

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, CRIMINAL DIVISION
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO. 2009CF009771AMB
DIVISION "W"

STATE OF FLORIDA

vs.

DALIA A DIPPOLITO,

Defendant.

_____ /

STATE OF FLORIDA'S MOTION FOR PROTECTIVE ORDER AND
REVOCATION OF PRO HAC VICE STATUS

COMES NOW the State of Florida, by and through the undersigned Assistant State Attorney, and respectfully moves this Honorable Court to grant the State of Florida's Motion for Protective Order and Revocation of Pro Hac Vice Status, and states:

1. The State of Florida seeks to prevent extrajudicial comments by defense counsel that threaten the right to an impartial jury. This Protective Order would be limited only to counsel. This request is not a restriction on the press. See Florida Freedom Newspapers, Inc. v. McCrary, 497 So. 2d 652, 657 (Fla. 1st DCA 1986) (distinguishing prohibition of extrajudicial comment by certain persons from restraint on publication).
2. "The State, as well as the defendant, is entitled to an impartial jury." Lebron v. State, 799 So. 2d 997, 1014-15 (Fla. 2001) (citing State v. Aldret, 606 So. 2d 1156, 1157-58 (Fla. 1992)).

3. Recent statements by defense counsel indicate they are intentionally trying to improperly influence the local jury pool with irrelevant, untrue and prejudicial information for the June 2, 2017 trial. This Honorable Court, “on a showing of good cause, shall at any time order that specified disclosures be restricted...” Florida Rules Criminal Procedure 3.220(l)(1).
4. Florida Rules of Professional Conduct 4-3.6, Trial Publicity states: “A lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding due to its creation of an imminent and substantial detrimental effect on that proceeding.”
5. As the Florida Supreme Court has written: “*Limitations placed upon lawyers, litigants and officials directly affected by court proceedings may be made at the court’s discretion for good cause to assure fair trials.* Muzzling lawyers who may wish to make public statements to gain public sentiment for their clients has long been recognized as *within the court’s inherent power to control professional conduct.* The constant spotlight of public attention focused upon public officials during litigation makes it imperative that they be *more subject to judicial restrictions* against inflammatory and prejudicial statements than other persons.” State of Florida ex rel. Miami Herald Publishing Company v. McIntosh, 340 So. 2d 904, 910 (Fla. 1976)(emphasis added).

6. The defense attorneys' prior pattern and past tactics, as well as the threats of future action, serve no legitimate purpose other than to improperly influence potential jurors with improper, untrue and prejudicial information. This is a direct violation of the Florida Rules of Professional Conduct 4-3.6. The following quotes are taken from a press release issued by PR News Channel, hired by defense counsel, attached as "Exhibit A":

"Defense attorneys say even if people believe Dippolito did the crime, she's already done the time. They contend that sentencing guidelines would suggest that she should get four years in prison. Yet Dippolito has already done nearly eight years on house arrest."

"We believe that 'justice' has been served by virtue of an untainted jury finding 5-3 in favor of Dipolito", says Brian Claypool, Dippolito's defense attorney. "The taxpayers of Palm Beach County should not have to bear the price tag associated with state prosecutors trying to save face and make a personal example out of Ms. Dippolito."

"This is a politically motivated prosecution. There is no other way to look at this. The State Attorney's Office wants to win. This is about winning, and has become personal for the office." "But at what cost", says Greg Rosenfeld, another Dippolito defense attorney. "If this were not political they would not be pursuing this case. And given the obvious political motivations behind wanting a win, we believe taxpayers ought to know what it's costing them."

7. Further, the State of Florida is asking this Honorable Court to revoke the pro hac vice status of defense attorney Brian Claypool. In State Industries, Inc. v. Jernigan, 751 So. 2d 680, 681 (Fla. 5th DCA 2000), the Fifth District Court of Appeal affirmed the trial court's decision to remove the pro hac vice attorney for repeatedly calling plaintiff's counsel a liar at a deposition. The appellate court noted that an out-of-state lawyer does not have an absolute right to appear as an attorney in Florida. Rather, he appears at the grace of the court. In order to revoke pro hac vice status, the improper conduct need not amount

to an ethical violation under the Florida Rules of Professional Conduct. The court may revoke such status if it appears that counsel's conduct, at any time, adversely affects the administration of justice. 751 So. 2d at 681.

8. As this Honorable Court recalls, this is not the first time Mr. Claypool has made improper and prejudicial extrajudicial statements. See Order to Show Cause dated March 2, 2016.

WHEREFORE, the undersigned Assistant State Attorney requests this Honorable Court to Grant the Motion for Protective Order and to Revoke the Pro Hac Vice Status on Mr. Brian Claypool.

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT a true and correct copy of the foregoing Motion has been furnished by E-SERVICE to GREG ROSENFELD, ESQ at GREG@ROSENFELDLEGAL.COM, and BRIAN CLAYPOOL at Brian@Claypoollawfirm.com, this the 1st day of February, 2017.

Respectfully submitted,

DAVID ARONBERG
STATE ATTORNEY

/s/

By: _____
CRAIG A. WILLIAMS
Assistant State Attorney
Florida Bar No. 0007323
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Exhibit A

(Two page press release distributed by PR News Channel)



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Dalia Dippolito defense will file to find out how much prosecution is costing taxpayers

Palm Beach County prosecutors have spent nearly eight years pursuing Dippolito; she'll be tried a third time in June. But at what cost?

(PR NewsChannel) / January 26, 2017 / W. PALM BEACH, Fla.

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Eight years of full time prosecutors. Tens of thousands of pages of transcripts. Travel for dozens of witnesses and expert witnesses.

Today, as Dalia Dippolito prepares for a third trial, defense attorneys announced they intend to file multiple Florida Open Records requests with Palm Beach County to discover just how much taxpayer money is being used to prosecute Dippolito, who was accused of hiring what she thought was a hitman to kill her then husband which Dippolito steadfastly denies.

Local and national news have followed every twist and turn of this sensational case. When police arrested her; when the courts overturned the conviction in the first trial; when her second trial two

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months ago ended with a mistrial but the majority of the jurors sided with Dippolito; and everything in between.

Even as Dippolito remains under house arrest where she has been since before her first trial nearly eight years ago, prosecutors are going after her again in a round three.

Defense attorneys say even if people believe Dippolito did the crime, she's already done the time. They contend that sentencing guidelines would suggest that she should get four years in prison. Yet Dippolito has already done nearly eight years on house arrest.

"We believe that 'justice' has been served by virtue of an untainted jury finding 5-3 in favor of Dippolito," says Brian Claypool, Dippolito's defense attorney. "The taxpayers of Palm Beach County should not have to bear the price tag associated with state prosecutors trying to save face and make a personal example out of Ms. Dippolito."

"This is a politically motivated prosecution. There is no other way to look at this. The State Attorney's Office wants to win. This is about winning, and has become personal for the office. But at what cost," says Greg Rosenfeld, another Dippolito defense attorney. "If this were not political they would not be pursuing this case. And given the obvious political motivations behind wanting a win, we believe taxpayers ought to know what it's costing them."

House arrest for Dippolito is restrictive. Dippolito must ask for permission to go anywhere, including the doctor's office or church. And she wears an ankle monitor.

Claypool and Rosenfeld are working pro bono. Dippolito who was declared indigent would have qualified for a public defender. Palm Beach taxpayers are not paying Dippolito's legal bills, but they are absorbing other costs such as the \$10,000 for trial transcripts that the judge approved.

For information about Dalia Dippolito and the case, please visit <https://goo.gl/BxkIKR>.

MEDIA CONTACT FOR DALIA DIPPOLITO DEFENSE:

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Phone: (813) 708-1220 x7777
Email: gselig@seligmultimedia.com

Direct link: <https://www.prnewschannel.com/2017/01/26/dalia-dippolito-defense-will-file-to-find-out-how-much-prosecution-is-costing-taxpayers/>

SOURCE: Dalia Dippolito Defense Team

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