Webb became a Sunbury employee when Brodek, then a partner with the law firm of Kozak, Gayer & Brodek, and the Kozak firm served as Sunbury's general counsel, although nothing in that record suggests that Brodek or the Kozak firm were involved directly in negotiations with Webb or employment decisions affecting Webb. As in *Trimble*, however, Sunbury here seeks to assert rights created under the employment contract that Brodek helped Sunbury to develop, and Webb – now represented by Brodek – challenges the enforceability of those contractual provisions.

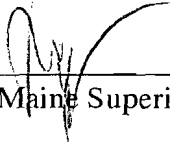
For the reasons set out in the order in *Trimble*, the court concludes here that Brodek and Duane Morris are disqualified from representing Webb pursuant to M.Bar.R. 3.4(d)(1)(i).

The entry shall be:

For the foregoing reasons, the plaintiff's motion to disqualify is granted. Gregory A. Brodek, Esq. and the law firm of Duane Morris LLP are disqualified as counsel of record for the defendant in this action.

Without objection, the plaintiff's motion for enlargement is granted. The plaintiff shall file its expert designation on the defendant's claim for abuse of process no later than September 7, 2007.

Dated: August 3, 2007



Justice, Maine Superior Court

08/07/2007

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SUNBURY PRIMARY CARE PA VS COREY WEBB

UTN:AOCSSr -2006-0142540

CASE #:BANSC-CV-2006-00296

SUNBURY PRIMARY CARE PA

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ATTY ATTORNEY, VISITING

ATTY ADDR:- - -

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