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Judge denies Chamber motion to strike expert testimony

By Matthew Jackson
Staff Reporter

HUNTSVILLE — District Judge Kenneth H. Keeling on Tuesday denied a motion by the Huntsville-Walker County Chamber of Commerce's attorneys to strike the expert analysis of a Houston forensic accountant from the City of Huntsville's lawsuit against the chamber.

The chamber's attorneys filed the motion to strike the testimony of Teri R. Wylie, a senior director of Alvarez and Marsal Dispute Analysis and Forensic Services, about chamber expenditures that prompted the city's to file suit Sept. 9, 2009. The motion calls into question Wylie's methodologies and experience.

Wylie conducted a lengthy financial analysis of chamber records and reported more than \$700,000 in misapplied hotel occupancy tax (HOT) funds.

David W. Dodge of McCathern Mooty LLP, representing the chamber, argued during a hearing before Keeling in the 278th District Court in Walker County on Tuesday morning that Wylie's lack of experience with HOT funding and methodology for determining the amount of funds misapplied by the chamber made her an unreliable witness.

Dodge alleged that Wylie, when looking at documents beyond an initial three-year financial analysis, extrapolated data instead of developing new numbers.

"She took her numbers three years and expanded it out, making assumptions that the same expenditures had been made," Dodge said. "There's no actual factual data that supports these assumptions."

Dodge also noted that Wylie had admitted in a deposition that she had no previous HOT fund experience, and that because Wylie was treated as a consultant rather than an accountant, she was governed by fewer standards in her methodologies.

Attorneys Leonard Schneider and Bennie Rush, representing the city, argued that Wylie's experience more than qualified her to examine financial documents. Rush also characterized the chamber's motion as a tactic to "eat up time," noting that the key attorneys for the chamber were not present at the hearing.

"She simply reported the facts on the documents, and she's certainly qualified to examine financial documents," Schneider said.

Keeling denied the chamber's motion, saying it's the jury's role to determine the credibility of a witness and the weight of his or her testimony.

“I think we’re going to let the jury fulfill its time-honored duty,” Keeling said.

Both parties are set to appear in court for a pre-trial conference Friday ahead of jury selection on Monday, Oct. 4.