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Updated: Oil Heir Al Hill III Keeps Fighting, Hires Another Lawyer

by JOHN COUNCIL

While the U.S. Court of Appeals for the Fifth Circuit ordered him to pay more than \$28 million that he owes to two law firms earlier this year, wealthy Dallas oil heir Albert G. Hill III is now resisting the entry of that judgment in a trial court by claiming that the appellate justices got it wrong.

The move is hardly a surprise, given the years Hill has spent battling a number of former attorneys who helped him access his trust fund in litigation that settled globally for approximately \$188 million. [See “BAM! Counsel Win \$21 Million in Fees From Clients Who Wouldn’t Pay,” Texas Lawyer, Jan. 20, 2013.]

But opposing the entry of judgement because he disagrees with the Fifth Circuit at this point in the litigation renders Hill’s “entire opposition frivolous,” according to the law firms’ brief in the case.

According to the Fifth Circuit’s April 2 ruling in Campbell Harrison & Dagley v. Hill, Hill and his wife



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hired Houston's Campbell Harrison & Dagley and Dallas' Calloway, Norris, Burdette & Weber in 2008 to represent them in the trust fund battle. They signed hybrid fee agreements with the firms that provided for hourly attorney rates ranging from \$250 to \$545 an hour, and a 15 percent contingency fee interest in Hill's gross recovery resulting from any final judgment or settlement.

After the Hills refused to pay the lawyers, Campbell Harrison and Calloway Norris compelled arbitration to enforce the agreement. The arbitrators awarded the two firms more than \$3 million in hourly-rate fees and approximately \$25 million in contingency fees. The arbitrators also awarded the two firms more than \$6 million for attorney fees incurred during the arbitration and pre- and post-judgment interest.

However, U.S. District Judge Sam Lindsay vacated the contingency fee portion of the arbitration award last year after concluding that the "combination of a high hourly rate and a contingent fee was unconscionable because it does not compensate [the firms] for the value of their legal work or the risk of nonpayment" and that the resulting award was "far in excess of what is reasonable and customary," among other things.

The Fifth Circuit reversed Lindsay in the April ruling, agreeing with the law firms' arguments that the district

court was not allowed to "substitute its judgment" for that of the arbitrator. [See "Oil Heir Ordered to Pay \$28M to His Lawyers," Texas Lawyer, April 13, 2015.]

While the law firms have asked Lindsay to confirm the award in a motion for entry of judgment, Hill is advocating that the trial judge stick to his original ruling in a May 26 pleading that opposes the entry of judgment.

"This court did not misapply the law in vacating part of the arbitrators' award. The court properly recognized and applied the highly deferential standard of review required for arbitration awards but found that, even under that standard, Campbell Harrison's and Calloway Norris' fee agreements and the arbitrators' award violated public policy," Hill's pleading states. "It was the Fifth Circuit that erred, in holding, in essence, that a court may never vacate an arbitrator's award that violates Texas public policy."

John Da Grosa Smith, an Atlanta attorney who represents Hill in the matter, did not return a call for comment. But in a statement he released through a spokesperson, Smith said: "The legal system has been turned into a weapon of vindictiveness against Al Hill III, and his wife and children, by people who have more power, money and influence than he has."

Tom Wright, a partner in Houston's Wright & Close who represents the two firms, declined to comment on Hill's pleading.

But in a pleading that Wright filed on behalf of the law firms on May 29, he notes that the Hills' sole ground for opposing the judgment is their insistence that the Fifth Circuit erred by rejecting their claims on the merits.

"However, once the Fifth Circuit ruled on the merits and the mandate issued, all parties and lower courts are bound to obey that mandate," the law firms' brief states. "That the Hills oppose the entry of judgment because they disagree with the Fifth Circuit on the merits renders their entire opposition frivolous."

"The Hills do not challenge the law firms' position regarding pre-judgment and post-judgment interest, nor do they dispute the sums calculated by the law firms or the form of judgment proposed," the brief states. "The Hills concede everything contained in the motion for entry of judgment by their intentional failure to meaningfully respond."

Last year, in a separate decision regarding the Hills' appeal of the trust fund settlement, the Fifth Circuit noted that it had weighed in on the matter four times and warned them "not to test the court's patience." [See "Fifth Circuit Tires of Albert G. Hill III Litigation," Texas Lawyer, Dec. 8, 2014.]