

**SUPREME COURT OF LOUISIANA**

**NO. 2016-CJ-1853**

**BRANDON DONAHUE**

**VERSUS**

**SARAH DONAHUE**

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,  
FIRST CIRCUIT, PARISH OF ST. TAMMANY**

**CRICHTON, J., additionally concurs and assigns reasons.**

I agree with the per curiam and write separately to express concern over the actions of attorney Richard Ducote in this matter—which, in my view, has caused a significant disturbance, if not near hijacking, of the proceedings.

Following a prolonged hearing on the issue of permanent custody, the trial judge rendered a bench ruling, assigning detailed and extensive reasons, and ordering counsel to submit a formal judgment in accordance therewith. Before the judgment could be prepared and submitted, Mrs. Donahue’s counsel withdrew and Mr. Ducote enrolled with an immediate recusal motion, apparently based on a history of animosity between Mr. Ducote and the trial judge, which resulted in an order of self-recusal. Thereafter, the case was reallocated to the other judge of the family division who, after reviewing the proceedings, signed a judgment in accordance with the previous bench ruling.

New counsel for Mrs. Ducote lodged an appeal ultimately requesting, among other things, a new trial. Finding that the second judge was not the “successor” as set forth by La. R.S. 13:4209, the appellate court vacated the judgment and remanded. A writ was thereafter filed by Mr. Donahue to this Court asserting that the maneuvers by Mr. Ducote were not made in good faith and were orchestrated

to secure a recusal of the judge who had ruled adversely to his client and ultimately to gain a new trial.

In my view, attorney Richard Ducote's actions in this case are inconsistent with our Professionalism Guidelines and the efficient administration of our court system. See La. Sup. Ct. Rules, Part G, § 11. See also La. Rules of Prof. Conduct R. 8.3(d) ("It is professional misconduct for a lawyer to [e]ngage in conduct that is prejudicial to the administration of justice."); *Disaster Restoration Dry Cleaning, LLC v Pellerin Laundry Mach. Sales Co.*, 05-0715 (La. 4/17/06), 927 So.2d 1094 (noting that the right to engage an attorney of the party's choice must be balanced with "society's right to maintain the highest ethical standards of professional responsibility, as well as judicial integrity"). While the per curiam corrects the legal derailment, which has cost considerable time and resources, we are left with ethical and professionalism questions which warrant further serious examination.<sup>1</sup>

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<sup>1</sup> See also *Henry v. Sullivan*, 16-CJ-1867.