

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
7th JUDICIAL CIRCUIT
C.A. NO.: 2013-CP-23-1833

D&C Builders, Inc.,)
)
Plaintiff,)

Vs.)

Richard M. Buckley and)
Wells Fargo National Association,)
)
Defendants.)

**MOTION TO DISQUALIFY
ATTORNEY AND LAW FIRM**

FILED CLERK OF COURT
GREENVILLE CO. S.C.
PAUL S. WICKENSIMMER
2013 JUN 19 P 8:48

Richard M. Buckley,)
)
Third-Party Plaintiff,)

Vs.)

Scott Dodenhoff,)
)
Third-Party Defendant.)

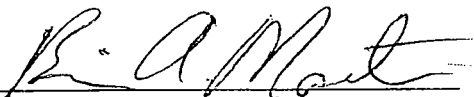
Now comes the Plaintiff, by and through its undersigned counsel, and moves this Court to disqualify attorney M. Stokely Holder and any attorney at the law firm of Kenison, Dudley & Crawford, LLC (hereinafter "Law Firm") from representing Defendant and Third-Party Plaintiff Richard M. Buckley (hereinafter "Defendant Buckley") in this matter based on a material conflict of interest. In support of this motion, Plaintiff offers the attached Affidavit of Scott Dodenhoff and the following information based on such Affidavit:

- (1) Law Firm previously represented Plaintiff extensively as their client from July 1, 2011 through July 31, 2012 in a similar foreclosure of mechanics' lien seeking to recover

\$74,123.40 owed by TMKG, Inc. in Spartanburg County Court of Common Pleas case number 2011-CP-42-414.

- (2) During the course of that representation, Scott Dodenhoff was Law Firm's primary contact for Plaintiff and Scott Dodenhoff on behalf of Plaintiff provided Law Firm information, some of which was confidential, regarding its corporate structure and financial status at that time, in particular the financial impact on Plaintiff of the outcome in that case.
- (3) Plaintiff and Defendant Buckley's interests are materially adverse in this matter.
- (4) Law Firm has filed an Answer, Counterclaims against Plaintiff and Third-Party Complaint against Scott Dodenhoff on behalf of Defendant Buckley alleging among other things, that:
 - a. Plaintiff had an inadequate corporate structure; and
 - b. Plaintiff was insolvent or grossly undercapitalized during Buckley's project; and
 - c. Scott Dodenhoff treated the debts and assets of Plaintiff as his own; and
 - d. Scott Dodenhoff dominated the finances, policies and practices of Plaintiff; and
 - e. Scott Dodenhoff used his control of Plaintiff to commit fraud against Buckley.
- (5) Plaintiff's worked on this project for Defendant Buckley between January 2012 and November 16, 2012 with a Certificate of Occupancy obtained July 31, 2012, the same date the case Law Firm was previously representing Plaintiff on was finally dismissed.
- (6) As a result of these circumstances, these two cases are substantially related in that there is a substantial risk that confidential factual information obtained or that reasonably would have been obtained by Law Firm in the prior representation of Plaintiff would materially advance Defendant Buckley's position in this matter to the disadvantage of Plaintiff.
- (7) Law Firm has undertaken the representation of Defendant Richard M. Buckley without the consent of Plaintiff or a waiver by Plaintiff of the conflict of interest.

For the reasons stated herein, Plaintiff requests this Motion be granted and an Order be issued by the Court disqualifying attorney M. Stokely Holder and any attorney at the law firm of Kenison, Dudley & Crawford, LLC from representing Defendant Richard M. Buckley in this matter.



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Attorney for Plaintiff

Greenville, South Carolina
June 19, 2013