

DJW/bh

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

CURT BIGGE,

Plaintiff,

CIVIL ACTION

v.

No. 04-2357-KHV-DJW

**BOARD OF COUNTY COMMISSIONERS
OF LEAVENWORTH COUNTY,
KANSAS, et al.,**

Defendants.

ORDER

Pending before the Court is Plaintiff's Motion for Order Regarding Possible Disqualification of Defense Counsel from Multiple Representation (doc. 13). Plaintiff requests that the Court disqualify defense counsel from representing all Defendants in this action, or, in the alternative, order Defendants to demonstrate that they have made a knowing waiver of their right to independent counsel.

Defendants have filed a response and supplemental response to Plaintiff's Motion, in which Defendants indicate that they have discussed the issues of potential and actual conflicts with their counsel and that they have consented to joint representation. Attached to the supplemental response is a document signed by Defendants that is entitled "Defendants' Voluntary Waiver of Independent Counsel." In that document, Defendants indicate that they (1) have reviewed the instant motion, (2) have been advised by their counsel of potential issues of conflict arising from their joint representation, and (3) have been advised by counsel of their right to request independent counsel to represent their interests. In addition, Defendants

state in the Waiver that they consent to their joint representation and that they knowingly and voluntarily waive their rights to independent counsel.

In light of the above, the Court finds that Defendants have demonstrated that they have knowingly and voluntarily waived their rights to independent counsel. The Court therefore finds the motion moot, at least to the extent Plaintiff seeks an order requiring Defendants to show that they have made a knowing waiver of their right to independent counsel. To the extent the motion requests that the Court disqualify defense counsel from representing all Defendants in this action, the Court finds no basis for such an order.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Order Regarding Possible Disqualification of Defense Counsel from Multiple Representation (doc. 13) is denied.

IT IS SO ORDERED.

Dated in Kansas City, Kansas on this 22nd day of April 2005.

s/ David J. Waxse
David J. Waxse
U.S. Magistrate Judge

cc: All counsel and *pro se* parties