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Long Day Brings Hot Heads At DQ Bid Over \$100M Army Deal

By **Nadia Dreid**

Law360 (January 24, 2020, 7:51 PM EST) -- It seems unlikely Miles & Stockbridge PC will be disqualified from representing a technology company in a dispute with a former business partner over a \$100 million U.S. Army contract, after arguments in a Virginia federal court Friday afternoon.

By the time Advanced Training Group Worldwide Inc. and ProActive Technologies Inc. got before U.S. District Court Judge T.S. Ellis III, the court was nearly three hours behind schedule and the judge was short on both time and patience,

And Judge Ellis didn't seem impressed with tactical training company ATG's argument that Miles & Stockbridge was disqualified from representing tech company ProActive because the firm had represented their now-broken joint venture.

"What difference does that make?" Judge Ellis asked, cutting the attorney for ATG off barely a minute into his spiel. "We're short on time. Tell me whatever else you have to tell me about the conflict you think exists."

ATG first laid claims against ProActive back in April, saying it was illegally booted from a partnership they formed in order to secure a special operations forces training contract. Judge Ellis was particularly interested in why ATG didn't bring up its concerns about a conflict of interest until after the new year.

Whitcomb Selinsky PC attorney Joseph Whitcomb said until recently, the firm wasn't sure whether its client had signed a waiver allowing Miles & Stockbridge to continue representing ProActive.

"I don't accept that," the judge said. "That's not a good reason."

Miles & Stockbridge said the disqualification bid was a legal ploy, revealing to the court an email it said the firm received earlier in the week from Whitcomb Selinsky. The email noted that if Judge Ellis chose to deny the motion for disqualification, the suit could simply be amended to add Miles & Stockbridge as a defendant, attorney Laura Golden Liff told the court.

The implication being that doing so would prevent Miles & Stockbridge from participating as counsel in the suit, she said.

In an effort to hurry things along, Judge Ellis ended arguments there and said he will have a decision

within a fortnight.

It had been a long morning for the nearly 80-year-old judge, starting with a criminal docket at 9 a.m. that was scheduled to last an hour but dragged into the afternoon. By the time he got to the case before ATG and Pro-Active's dispute, he had taken several recesses, one he characterized as an "accommodation for my advanced age."

When he returned to start in on the civil docket, he was raring to go and had loud words for one of the attorneys representing a Chinese activist in a defamation suit who he called "obstructionist." He heard most of their arguments while standing, at one point shouting for the attorney to sit down.

When Judge Ellis finally took his own seat, it was so he could pull out a large tome, while asking "Have you read Rule 62? Let me cite some cases to you, which I'm sure you're not familiar with."

ATG is represented by Joseph Whitcomb of Whitcomb Selinsky PC,

ProActive is represented by Laura Golden Liff of Miles & Stockbridge PC.

The case is Advanced Training Group Worldwide Inc. v. Pro-Active Technologies Inc., case number 1:19-cv-00505, in the U.S. District Court for the Eastern District of Virginia.

--Additional reporting by Kaitlyn Burton and Alyssa Aquino. Editing by Stephen Berg.