

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

**DEBORAH COLOCINO,**  
**Plaintiff**

vs.

**BOROUGH OF JERSEY SHORE,**  
**Defendant**

:  
: **No. 06-02,225**  
:  
: **CIVIL ACTION – LAW**  
:  
:  
: **Defendant’s Motion to Preclude**  
:

**ORDER**

AND NOW, this \_\_\_ day of August 2007, the court DENIES Defendant’s Motion to Preclude the affidavit of Martha Gottschall. Defendant argues that the affidavit should be precluded pursuant to Rule 4.2 of the Pennsylvania Rules of Professional Conduct. Paragraph 7 of the comment to Rule 4.2 states, in relevant part: “Consent of the organization’s lawyer is not required for communication with a former constituent.” Ms. Gottschall ceased working for the Borough in August 2006, and she signed the affidavit in March 2007. Therefore, she is clearly a former constituent under Rule 4.2. Defendant contends the court should adopt the approach of Pa. Ethic Opn. 90-142 (May 1995) and two memorandum decisions from the federal district court for the eastern district of Pennsylvania – Dillon Companies, Inc. v. Sico Co., 1993 U.S. Dist.LEXIS 17450 (E.D. Pa. 1993) and Stabilus v. Haynsworth Baldwin Johnson & Greaves, 1992 U.S. Dist.LEXIS 4980 (E.D. Pa. 1992). The court rejects Defendant’s argument, because these decisions all pre-date the quoted portion of comment 7, which was added when the Rule and comment were amended on August 23, 2004 and became effective January 1, 2005. The court also notes Ms. Gottschall approached Plaintiff’s counsel; he did not seek her out.

By The Court,

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Kenneth D. Brown,  
President Judge

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