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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

PLUMBERS UNION LOCAL No. 12,
PENSION FUND, et al.,

Plaintiffs,

vs.

AMBASSADORS GROUP, INC., et al,

Defendants.

) (CLASS ACTION)

) No. CV-09-0214-JLQ

) ORDER OF REPROVAL OF
) ATTORNEY JOY ANN BULL;
) ADMONITION TO ATTORNEY
) JOHN KEVIN GRANT

This Order of Repeval applies to attorney Joy Ann Bull, admitted to the bar of the state of California in 1988. The non-disciplinary admonition applies to attorney John Kevin Grant, admitted to the bar of the state of California on January 5, 1994.

BACKGROUND

Attorneys Bull and Grant were allowed to appear and participate in the above-entitled action *pro hac vice* pursuant to orders of this court. They are not members of the bar of this court or of the state of Washington. It appears to the court that at all relevant times Mr. Grant was and is a litigation partner in the law firm of Robbins Geller Rudman & Dowd and that Ms. Bull was a settlement partner in that firm.

In June 2010, the court denied the Motion To Dismiss this alleged securities fraud action and thereafter, on March 17, 2011 certified it as a class action. The court appointed the Robbins firm as lead counsel. Within two months of certification this action settled for \$7.5 million dollars. As has been found by the court, the Robbins firm diligently and appropriately pursued and settled this action. Except for the misleading statements by Ms. Bull and Mr. Grant as to “Expenses” and “Disbursements” by the

1 Robbins firm, the court is not critical of the Robbins firm, despite the court's partial
2 disagreement with a portion of the lodestar hours and fees claimed.

3 As the record in this case reveals, the court has found that Ms. Bull and Mr. Grant
4 made inaccurate and misleading claims in this matter as to alleged "expenses" and
5 "disbursements" by the Robbins firm. On October 27, 2011, Ms. Bull and Mr. Grant filed
6 Declarations under the penalty of perjury supporting the Robbins firm claim for attorney
7 fees and "expenses." Ms. Bull's Declaration (ECF No. 181) @ ¶ 8 on page 3, stated: "My
8 firm incurred a total of \$223,095.46 in expenses in connection with the prosecution of this
9 action." Ms. Bull's Declaration then listed "**EXPENSES**" and "**DISBURSEMENTS**."
10 Included under "**DISBURSEMENTS**" was "Investigators" in the amount of \$125,935.
11 This statement was not true and correct. The actual out of pocket disbursement to the
12 investigator was \$31,710.15. Also listed as a "Disbursement" was \$14,770.00 for "*In-*
13 *House: Economic Damage Analysts*." The actual disbursement for this item was
14 \$4,035.09. The actual disbursements by the Robbins firm were later revised downward,
15 in response to the court's scrutiny, to \$114,137.21 (ECF No. 196, p. 9) and eventually
16 \$99,845.77 (ECF No. 219, p. 11). The actual disbursement was not \$223,095.46 as
17 originally claimed.

18 While Mr. Grant did not specifically list the above "Disbursements" in his initial
19 Declaration filed on Oct. 27, 2011 (ECF No. 178, ¶ 110) he stated in part: "Plaintiff's
20 counsel have incurred expenses in the amount of \$224,211.21. A breakdown of the
21 aggregate expenses incurred by category is contained in the declarations submitted
22 herewith by counsel for MARTA/ATU Retirement Plan." The reference is to the
23 Declarations of Ms. Bull. While the court might understand that Mr. Grant was then
24 relying on Ms. Bull's Declarations under penalty of perjury in her role as lead settlement
25 counsel, when the court inquired as to the seemingly large payments for "Investigators,
26 " Mr. Grant, in a Declaration filed "under penalty of perjury" on November 22, 2011 (ECF
27 No. 189) stated at ¶ 19: "Plaintiff incurred \$125,935 in expenses associated with

1 Plaintiff's investigation." That statement was not true and accurate and failed to set forth
2 the actual investigator expense of \$31,710.15. That Declaration then went on to set forth
3 the alleged extensive experience and activities of the investigator Steven J. Peitler in this
4 matter. Neither Mr. Grant or Ms. Bull revealed to the court the fact that the actual
5 disbursements to Mr. Peitler were only \$31,710.15 until the court hearing of November
6 30, 2011, when that fact was first revealed as a result of the court's questions. The court
7 then ordered Ms. Bull and Mr. Grant to file a Supplemental Declaration as to the actual
8 disbursements by the law firm. That Supplemental Declaration was filed on December
9 30, 2011. (ECF No. 196).

10 The initial large "Disbursements" listing caused the court to make a pre-hearing
11 written inquiry. That inquiry did not cause counsel to disclose the fact that the Robbins
12 firm had only paid the investigator \$31,710.15 and that the other "in-House"
13 "Disbursements" claims were not what was actually paid to those persons. When pressed
14 to reveal the actual disbursements, the attorneys reduced the amount of alleged
15 Disbursements from \$223,095.46 to \$114,137.21 and then ultimately to \$99,845.77.
16 While the attorneys subsequently attempted to justify the original "Disbursement" claims
17 as being at the "market rate" they now have taken the position that this was merely an
18 oversight and not an attempt to mislead the court or the clients. As stated, the court rejects
19 the "oversight" or "innocent error" contentions. As set forth in the court's Memorandum
20 and Order dated May 25, 2012, the court has found that the claims of Ms. Bull and Mr.
21 Grant as to "expenses" and "disbursements" were at a minimum a reckless disregard for
22 the truth thereof and violated the obligation of candor by counsel to the court.

23 The court subsequently notified Ms. Bull, Mr. Grant, and the Robbins firm of its
24 intent to impose disciplinary sanctions against Ms. Bull and Mr. Grant and that it would
25 consider sanctions against the law firm. The court afforded those parties the opportunity
26 to have that matter resolved through this court's disciplinary procedures in its Local Rules.
27 The court granted a request of local counsel for Ms. Bull, Mr. Grant, and the Robbins

1 firm for a meeting with the court. Ms. Bull was represented by attorney Les Weatherhead.
2 Mr. Grant was represented by attorney C. Matthew Anderson. The Robbins firm was
3 represented by attorney J. Donald Curran.

4 All parties have now waived the Local Rules disciplinary procedures and submitted
5 supplemental pleadings for the court's consideration. Ms. Bull has denied any intent to
6 mislead the court. In addition, Ms. Bull submits that her erroneous Declarations may
7 have been influenced by her attention being paid to the terminal illness of her husband in
8 the spring of 2011. Ms. Bull's experience in similar matters in other courts, including a
9 finding of misleading statements, referenced in other Orders of this court, should have
10 caused Ms. Bull to avoid ever again being in the position of having to defend
11 unsubstantiated or misleading expense claims. While the court understands the grief
12 involved in the loss of a close family member, that fact does not convince the court that
13 Declarations of counsel under the penalty of perjury containing inaccurate and untrue
14 statements filed many months after a family death, can be excused thereby. Ms. Bull has
15 stated that she is retiring from the Robbins firm as of July 31, 2012. That retirement was
16 requested by the governing members of the firm. It is not clear as to whether Ms. Bull
17 intends to maintain her law license and practice law in some other format in the future.
18 The foregoing facts do not persuade the court that appropriate sanctions should not be
19 imposed as to Ms. Bull for her reckless disregard of the truth of the subject matters in her
20 Declarations filed under penalty of perjury and her lack of candor with the court. Such
21 findings are the basis for this Order of Reproval of Ms. Bull. The Order shall be public
22 and forwarded to the California State Bar Association for inclusion in Ms. Bull's records.

23 Upon reflection, the role of Mr. Grant has been determined to be less culpable than
24 that of Ms. Bull. It is clear to the court that Mr. Grant was lead litigation counsel in this
25 matter and he performed capably in that role. It is also clear to the court that in his
26 Declarations as to the expenses and disbursements of the Robbins firm, he relied upon the
27 Declarations of Ms. Bull, whose assignment in the Robbins firm and this case was that of

1 a “settlement partner,” and who had the principal role in the preparation of the “Expenses”
2 and “Disbursements” statements. However, once the court raised the issue of the accuracy
3 of the alleged “Disbursements” set forth in Ms. Bull’s Declaration, Mr. Grant failed to
4 personally investigate those claims and, in fact, filed another Declaration supporting the
5 inaccurate investigator disbursements. That failure violated Rule 3.3 of the Washington
6 Rules of Professional conduct that requires an attorney to “correct a false statement of
7 material fact or law previously made to the tribunal by the lawyer,” or by another lawyer.
8 The foregoing convinces the court that no formal disciplinary action is appropriate as
9 against Mr. Grant, but that he should be admonished for his conduct in this matter. This
10 Order constitutes that admonition.

11 The law firm of Robbins Geller Rudman and Dowd has filed submissions as to the
12 actions taken by the firm upon disclosure of the inappropriate filings by partners in their
13 firm. There is nothing before the court, other than the history of Ms. Bull’s misleading
14 statements to courts, that suggests that there is a pattern or practice of inappropriate or
15 false statements to courts or judges before whom that firm practices. In its response to this
16 matter, the Robbins firm has taken most appropriate actions in holding special partner and
17 employee meetings to see that misleading statements shall not again be made to a tribunal.
18 This includes the requirement that before any fee and expense request is filed in any court,
19 besides the assigned settlement attorney’s signature, the matter shall be reviewed by a
20 member of the firm’s Executive Committee. In addition, the Robbins firm advised Ms.
21 Bull that she was no longer authorized to sign fee or expense applications or other court
22 filings on behalf of the firm or make court appearances. The firm determined that Ms.
23 Bull would retire from the firm on July 31, 2012. The firm has also scheduled a
24 continuing legal education seminar for all attorneys and employees of the firm covering
25 billing, expense, and timekeeping procedures to insure that inaccurate submittals will not
26 again occur.

27 This judge has presided over numerous class actions, including securities claims,

1 in now my 33rd year on the federal bench. While this is the first time I have been required
2 to issue a disciplinary sanction and admonition to counsel in any such cases, and the
3 failings of counsel herewith are disappointing to the court, the response of the Robbins
4 firm has been most appropriate and satisfies the court that this is a singular instance. While
5 a law firm is legally responsible for the actions of its members, the steps taken by the
6 Robbins firm in response to the failures of a now former partner have satisfied the court
7 that there is no or little likelihood for similar failures by members of that firm in the
8 future. Having had this experience and clearly learned therefrom, and having instituted
9 corrective procedures that are likely more rigorous than those in most similar firms, should
10 ensure that the Robbins Geller Rudman & Dowd law firm will not again be subjected to
11 the embarrassment and loss of reputation that this matter has caused it. No sanctions are
12 appropriate or required against that firm.

13 The Clerk shall enter this Order and furnish copies to counsel including attorneys
14 Leslie Weatherhead, C. Matthew Anderson, and J. Donald Curran. In addition, the Clerk
15 of this court shall forward a copy of this Order to the California State Bar Association for
16 inclusion in the file of Joy Ann Bull, admitted to practice in California in 1988.

17 Dated this 24th day of July, 2012.

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19 s/ Justin L. Quackenbush
JUSTIN L. QUACKENBUSH
20 SENIOR UNITED STATES DISTRICT JUDGE
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