

Sheriff Joe Arpaio's Favorite Law Firm, Ogletree Deakins, Cost Taxpayers \$2.4 Million -- in Just Two Years

By Sarah Fenske

Published Wed., May 26 2010 at 8:00 AM



L. Eric Dowell,
rainmaker

The battle for control of Maricopa County -- pitting Sheriff Joe Arpaio and County Attorney Andrew Thomas against the Board of Supervisors, judges, and county administrators -- has been costly to both taxpayers and the parties involved.

But it's been a major boon to one local law firm.

Ogletree Deakins, a relatively obscure firm specializing in employment law, became Arpaio and Thomas' go-to legal counsel just as the disputes were heating up. And, according to public records obtained by *New Times*, the firm has billed the county for a staggering \$2.49 million since January 2009.

Most of the work had little to do with employment law -- and most of the firm's representation has been unsuccessful, legally speaking.

Ogletree Deakins has fought for the sheriff's right to take over the county's computer system. They tried to argue that the supervisors didn't have the right to sweep money from funds controlled by Thomas and Arpaio. They're currently pressing Arpaio's assertion that he shouldn't have to open his books to county auditors.

And, according to the billing records we looked at, it appears likely that Ogletree lawyers may have even been behind one of Arpaio/Thomas' biggest embarrassments: the criminal charges they filed against the county's presiding criminal court judge, Gary Donahoe.

As *New Times* first reported earlier this month, prosecutors filed criminal charges against Donahoe without bothering to seek a grand jury indictment. They simply filed a direct complaint, and attached a "probable cause" statement that, almost word for word, matched a complaint that the sheriff's office had filed with the Arizona Commission on Judicial Conduct one week before. That complaint, detailing a conspiracy theorist's view of Judge Donahoe's conduct, was signed by Arpaio's chief deputy, David Hendershott.

It now appears that Hendershott had some help penning the letter.

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According to its billing statements, Ogletree charged the county \$27,310 for something titled "MCSO State Bar/Judicial." The first two invoices with that notation were submitted on December 1, 2009 --

just one day after Hendershott filed "his" complaint with the judicial conduct commission.

So did an employment law specialist draft the document that became the basis for the criminal charges against the county's presiding criminal court judge? If nothing else, it would explain why the document drew guffaws from seasoned prosecutors. Ogletree's lawyers were likely in way over their heads. (And really, what was prosecutor Lisa Aubuchon thinking, merely regurgitating Ogletree's letter as a criminal complaint?)

According to the billing statements examined by *New Times*, Ogletree also advised Andrew Thomas on matters involving the State Bar. (That cost the taxpayers \$18,929). And, they advised either Arpaio or Thomas -- the billings aren't clear -- about issues relating to the selection of a new county attorney. (That cost us *another* \$12,762.)

Finally, Ogletree billed the county a staggering \$1.2 million for something described only as "contract compliance." County Spokeswoman Cari Gerchick told *New Times* that county administrators have no idea what that means.

We contacted L. Eric Dowell, a shareholder at Ogletree Deakins and the sheriff's lawyer of choice, to ask about the "contract compliance" payments, but we hadn't heard back by press time. We'll post an update if we get an answer.

In the mean time, looking at the wasted \$2.4 million and the unexplained \$1.2 million and the tens of thousands of dollars for failed legal adventures -- well, we never thought we'd say this, but we actually miss Dennis Wilenchik. Yes, *New Times* disagreed with Wilenchik on just about everything. But Wilenchik handled some pretty tough cases for Arpaio, not just political crap that should have never made its way to a docket.

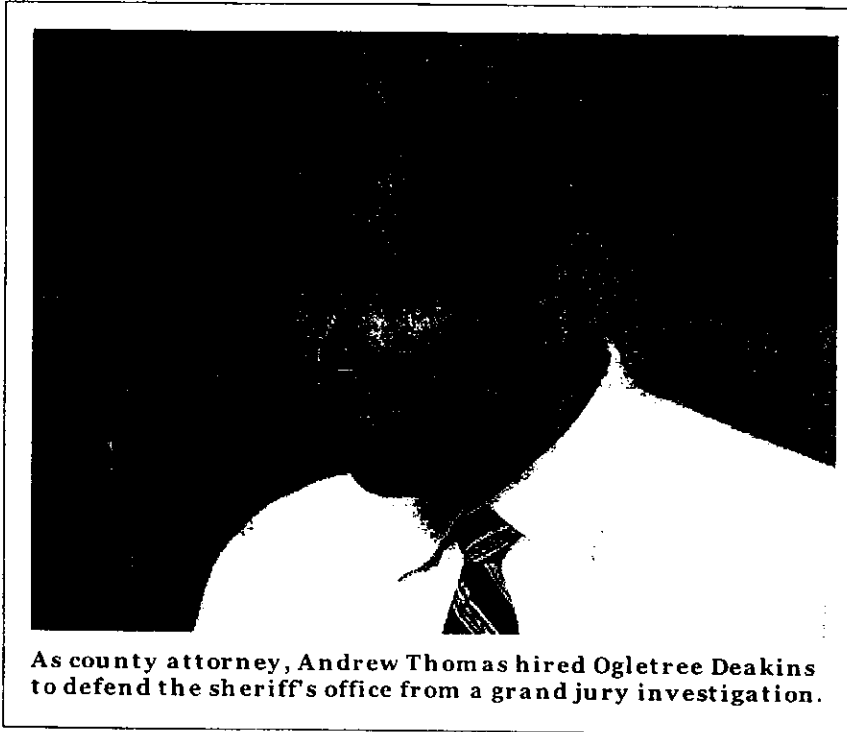
And Wilenchik, unlike the sheriff's new \$2-million-counsel, actually knew how to win.

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Andrew Thomas Hired Ogletree Deakins for Racketeering Suit, Grand Jury Investigation into Sheriff Joe Arpaio

By Sarah Fenske

Published Fri., May 28 2010 at 11:44 AM



As county attorney, Andrew Thomas hired Ogletree Deakins to defend the sheriff's office from a grand jury investigation.

You can file this one under "WTF??!?!"

Turns out Maricopa County Sheriff Joe Arpaio's favorite law firm, which specializes in employment law, was brought in to help with both the crappy racketeering lawsuit Arpaio and then-County Attorney Andrew Thomas filed against county officials last year -- and the federal grand jury now looking into Arpaio and Thomas as well.

And the taxpayers are footing the bill for Ogletree Deakins' involvement in both cases, records show.

Here's the deal.

In December 2009, County Attorney Thomas filed a racketeering lawsuit, accusing county officials, judges, and their lawyers of being part of a broadly defined "criminal enterprise." The suit drew consternation -- and even laughter -- from experienced lawyers, and Thomas withdrew it a few

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months later, without proving a single one of its allegations.

Records obtained by *New Times* on Wednesday show that Thomas's office had a bit of help with the suit.

On December 21, three weeks after the suit was filed, Thomas hired the law firm Ogletree Deakins to assist with the lawsuit, records show.

And while that firm had become the favored private counselors of both Thomas and Sheriff Joe Arpaio, it specializes in employment law -- not racketeering statutes, which are incredibly complex.

The firm assisted with the racketeering suit from December 21 to January 6, according to records. That period coincides with a period of intense activity on the matter in question. After Thomas filed the initial lawsuit December 1, defense attorneys for the dozen named county officials quickly struck back with detailed -- and compelling -- arguments for its dismissal. Thomas' office ultimately filed an amended complaint January 14, attempting to restate its original claims and buy time.

But even that didn't do much to help the county attorney's case. Judge Murray Snow rejected the amended complaint, saying Thomas' office had missed a procedural deadline. Forced to defend the initial claim, and facing a strong possibility of outright dismissal, Thomas withdrew the suit.

In its letter confirming Ogletree's hire, the county attorney's office asked the firm to report to Rachel Alexander, the deputy county attorney assigned to the case after the initial filing. Which leaves us wondering: Is Alexander to blame for missing the deadline for the amended complaint? Or was it the fault of the handsomely paid lawyers at Ogletree?

One thing is clear: The firm wasn't taken off the case due to any unhappiness on the county attorney's part.

Just two days after the firm was taken off the RICO case, Thomas' office assigned it to help the sheriff's office deal with a potentially more explosive matter -- the grand jury investigation focused on Sheriff Joe Arpaio's abuse of power.

"As part of this advisory representation, your firm or any other advisory counsel you retain may be expected to accompany witnesses to the grand jury, handle requests for records, file pleadings, or participate in any other matter that represents the organizational interests of the MCSO," wrote Chief Assistant County Attorney Sally Wells.

Naturally, we find it funny that the sheriff/county attorney would retain an *employment law firm* for a criminal matter. But, more importantly, we have to wonder if the hiring was proper. After all, county policy says that the taxpayers will only hire legal counsel for employees who are witnesses to a grand jury -- not targets.

The sheriff's office is indisputably a target in this grand jury investigation.

Furthermore, in her letter, Wells told Ogletree to report to the sheriff's chief deputy, David Hendershott. Hendershott is believed to also be a person of interest or target of the investigation, not merely a "witness."

So is the county paying for lawyers to advise Hendershott? What about Arpaio?

We simply don't know. But records show that Ogletree Deakins has been paid \$2.4 million to represent Arpaio and Thomas from January 2009 to date.

We asked the spokesman for the new county attorney, Bill Fitzgerald, about all this. We asked if County Attorney Rick Romley -- an Arpaio opponent who's now replaced Thomas -- had concerns about these contracts, which his office is tasked with supervising.

Fitzgerald said the office had no comment at this time.

A spokeswoman for the sheriff's office, Lisa Allen, didn't return our call for comment.

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October 19, 2013

HUFF POST POLITICS

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Sheriff Joe Arpaio Loses Appeals Court Ruling Allowing False Arrest Lawsuit

Posted: 08/29/2012 6:36 pm Updated: 08/29/2012 6:51 pm



Maricopa County Sheriff Joe Arpaio faces a false arrest law suit as a result of a federal appeals court ruling. (AP Photo/Ross D. Franklin)

Arizona Sheriff Joe Arpaio might want to get ready to spend more time in court defending himself.

The U.S. 9th Circuit Court of Appeals ruled Wednesday that two news executives for the *Phoenix New Times* can sue the Maricopa County sheriff's office for their 2007 arrests.

The men, newspaper co-owners Michael Lacey and Jim Larkin, were arrested at their homes in the middle of the night after their publication reported the sheriff's office planned to use a subpoena to figure out who was talking to journalists about Arpaio. Arpaio's allies drafted subpoenas that "demanded that the paper reveal its confidential sources as well as produce reporters' and editors' notebooks, memoranda, and documents" related to stories about Arpaio, according to the court ruling. The *New Times* refused, leading to misdemeanor charges against Lacey and Larkin of disclosing grand jury inner workings. The charges were dropped the next day.

The two executives attempted to sue Arpaio for \$15 million in 2008, alleging that the sheriff's office falsely arrested them, violated their right to due process and targeted them for selective prosecution. A lower court dismissed that lawsuit, a ruling overturned by the federal appeals court.

"Sheriff Arpaio should have known that arresting someone at his home requires a warrant, unless there are exigent circumstances," the appeals court opinion said. "We cannot fathom what exigent circumstances compelled either arrest."

Arpaio spokeswoman Lisa Allen told Bloomberg that Arpaio is unable to comment because he is in Tampa for the Republican National Convention. "Upon his return, I'm certain he will review the court's decision," she said.

New Times editor-in-chief Rick Barrs applauded the court decision, telling HuffPost that Arpaio will now "have to answer for it in court."

"What Joe Arpaio spearheaded, in cahoots with since-disbarred, ex-County Attorney Andrew Thomas, was a travesty of justice," Barrs said.


The weekly paper, part of the Village Voice network, has reported extensively on Arpaio since the mid-1990s.

Arpaio already faces a lawsuit alleging racial profiling in his department by civil rights groups. The Department of Justice sued Arpaio's office in May, also based on claims of racial profiling.

UPDATE: 6:45 p.m. -- Lacey, the newspaper co-owner, responded to the ruling with this statement:

Sheriff Joe Arpaio's arrest and jailing of journalists is part of a pattern of trying to silence critics. It is an outrageous abuse of power. But he loves the publicity, even when it backfires. Arpaio relishes law enforcement by headline. Today he rounds up Mexicans. Tomorrow's target is anybody's guess.

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Stapley files a claim vs. Arpaio, Thomas, alleging false arrest

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by Yvonne Wingett - Mar. 20, 2010 12:00 AM
The Arizona Republic

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An attorney representing Maricopa County Supervisor Don Stapley filed a notice of claim against county officials Friday.

The claim alleges false arrest and malicious prosecution, among other accusations. The claim names Sheriff Joe Arpaio, Chief Deputy Dave Hendershott and County Attorney Andrew Thomas.

A notice of claim is the first step toward filing a lawsuit against a government entity.

Stapley, who is chairman of the Board of Supervisors, referred calls to attorney Merwin Grant.

"It's a protective filing," Grant said. "We anticipate that other facts will be put forward in the near future. And so, we may amend the notice."

Stapley and his wife, Kathy, will settle for \$5 million, according to the claim. According to the document, the events over the last year and a half have caused the Stapleys humiliation, emotional distress, health issues and "loss of consortium," referring to loss of spousal relationship.

Maricopa County spokeswoman Cari Gerchick said the claim will be handled just like "any other person who would file a claim. However that impacts Mr. Stapley as chairman, we'll deal with it appropriately and ethically."

Arpaio wouldn't comment on the specifics of the claim, but allegations that the Sheriff's Office abuses its power, which are included in the claim, have become a familiar refrain, he said.

"It's like 'boots on the ground,' just another buzz word," he said. "It doesn't concern me, because I know my office runs a very professional operation."

Barnett Lotstein, a spokesman for Thomas, would not comment on the substance of the claim, but said, "Two grand juries made up of citizens of Maricopa County did return indictments finding probable cause against Mr. Stapley in the criminal matters."

He noted that Yavapai County Attorney Sheila Polk, who prosecuted the first case against Stapley and was overseeing the investigation of the second case against him, said under oath that both cases had merit.

In November 2008, a grand jury indicted Stapley on 118 counts related to his personal financial-disclosure forms. In August 2009, a judge dismissed many of the counts, and prosecutors later dismissed the rest in mid-September. Stapley thought his legal battles were over.

But three days later, deputies took Stapley into custody in the county parking garage on

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counts of fraud and theft related to his campaign for a leadership position with the National Association of Counties.

"They put me in a patrol car," Stapley told *The Republic* last month. "(They) took me to the First Avenue Jail, booked me in, took photos, fingerprinting, the whole thing a second time, and put me in an isolation cell."

No prosecutor filed charges.

Then, last December, a grand jury indicted Stapley on 22 felony charges including theft, fraud, perjury and forgery, all largely related to his fundraising efforts for the national organization.

Last month, a judge threw out an unrelated case against fellow Supervisor Mary Rose Wilcox. Hours later, Thomas filed a motion to dismiss the Stapley indictment because of similar underlying legal problems.


Stapley told *The Republic* the legal fights have cost his family \$1.25 million. Under the statute, Stapley had to file notice of claim within 180 days of the alleged wrongful event, in this case, wrongful arrest. The deadline to file is next week.

Typically, the supervisors must approve settlement agreements.

Given Stapley's position, however, Gerchicksaid officials will take extra care to maintain neutrality: "This is a unique situation, which we have never faced before - it's unprecedented," she said.

Reporters JJ Hensley and Michael Kiefer contributed to this article.

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Ariz. County Seeks To Debar Ogletree Deakins

By Lana Birbrair

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Law360, New York (July 05, 2012, 8:51 PM ET) -- Arizona's Maricopa County has sought to prevent Ogletree Deakins Nash Smoak & Stewart PC from serving as a contractor for the county and has amended class claims that accuse the firm of 300 billing errors, including billing clients associate attorney rates for the work of recent law school graduates, the county confirmed Thursday.

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In a notice sent to Ogletree on Monday, the county informed the employment boutique that it had filed a debarment action to prohibit the firm from doing business with the county, even as a subcontractor, for three years. It was the first time in the county's history that it had moved to debar a vendor, according to the county.

Ogletree responded Thursday that it no longer wanted to do any business with the county and noted that it had already sent refund checks to the county in response to claims that it had overbilled the county by charging attorney rates for the work of law school graduates who had not yet passed the bar, including a check sent in late June for almost \$28,000.

"Ogletree made clear in October 2010 that it has no intention to do business with Maricopa County in the future," said John Doran of Sherman & Howard LLC, an attorney for the firm. "Nevertheless, Ogletree continues to look for common ground on which to resolve its long-standing issues with the county. The county has previously identified two instances where employee time was supposedly billed incorrectly, and Ogletree has issued refunds even though it disagrees with the county's position."

In its notice, Maricopa County referred to its long-running battle with Ogletree over \$1.1 million in disputed charges, during which Ogletree has allegedly refused to participate in an audit of the firm's legal services.

The county has accused the firm of listing nonattorneys in its personnel database as associates when they begin working at the firm after law school but before they have been admitted to the bar, leading to \$170,000 in charges on the services of employees who were fraudulently represented to be attorneys.

In an amended class counter-claim filed last week, Maricopa County also increased the

number of such alleged billing errors from nearly 40 to about 300, with additional errors including billing associates at the rate of senior partners.

Maricopa County claims taxpayers spent more than \$170,000 on the services of nonlawyers who were fraudulently represented to be attorneys, \$197,000 on attorneys who were charged at higher categories than deserved and \$20,000 for librarians, office assistants and other employees whose time was added to billings in violation of the county's contract. The county says Ogletree's behavior violates its contract and constitutes fraud.

"The number of errors contained in the incomplete bills that we have received from Ogletree is rather stunning and it adds extra urgency for the need for a comprehensive audit of all of Ogletree billings," Maricopa County spokeswoman Cari Gerchick said. "In addition, the fact that Maricopa County has sent a 'notice of intent to debar' this vendor ... from doing business with the county for a period of time shows our commitment to having accountability and transparency in the procurement process."

The instant suit reasserts the county's claim that Ogletree should be subject to an extensive audit in a dispute stemming from the county's allegations that Ogletree violated both the legal services provider contract and procurement code by improperly expanding the scope of assignments and representation and overcharging for services it did not request or approve.

When the county's board of supervisors voted unanimously to terminate its legal services contract with Ogletree in September 2010, it had \$1.1 million in outstanding charges, according to the complaint.

In a series of claims and counterclaims that have traveled between state court, alternative dispute resolution and attempts at nonbinding arbitration, Ogletree allegedly sought to recover the outstanding charges while the county tried to audit the firm's legal records in an attempt to show that Ogletree had racked up \$5 million in billings while improperly subcontracting out legal work to firms that did not appear on a list of vendors the county had approved, in violation of the contract with Ogletree.

Maricopa County is represented by Julie Pace and David Seiden of The Cavanagh Law Firm PA.

Ogletree is represented by John Doran of Sherman & Howard LLC.

The case is Maricopa County v. Ogletree Deakins Nash Smoak & Stewart PC, case number CV2011-002493, in the Superior Court of Arizona, Maricopa County.

--Editing by Katherine Rautenberg.

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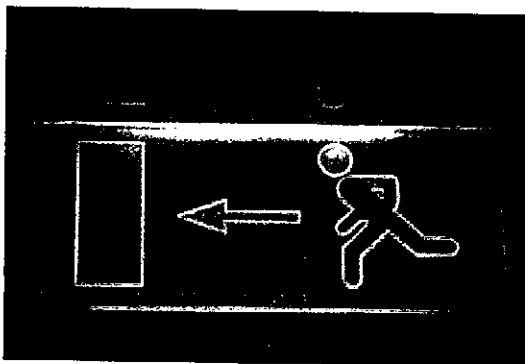
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Ogletree Deakins loses another group of lawyers

Firm has seen the departure of 12 lawyers in two weeks

BY CATHLEEN FLAHERDY
May 3, 2013 • Reprints



Anyone who didn't know any better may wonder if a mass exodus was afoot at Atlanta-based law firm Ogletree Deakins Nash Smoak & Stewart.

This week, the firm accepted the resignation of six lawyers—all of whom are expected to head over to competing labor and employment firm Littler

Mendelson. Last week, the firm lost another six lawyers. And all of them also jumped ship for Littler.

The 12-lawyer exodus is all happening in the wake of the departure of Ogletree's former vice president and shareholder Don Prophete. Amid what seems to have been some major in-house drama, Prophete tendered his resignation in March, claiming the firm had mistreated a fellow Ogletree colleague. Last week, Prophete announced he was going to Littler ... and he was taking six Ogletree lawyers with him.

One of the lawyers who left with Prophete told Thomson Reuters the weeks leading up to his resignation were "chaotic" and everyone was "waiting to see what would happen next."

Above the Law has a detailed story about the events leading up to Prophete's departure, including excerpts from his scathing resignation letter.

Ogletree Deakins Managing Shareholder Kim Ebert said the firm is disappointed the lawyers are leaving, but their departure will not impact Ogletree's commitment to its clients or its growth model, pointing out that the firm has opened two offices and added 15 lateral shareholders this year.

"While we hate to see these 12 attorneys leave, we have more than 650 lawyers who successfully practice with us in 44 offices, and our focus is on them and our outstanding clients," he says.

Ebert also said that the 12 lawyers to leave with Prophete are far fewer than the former Ogletree shareholder claimed would follow him. "Only four of the 20 lawyers in Kansas City (where Prophete was based) have chosen to join him, and those lawyers who had worked with him the longest have chosen to stay with our firm," Ebert adds.

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Attorney Fees

Ogletree Deakins Made 299 Billing Errors, Maricopa County Alleges; Firm Disputes Error Claims

Posted Jul 11, 2012 5:29 AM CDT

By [Debra Cassens Weiss](#)

Updated: Arizona's Maricopa County says it has identified 299 billing errors by its former law firm Ogletree, Deakins, Nash, Smoak and Stewart—and they may be "only the tip of the iceberg."

In a proposed second amended complaint filed on Monday, the county detailed the alleged 299 billing errors by the law firm, up from 36 errors alleged in an earlier version of the suit. The county also complains that Ogletree failed to cooperate in an audit, used subcontractor law firms that didn't conform to the county contract, and billed for unapproved services such as issuing media statements.

The largest number of alleged billing errors—227 in all—were due to Ogletree misclassifying 11 lawyers at higher experience levels than authorized by the contract, the proposed amended complaint says.

A June 2010 contract specified rates for associates, senior associates, partners and senior partners, and set the minimum years of experience necessary for each category, the county says. Permitted rates ranged from \$125 an hour for associates with a minimum of one year of experience to \$250 an hour for senior partners with at least 12 years of experience. A prior contract allowed the law firm to charge \$275 an hour for all attorney services.

In some instances, Ogletree billed associates as partners and even senior partners, the proposed complaint says. The mistakes were "so extensive, so frequent, and so systemic that the conclusion is inescapable that when the county implemented lower billing rates for attorneys on June 1, 2010, Ogletree's Phoenix and national management made the decision to overcharge the county and thereby to lessen the effects upon Ogletree of the county's new, reduced billing rate structure," the county alleges.

The proposed complaint claims breach of contract, breach of fiduciary duty and fraud. It seeks class action status based on the claim that Ogletree improperly bills other public sector clients by classifying law graduates as associates even though they have not yet passed the bar.

The court document alleges 37 instances of billing two nonattorney law grads as associates, despite a contract ban on such a practice. The suit also claims 35 instances of billing for 11 specialists such as librarians and information technology specialists. The firm is allowed to bill only for lawyers and paralegals, the county says.

The county claims the errors involve excessive charges of more than \$300,000. Ogletree, on the other hand, claims the county owes nearly \$1 million dollars in unpaid legal bills.

So far, Ogletree has agreed to refund \$78,000 for billing errors, according to Maricopa County communications director Cari Gerchick. The county is seeking to debar the firm from contracting work with the county for three years.

A lawyer representing Ogletree in the litigation, John Doran of Sherman & Howard in Phoenix, says the dispute is over the contract interpretation. "There are not 299 billing errors or anything close to that number," he tells the ABA Journal in an email.

Doran says there were a few instances where it was debatable whether Ogletree could bill law grads as associates under the contract, and Ogletree reimbursed the county for those time entries. "The vast majority of the remaining time entries alluded to by the county consist of contract interpretation questions, not demonstrated billing errors," Doran says.

He points to one example involving billing entries for an of counsel lawyer who had enough years of experience to qualify for the billing rate charged. "But the county is improperly and semantically focusing on his title as 'of counsel' rather than his years of service to argue that Ogletree could not bill his time at all, let alone bill at the contractual rate," Doran says. "Virtually all of the challenged time entries are of this ilk. It is also important to note that all of the work Ogletree billed for was performed at the highest level, and nobody has ever suggested otherwise. We would also be remiss were we not to mention the fact that the county has not even paid Ogletree for virtually all of these time entries, so their claim is difficult to understand in any event."

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Ogletree Deakins Sues Client Entity, Maricopa County, for Defamation

By Martha Neil
Sep 22, 2011, 07:24 pm CDT

A well-known labor and employment law firm has filed suit against Maricopa County, Ariz., seeking damages for claimed defamatory statements made in a letter from county officials terminating its services.

It "contained false and defamatory statements including, among other things, accusing Ogletree of unethical and possibly criminal conduct and of acting in an unreasonable manner," contends Ogletree Deakins Nash Smoak & Stewart in the complaint (PDF) the law firm filed yesterday in Maricopa County District Court.

The suit also alleges, on information and belief, that the county republished the termination letter to a broader circle than those who needed to see it and "intentionally leak[ed] misstatements and half-truths to the media for the purpose of impugning the integrity and business practices of Ogletree."

Among other relief, the complaint seeks damages for alleged defamation per se which, if proven, would entitle the law firm to compensation for injury to its professional reputation without showing actual out-of-pocket loss in the same amount.

As an *Arizona Republic* article notes, the lawsuit follows a hard-fought political battle between county's board of supervisors and the county sheriff and county attorney's office.

Former County Attorney Andrew Thomas is currently facing a legal ethics trial, and ethics complaints have also been made against others, including a couple of Ogletree lawyers.

The county, which has been arguing with the law firm about Ogletree's unpaid bills, declined the Republic's request for comment on the defamation suit.

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MICHAEL K. JEANES
Clerk of the Superior Court
By Kristy Kee, Deputy

Date 09/21/2011 Time 16:28:08

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EXAMPLE OF
LEGAL BATTERY
AGAINST ANY & ALL

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C., a South
Carolina professional corporation,

Plaintiff,

Case No. CV2011-017664

COMPLAINT

v.

MARICOPA COUNTY, a political
subdivision of the State of Arizona,

Defendant.

THE PEOPLE
OF
MARICOPA COUNTY AZ

Plaintiff Ogletree, Deakins, Nash, Smoak & Stewart, P.C. ("Ogletree"), a South
Carolina professional corporation, by and through its undersigned counsel, respectfully
submits its Complaint and affirmatively alleges as follows:

- Ogletree is a national labor and employment law firm with an office
located in and doing business in Maricopa County, Arizona.
- Defendant Maricopa County (the "County") is a political subdivision of
the State of Arizona.
- This Court has jurisdiction pursuant to A.R.S. § 12-321 and venue is
proper in this Court.
- Prior to September 2010, Ogletree was an approved vendor on the
County's list of outside counsel and was awarded several contracts for legal services.

1 5. Pursuant to a letter dated September 22, 2010, and signed by David R.
2 Smith, County Manager, (the "Termination Letter") the County terminated Ogletree and
3 removed Ogletree from the County's approved list of outside counsel.

4 6. David R. Smith was acting in his official capacity, for and on behalf of the
5 County when he drafted and published the Termination Letter.

6 7. The Termination Letter contained false and defamatory statements
7 including, among other things, accusing Ogletree of unethical and possibly criminal
8 conduct and of acting in an unreasonable manner.

9 8. The defamatory statements contained in the Termination Letter are false.

10 9. Upon information and belief, the County made unprivileged publications
11 and republications of the Termination Letter and the defamatory statements therein,
12 including causing the defamatory statements to be published by reporters and
13 intentionally leaking misstatements and half-truths to the media for the purpose of
14 impugning the integrity and business practices of Ogletree.

15 10. The County, through its agents David Smith, Julie Pace, David Selden,
16 and Cari Gerchick, repeatedly published the defamatory statements beginning in
17 January 2011, and continuing to the present, and said publications were not privileged
18 in any manner.

19 11. Ogletree has met the jurisdictional prerequisites for suit with respect to the
20 defamatory conduct alleged herein by filing a timely Notice of Claim in accordance
21 with A.R.S. § 12-821.01(A).

22 12. At the time the defamatory statements were published, the County knew
23 the defamatory statements were false.

24 13. At the time the defamatory statements were published, the County acted
25 with reckless disregard for the strong likelihood that the statements were false.

26 14. The defamatory statements were part of a baseless campaign to smear the
27 reputation of Ogletree, one of the nation's largest and most respected labor and
28

1 employment law firms.

2 15. The County published, or caused to be published, the defamatory
3 statements with the intent to damage Ogletree's reputation and acted with actual malice
4 when publishing the defamatory statements.

5 16. The defamatory statements tended to impeach the honesty, integrity and
6 reputation of Ogletree and injured Ogletree in its trade and/or profession and are
7 defamatory *per se*.

8 17. As a direct and proximate result of the County's acts, Ogletree has
9 suffered, and will continue to suffer, damages in an amount to be proven at trial.

10 18. The County's conduct was intentional and was outrageous, such that a
11 trier of fact can infer the intent to injure Ogletree. Therefore, Ogletree is entitled to
12 recover punitive damages in an amount to be proven at trial.

13 19. In light of the foregoing, Defendants should be enjoined from making
14 additional defamatory statements regarding Ogletree and/or from further circulating the
15 defamatory statements.

16 WHEREFORE, Ogletree prays that this Court enter judgment as follows:

17 a. Granting preliminary injunctive relief ordering that the County
18 immediately cease and desist publishing the defamatory statements or similar or other
19 defamatory statements;

20 b. Awarding Ogletree, Deakins, Nash, Smoak & Stewart, P.C. compensatory
21 damages in an amount to be proven at trial, plus post-judgment interest thereon, at the
22 legal rate, until paid in full;

23 c. Awarding Ogletree, Deakins, Nash, Smoak & Stewart, P.C. punitive
24 damages in an amount necessary to deter the County and others from engaging in such
25 tortious conduct, plus post-judgment interest thereon, at the legal rate, until paid in full;

26 d. Awarding Ogletree, Deakins, Nash, Smoak & Stewart, P.C. its taxable
27 costs pursuant to A.R.S. § 12-341, plus interest thereon, at the legal rate, until paid in
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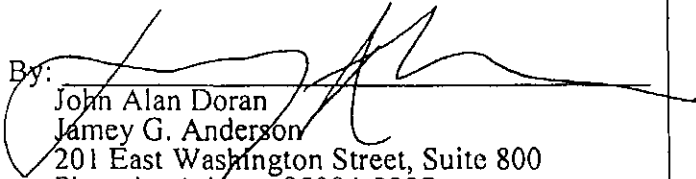
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full; and

e. Awarding Ogletree, Deakins, Nash, Smoak & Stewart, P.C. such other
and further relief as the Court deems just and proper.

DATED this 21st day of September, 2011

SHERMAN & HOWARD L.L.C.

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