

Not For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

MARY BOEHM, THE ESTATE OF RICHARD)	S. Ct. App. No. 2007-030
J. BOEHM, RICHARD M. BOEHM and CLUB)	
COMANCHE, INC.,)	
Appellants/Defendant,)	Re: Super. Ct. Civ. No. 465-2002
vs.)	
FLORENCE MCDONNELL,)	
Appellee/Plaintiff.)	

On Appeal from the Superior Court of the Virgin Islands
Considered: March 13, 2007
Filed: March 14, 2007

BEFORE: Rhys S. Hodge, Chief Justice; Ive Arlington Swan, Associate Justice; and Ishmael A. Meyers, Designated Justice.¹

APPEARANCES:

Mary Boehm, *Pro Se*
Beverly Edney, Esq.
For Appellants Mary Boehm and Club Comanche, Inc.,

Ellen G. Donovan, Esq.
For Appellant Estate of Richard M. Boehm,

James A. Meaney, Esq.
For Appellee.

JUDGMENT ORDER OF THE COURT

PER CURIAM.

¹ Judge Meyers is a Senior Sitting Retired Judge of the Superior Court sitting in this matter by Designation pursuant to 4 V.I.C. §24(a).

2007 MAR 14 PM 3:16
SUPREME COURT

THIS MATTER is before the Court on Appellant/Defendant Mary Boehm and Appellant/Defendant Club Comanche, Inc.'s (collectively "Appellants") Emergency Motion for an Interlocutory Appeal to the Supreme Court and Motion for Stay. The Appellee/Plaintiff, Florence McDonnell and Appellant/Defendant Estate of Richard M. Boehm, have filed responses opposing the motions for interlocutory appeal and for stay. For the reasons stated below, the relief requested by Appellants Mary Boehm and Club Comanche, Inc, will be denied.

BACKGROUND

This is an appeal of an Order in a civil case filed in the Superior Court Division of St. Croix. The matter is set for a bench trial for 1:30 p.m. on March 14, 2007 in the Superior Court. On February 26, 2007 Appellant filed a motion in the Superior Court requesting that the trial Judge recuse himself from the case because the Judge while in private practice represented a mortgage company in a foreclosure action against the same appellants in this case. Appellants also alleged that they believed the Judge's former law firm previously represented the appellee.

The trial court, in a written order dated March 1, 2007, reviewed Appellants' allegations and denied the motion that he be disqualified from the case. A motion for reconsideration of the denial of the recusal motion was also denied by Order dated March 8, 2007. Appellants filed an emergency petition to appeal those interlocutory orders denying recusal to this Court on March 12, 2007, and seeks a stay of the trial in the Superior Court scheduled for March 14, 2007.

DISCUSSION

This Court has jurisdiction to hear appeals in civil cases from final judgments, 4 V.I.C. §33(a)(Supp. 2006), and of interlocutory orders where the trial Judge has certified the order for appeal under 4 V.I.C. §33(c). *See Haas v. Pittsburgh Nat. Bank*, 627 F.2d 677 (3d Cir. 1980); *United States v. Wash.*, 573 F.2d 1121 (9th Cir. 1978); *Rosen v. Sugarman*, 357 F.2d 794 (2d Cir. 1966).

Appellant seeks review of the trial Court's Order denying recusal. An order denying recusal of a trial judge is not a final order. V.I.S.C.T. R. 5(a)(2); *see also Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541 (1949); *Green v. Murphy*, 259 F.2d 591 (3d Cir. 1958). Moreover, this interlocutory appeal was not certified for appeal by the trial court judge. Indeed, no request was made to the trial court to have the matter certified for appeal. Appellants' plea to the Court's inherent authority and to the collateral order doctrine as a basis for jurisdiction is unavailing, as the recusal issue is subject to review on direct appeal from the final judgment. *See Cohen*, 337 U.S. at 546; *Green*, 259 F.2d at 595.

As this appeal is not from a final judgment or from an order properly certified for interlocutory appeal, this Court lacks jurisdiction to hear the matter.² Accordingly, it is hereby

ORDERED that this appeal is **DISMISSED** for lack of appellate jurisdiction; and it is further

ORDERED that motion to stay all proceedings is **DENIED**; and it is further

ORDERED that copies of this order be directed to the parties' counsel of record.

² As this Court lacks jurisdiction in this case, we need not address Appellee's arguments that only a counsel of record is permitted to submit pleadings, a corporation cannot be represented by a non-lawyer, and that the recusal motion and this appeal are untimely.

SO ORDERED this 14 day of March, 2007.

ATTEST:
VENETIA HARVEY VELAZQUEZ
Clerk of the Court

By: Ganette Browne
Deputy Clerk

Copies to:
Members of the Supreme Court Panel
Honorable Francis D'Eramo
Mary Boehm
Beverly Edney, Esq.
James A. Meaney, Esq.
Ellen Donovan, Esq.
Venetia H. Velazquez, Esq., Clerk
Law Clerk