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| 1 | STATE OF SOUTH CAROLINA |) | COURT OF COMMON PLEAS |
| | |) | 2013-1833 |
| 2 | |) | |
| 3 | COUNTY OF GREENVILLE |) | |
| | |) | |
| 4 | |) | TRANSCRIPT RECORD |
| 5 | D&C Builders |) | |
| | |) | |
| 6 | -vs- |) | |
| | |) | |
| 7 | Richard M. Buckley |) | |

July 8, 2013
 Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD MILLER, Judge.

A P P E A R A N C E S

Brian A. Martin, Esquire
 Attorney for Plaintiff

Stokely Holder, Esquire
 Attorney for the Defendant

CAROLINE HISKELL
 Thirteenth Circuit Court Reporter

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D&C Builders vs. Buckley

I N D E X

(There were no exhibits or witnesses presented).

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D&C Builders vs. Buckley

P R O C E E D I N G S

1
2 THE COURT: D&C Builders versus Buckley.

3 This is Buckley's motion to dismiss.

4 MR. MARTIN: Your Honor, if I may part of the
5 reason for the case being set for today was at prior
6 motion when motion to dismiss was being heard I made a
7 motion that I asked the Court to hear prior to the motion
8 to dismiss to disqualify the law firm based on conflict of
9 interest prior to the law firm pursuing any further action
10 on behalf of Mr. Buckley in this matter. I believe the
11 conflict is significantly and would like the Court to
12 address that and I think it should be addressed prior to
13 moving forward with this motion to dismiss.

14 THE COURT: Go ahead and tell me about it.

15 MR. MARTIN: This case arises out of a
16 construction. My client D&C Builders, Incorporated is a
17 small family run construction company. They've been in
18 business a long time since the 1960's.

19 D&C Builders contracted with Mr. Buckley
20 actually Mr. Buckley's son to do a home renovation at his
21 house in Candle Lane.

22 Mat Buckley and Scott Dodenhoff(ph) have been
23 lifelong friends. They grew up together, went to school
24 together, played sports together and have been friends
25 forever. Matt contacted Scott about doing the renovation

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1 to his parent's home so that Matt and his family could
2 move here to Greenville and help take care of his parents
3 at the house.

4 The enter into an agreement in January of
5 2012. Construction began in February of 2012 and
6 continued through November of 2012.

7 During the time that from January of 2012 to
8 July 2012, D&C Builders was being represented by Mr. John
9 Crawford, Johnson and the Kenison Dudley Law Firm in
10 another mechanics lien foreclosure action that was going
11 on in Spartanburg County at that time. Those two cases,
12 the case that was going on in Spartanburg County was a
13 collection matter attempting to recover \$75,000 on behalf
14 of D&C Builders from a construction job. As part of that
15 case and that process, Mr. Dodenhoff was the primary
16 contact, the only contact with the attorneys at the
17 Kenison Dudley Firm providing them information about D&C
18 Builders and aspects of D&C Builders, the corporate
19 structure of D&C Builders about the impact of the outcome
20 of that case recovering that money, not recovering that
21 money to D&C Builders on that case that was going on in
22 Spartanburg plus his ongoing jobs, and at the same time he
23 is working on and doing renovations for Mr. Buckley that
24 the current case is about.

25 A dispute arose after the construction was

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1 done in Mr. Buckley's matter about the amount that was
2 due. D&C Builders retained another attorney to file a
3 mechanics lien on behalf of D&C Builders and in response
4 to that during the time he was working on Mr. Buckley's
5 house he talked about with Matt Buckley, Mr. Buckley's
6 son, about the case that was going on in Spartanburg
7 because it was a big deal. It was a big deal going on in
8 his life and in his business.

9 When he filed the lawsuit to foreclose on the
10 current mechanics lien on Mr. Buckley's property,
11 Mr. Buckley went and retained Kenison Law Firm to
12 represent him in this mechanics lien foreclosure.

13 In response to the complaint that was filed
14 for the foreclosure, the law firm Kenison Dudley filed an
15 answer, counterclaims, and a third-party claim against
16 Mr. Dodenhoff individually. In those counterclaims
17 against D&C Builders, they are alleging the same actions,
18 the same causes of actions and claims that were in the
19 Spartanburg case with the exception of fraud. In this
20 case they have alleged fraud against Mr. Dodenhoff and
21 against D&C Builders and a third-party action has been
22 brought against Mr. Dodenhoff in this matter.

23 But the claims and the issues are the same
24 but in addition in this case in their answer counterclaims
25 and third-party claim, they have alleged that D&C Builders

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1 has an inadequate corporate structure, is under funded and
2 under capitalized at the time that he was doing the
3 construction for Mr. Buckley, that Mr. Dodenhoff used --
4 was in sole control of the company to the extent that he
5 controlled the finances, the policies, the procedures and
6 that he used this corporate D&C Builders in his capacity
7 to commit the fraud against Mr. Buckley.

8 It seems apparent from those allegations and
9 from the circumstances of the situation that was going on
10 in Spartanburg at the time that he was doing the
11 construction for Mr. Buckley, that he law firm has a
12 material conflict of interest in being able to represent
13 Mr. Buckley in this matter when they already represented
14 D&C that was going on in Spartanburg during that time.

15 1.9 of the Rules of Professional Conduct, and
16 I have a copy of that for Your Honor if you'd like, says
17 that a lawyer who has formerly represented a client in a
18 matter shall not thereafter represent another person in
19 the same or substantially related matter in which the
20 person's interest are materially adverse to the interest
21 of the former client unless the former client gives
22 consent.

23 D&C Builders and Mr. Dodenhoff were never
24 contacted at all by the Kenison Dudley Firm at all about
25 representing Mr. Buckley prior to them filing answer,

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1 counterclaim, cross claims, and he does not consent to
2 their representation.

3 Under Rule 1.9(c), it says, "A lawyer who has
4 formerly represented a client in the matter or whose
5 present or former firm has represented a client in the
6 matter shall not thereafter; Sub 1, use information
7 relating to the representation to the disadvantage of the
8 former client and 2, reveal information relating to the
9 representation except as these rules were permit."

10 Attached to my motion is an affidavit and
11 another copy of a motion if you would like that as well,
12 Your Honor.

13 THE COURT: No, I've got it.

14 MR. MARTIN: It's an affidavit Scott
15 Dodenhoff that meets all of the elements of this rule that
16 he provided information to Kenison Dudley firm regarding
17 the financial status, corporate structure of the law firm
18 that they represented him in this matter in Spartanburg,
19 that he has not consented and this is a substantially
20 related matter to that situation particularly because it
21 involves the financial aspects of the company in both
22 cases that he provided them information and they had
23 information with regard to the claims pursuing the
24 collections on \$75,000 at the time they are now alleging
25 he was under funded, under capitalized, and didn't have

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1 enough money to do the job for Mr. Buckley and therefore
2 he committed fraud in taking Mr. Buckley's money in the
3 first place.

4 I don't think there is a question in this
5 matter with regard to the former representation although I
6 have a copy of the retainer agreement that I can supply if
7 necessary. I don't believe there's a question that
8 Mr. Buckley's interest are adverse to D&C Builders in this
9 situation and I really don't believe there's going to be a
10 question that the Kenison firm consulted or that D&C
11 Builders has waived the conflict of interest.

12 I think the issue that we need to talk about
13 is Mr. Crawford would contend that the matters are not
14 substantially related, that that's the key component in
15 assessing whether there's a conflict here.

16 Under Rule 1.9 in Comment 3 to the Rule we
17 have clarification of what substantially related means.
18 It says, "Matters are substantially related for purposes
19 of this rule if they involve the same transaction or if
20 there are otherwise a substantial risk that confidential
21 factual information as would normally have been obtained
22 in the prior representation would material advance the
23 client's position in the subsequent matter."

24 I think that's exactly what we have in this
25 case. There was financial information and corporate

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1 structure information provided to the law firm that they
2 are now using or attempting to use to gain an advantage
3 for Mr. Buckley and for a disadvantage to D&C Builders.

4 In addition to that our Supreme Court has
5 defined substantially related in the case of Townson v.
6 Tallison, 1996. This case involves an attorney that
7 served as a guardian et litem in a family court matter
8 which was related to custody and support and then later
9 agreed to represent one of the parties in a subsequent
10 action related to that case and the Court stated under
11 Rule 1.9 that, "In determining whether the matter is
12 substantially related, one should consider among other
13 things whether the affected lawyer would have or
14 reasonable could have learned confidential information in
15 the first representation that would be of significance in
16 the second." And I think that is clearly what we have in
17 this situation.

18 At the time that this case arose, they were
19 actively representing him in another matter that is
20 exactly the same type of case with the same claims and the
21 same defenses. In that case they filed the complaint,
22 which is very similar to the complaint in this matter, but
23 then TMKG was the defendant in that case filed an answer
24 and counterclaims alleging the same types of claims that
25 were alleged in this case and the law firm filed a reply

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1 to the counterclaim asserting the same defenses to those
2 counterclaims as it asserted to defenses to the complaint
3 in this case.

4 My client was the primary contact for that
5 case. He provided all of the information to them and with
6 the answer counterclaims and in particular the third-party
7 counterclaims are now seeking to use that information or
8 there's a substantial likelihood that they obtained
9 information that they would be using against D&C Builders
10 and against Scott Dodenhoff in this matter.

11 I think there's a material conflict of
12 interest and all of the attorneys at the law firm of
13 Kenison and Dudley should be disqualified from this
14 matter.

15 THE COURT: Thank you.

16 MR. HOLDER: Your Honor, Stokely Holder on
17 behalf of Kenison, Dudley & Crawford. As Mr. Martin
18 represented we do represent the defendant Mr. Richard
19 Buckley who is seated here with me today.

20 If I may, Your Honor, if I could approach
21 with some affidavits that have been filed with the Court.

22 Just briefly, Your Honor, before I describe
23 what's in those affidavits, we're here today as Mr. Martin
24 mentioned based on the motion he filed apparently minutes
25 prior to the hearing that was scheduled before Judge

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1 Verdin two weeks ago on our motion to dismiss. I think
2 it's important to point out for the Court's knowledge that
3 prior to that time when he filed a motion to disqualify,
4 in fact weeks before that motion was filed, Mr. Martin
5 contacted our office to discuss this issue. Initially he
6 called me and I referred him to Mr. Crawford who is seated
7 here beside me.

8 It's my understanding as to what Mr. Crawford
9 told me about the substance of that conversation they
10 discussed whether this conflict of interest exists and
11 apparently they discussed it at length. They, as I
12 understand it, agreed to disagree. The conclusion that
13 each of them reached -- I think it's important to note
14 that Mr. Crawford made it clear to Mr. Martin that if he
15 felt as though there was a conflict of interest that
16 existed and he needed to make a motion to the court to
17 please provide us with the specifics as to what kind of
18 confidential information he felt our firm had that would
19 make this alleged conflict material.

20 In fact, Mr. Crawford went so far as to say
21 if you will provide us with specifics, we'll be happy to
22 look at our pleadings and make any necessary amendments.

23 The day before the hearing, I actually called
24 Mr. Martin to make sure he was aware of the time change
25 for that hearing and I also reminded him of what

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1 Mr. Crawford had told him earlier and we'd be glad to
2 address any specific concerns that he had with any
3 conflict issue. I got an email after hours thanking me
4 for the message and it's been a busy day.

5 And so we show up for the hearing the next
6 morning and despite the fact that Mr. Martin was seated
7 beside the attorney that represented Mr. Buckley at the
8 time for 15 minutes prior to the hearing with the motion
9 filed in hand and the affidavit that he had prepared a
10 week before only at the time of our motion hearing was
11 called did he provide the Court and us copies of his
12 motion and this affidavit that he discussed before.

13 Now, thankfully we've had time to read the
14 affidavit and the motion and prepare a response. We've
15 provided the Court with the affidavit we prepared. One is
16 from Attorney Jack Kegman, also Attorney John Crawford,
17 Town(ph) Johnson in my office along with my own affidavit
18 are submitted to the Court.

19 We also have an affidavit submitted on behalf
20 of Mr. Buckley by Ms. Buckley, his daughter-in-law.

21 Just briefly going back through a factual
22 background about how my firm got involved with this matter
23 and how it relates to the prior representation of D&C
24 Builders. I was contacted in late March of this year by
25 Attorney Jack Kegman who had been approached by the

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1 Buckleys to see if he would represent them in this matter.
2 The affidavit and the motion submitted by Mr. Martin makes
3 it sound as though the Buckleys came straight to us based
4 on some knowledge they had gained through the construction
5 of their house and we had represented D&C Builders through
6 this separate matter. That's not true. They went to Jack
7 Hegman first who through a mutual friend that Jack Hegman
8 and Mr. Buckley's son shared:

9 Jack Hegman he practices in transactional law
10 for the most part. He called me and asked me if I'd be
11 interested in taking the case and I said that I would when
12 I run a conflict check. Once I ran a conflict check, I
13 talked to John Crawford in my office and made me aware of
14 the prior representation of the company.

15 They discussed amongst themselves whether
16 they felt like there would be a conflict of interest if we
17 were to pursue the representation of Mr. Buckley. As I
18 understand it, Mr. Buckley even sought outside legal who
19 together with Mr. Johnson, Mr. Crawford, Mr. Kenison and
20 Mr. Dudley in our office they all concluded that there was
21 not a conflict of interest.

22 If I could pass up an opinion rendered by our
23 appellant court. It is very much on point as the facts we
24 have here. If you would turn to Page 5. This matter is
25 Madison v. Graphic Fabrics, Inc. One of the issues that

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1 was involved in the lawsuit that went up on appeal was
2 whether the attorney who was representing Madison should
3 have been disqualified as his attorney based on the
4 allegation that he had represented the defendant, the
5 company, in a prior lawsuit -- actually I believe there
6 was more than one -- where the employer who he represented
7 actually sued or been involved in lawsuits with other
8 former employees involving the termination of employment.

9 As I understand it from the outside counsel
10 that Mr. Crawford talked to in this matter, this attorney
11 in this case as we understand it drafted the employee
12 handbook for that company. In this case that same
13 attorney represented a former employee of that company in
14 a suit that he filed against the former employer, his
15 former client.

16 On Page 5 of that opinion, I'll just read it
17 to you where it lays out the rules fairly clear it says,
18 "Generally an attorney can not in determination of
19 employment represent ones interest in transaction adverse
20 to that of his former client. However, an attorney is not
21 prevented from representing a subsequent client, his
22 former client, where the duties required of him do not
23 conflict with those required in the first employment. The
24 test of whether the attorney's employment is inconsistent
25 with his duties to a former client is whether exceptance

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1 of the new retainer will require him in forwarding the
2 interest of the new client to do anything that will
3 injuriously affect a former client in any matter in which
4 he formerly represented. And also whether the attorney
5 will be called on in his new relation to use against his
6 former client any knowledge or information acquired in a
7 former relationship."

8 In this case the dispute involved the
9 question of whether Graphics breached it's contract with
10 Madison and terminated him. There is no evidence that
11 Madison's attorney would injury Graphics in connection
12 with his former representation of the company, nor is
13 there any evidence that Madison's counsel would be called
14 upon to use any knowledge prior to the former relationship
15 against Graphics in the present matter.

16 The fact that counsel previously represented
17 Graphics in a dispute with a former employee was
18 inefficient by itself to establish cause for
19 disqualification.

20 Your Honor, our firm's representation of D&C
21 Builders in the previous matter was limited to a simple
22 mechanics lien foreclosure. As I understand the
23 counterclaim that Mr. Martin referenced was a simple
24 offset claim where the company alleged in the response
25 that they were offset on the amount that was allegedly due.

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1 by D&C Builders.

2 The facts in this case and that case are
3 totally opposites. As the affidavits that we submitted by
4 our firm, the parties, no one in our office was aware of
5 the facts and circumstances that gave rise to this current
6 lawsuit at the time of our representation of D&C Builders.

7 In fact, I think it might be a little
8 confusing that Mr. Martin was discussing the prior lawsuit
9 that was resolved amicably last year, it was dismissed
10 with prejudice. It wasn't until a half year or a year
11 later that we were approached through Jack Hegman about
12 Buckley.

13 The Buckleys had put in their affidavit that
14 they were unaware that our firm had represented D&C
15 Builders during the construction of their project. That
16 being said what's also important and in Mr. Crawford and
17 Mr. Johnson's affidavit, they make clear the facts of this
18 case do not satisfy the elements that are outlined in this
19 Madison matter. We're still unaware of the specific
20 confidential matter that's at issue here.

21 On top of that, what's most striking in this
22 matter is as its laid out by Ms. Buckley and her affidavit
23 she makes it very clear and Mr. Martin touched on it, that
24 this wasn't just a relationship between a builder and a
25 homeowner. This was a relationship between Mr. Dodenhoff

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1 who is a lifelong friend and Mr. Buckley's son. And
2 through that relationship, as strange as it may sound,
3 Mr. Dodenhoff apparently went to great lengths to describe
4 the ongoing business operations of D&C Builders and the
5 matters that are at issue in this prior lawsuit.

6 In fact, he described the opposing party in
7 that lawsuit despairingly as the german and he talked to
8 the Buckleys a number of times about that lawsuit and how
9 it impacted his company financially how the Buckleys
10 project was (inaudible) to him and that company.

11 It's striking in the affidavit provided by
12 the Buckleys the details in which Mr. Dodenhoff went into
13 when it came to these same issues that he's made light of
14 in his affidavit. In fact, everything that's provided in
15 his affidavit that's in support of his claim that our firm
16 was in possession of this confidential information was
17 completely undermined by the affidavit that Ms. Buckley
18 has presented.

19 She explains in detail about the same exact
20 matters that he had discussed with the client so there is
21 no issues to whether that information is confidential.

22 Again, I can't stress enough, even though
23 we've asked on a number of occasions and as you can see in
24 the affidavit that Mr. Dodenhoff provided, there's no
25 specifics that have been provided to us or the Court now

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1 regarding any actually confidential that would potentially
2 create a conflict of interest.

3 And, Your Honor, I have here today
4 Mr. Crawford and Mr. Johnson and we would make them
5 available for any in-camera review that you would like.
6 What we've also done we've taken the extra step and like I
7 said we're fairly certain and like I said we sought
8 outside counsel and very comfortable with the law when it
9 comes to as to whether we should be disqualified and this
10 conflict of interest exists, completely out of good faith
11 Mr. Buckley has agreed to amend the pleadings to delete
12 the vale piercing claim. And as Mr. Martin eluded, that's
13 the only claim they apparent have issue even though it
14 wasn't substantiated. We would go ahead and deleted which
15 we would have probably done if he would have contacted us
16 before he filed the motion.

17 So it's our position that under the law, as
18 it stands, there are no grounds for a motion to disqualify
19 and certainly as they are now with the pleadings having
20 been deleted there's still no grounds for the motion to
21 disqualify to be granted.

22 Thank you.

23 THE COURT: Thank you.

24 MR. MARTIN: Your Honor, if I may address a
25 few of these things. First, amending the pleadings does

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1 not resolve the issue. If they take out vale piercing and
2 agree that they are not going to pursue the vale piercing,
3 that's a detriment to Mr. Buckley, so they're not
4 advocating. They're acting in his best interest.

5 THE COURT: You've got no business getting
6 involved in an attorney and their client's relationship.

7 MR. MARTIN: That's true and my point in that
8 is that the rules of professional conduct are set in such
9 a way for attorneys in law firms to stay out of that
10 situation so that it doesn't affect the interest of any
11 clients they are representing. If they have information
12 that would be relative to advancing Mr. Buckley's cause,
13 then the rules require them to act zealously in that
14 manner ---

15 THE COURT: That is between his counsel and
16 the client.

17 MR. MARTIN: Okay. The question or the issue
18 that they raised about providing them confidential
19 information, if you look at Rule 1.9 Comment 3, it
20 specifically says that, "A former client is not required
21 to reveal the confidential information learned by the
22 lawyer in order to establish a substantial risk that the
23 lawyer has confidential information to use in the
24 subsequent matter. Possession of such information based
25 on the nature of the services the lawyer provided the

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1 former client and information that in the ordinary
2 practice would be learned by a lawyer providing those
3 services."

4 That's what we're saying has happened here.
5 These are two exactly identical cases. The case that is
6 raised, the 1991 appellant case of Madison, first, I would
7 point out this is prior to Supreme Court's determination
8 of what substantially related is in the Townson Case in
9 1996, but most importantly I would go to the exact
10 language of this case. "An attorney is not prevented from
11 representing a subsequent client when the duties required
12 of him do not conflict with those required of the first
13 employment. The test is whether the attorney's employment
14 is inconsistent with his duty to the former client is
15 whether expectance of the new retainer will require him in
16 forwarding the interest of the new client to do anything
17 that will injuriously affect the former client in any
18 matter he formerly represented --"

19 THE COURT: What is it that their
20 representation in this case -- how is that going to impact
21 your client?

22 MR. MARTIN: The information that they have
23 knowledge of with regard to decision that Mr. Dodenhoff
24 talked with them about or gave them information about that
25 he made or he controlled and did, they're alleging that he

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1. used his control as an individual in these capacities to
2 further the benefits of the company to Mr. Buckley's
3 detriment.

4 The communicated with him for over a year in
5 lengthy process in Spartanburg County all the way through
6 summary judgment. These cases are similar in the respect
7 of in that case allegations were made that work that was
8 performed was not sufficient was not adequate. TMKG had
9 to get other companies to come in and redo work that he
10 had do or they redid things themselves and they were
11 offset.

12 In this case, he's finished all the work.
13 They paid him to a point and then said we don't have any
14 more money. In the first case, TMKG still agrees that
15 they owed a little bit of money but they were trying to
16 discount and get that balance set off. The claims were
17 the same that he didn't do proper work in that case. The
18 Buckleys are saying he didn't do proper work in this case.

19 THE COURT: Well, what did the Kenison Dudley
20 Firm learn in their representation in the first case
21 that's going to injuriously affect your client in this
22 case?

23 MR. MARTIN: They have alleged that D&C
24 Builders was under funded and under capitalized while
25 doing the construction project for Mr. Buckley. At the

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1 time that they were representing him, they were gaining
2 financial information, confidential information about his
3 finances, the way he spent money with his business, and
4 the impact of collecting or not collecting the \$75,000.

5 It's the construction industry, Your Honor.
6 He was attempting to collect money from a company that
7 owed him money that he had already paid out to
8 subcontractors. The knowledge that they would have that
9 he had expended that money puts them in a position to use
10 that information in the allegations that ---

11 THE COURT: And that was all in the
12 allegations in the former lawsuit, is that right?

13 MR. MARTIN: No, sir. What I'm saying is
14 that information would have been information --- the
15 information that they would have obtained or needed to
16 obtain to respond to discovery request for interrogatory
17 for request to produce -- I've got all that stuff I'll be
18 glad to show you -- the information that they would have
19 gotten from him to deal with that case in the ordinary
20 course of handling that case on his behalf in managing
21 those defenses would contain him telling them confidential
22 information ---

23 THE COURT: What is that? What is that? Who
24 is the sole -- is there a sole shareholder in D&C
25 Builders?

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1 MR. MARTIN: No, sir, it is Mr. Dodenhoff and
2 his father.

3 THE COURT: And what is the lifelong friends
4 in the company?

5 MR. MARTIN: Matt Buckley had no business in
6 the company at all.

7 THE COURT: Okay.

8 MR. MARTIN: That connection simply is ---

9 THE COURT: They're friends.

10 MR. MARTIN: They were friends.

11 THE COURT: Okay.

12 MR. MARTIN: And now it simply has changed
13 hands. In this situation in the ordinary course of
14 representing D&C Builders in the exact same case -- and,
15 Your Honor, I would be glad to let you look at the
16 complain from the TKMG case, the answer and counterclaim,
17 and the reply. I have copies of them that I'll be glad to
18 hand you.

19 The affidavits that were filed in that case
20 alleging the same types of misconduct against D&C Builders
21 they've alleged in this case all done in the prior case.

22 THE COURT: That's all public record.

23 MR. MARTIN: That part is, but what I'm
24 saying ---

25 THE COURT: Who did they represent in the

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1 former?

2 MR. MARTIN: What I'm saying is in that
3 representation there would be information that they
4 solicited or obtained or that he would provide to them in
5 the course of that representation that would be
6 confidential financial information that they would not
7 give to the other side. The hard part here is I am
8 certainly not in a position to disclose financial
9 information ---

10 THE COURT: Okay. We'll, I'll tell you what
11 we're going to do. You put together sort of a privilege
12 log of this information and you submit it to me and I will
13 examine what it is and submit it to them and they are
14 under a protective order not to disclose it to anyone to
15 determine what we're talking about.

16 Your position seems to me to be if you
17 represent somebody, you are precluded from ever
18 representing anybody else that might have a claim against
19 that person.

20 MR. MARTIN: No, sir.

21 THE COURT: So I need to know what it is
22 that's going to prevent that. So you put together a
23 privilege log of information that you claim to be
24 confidential that they could use in this case against your
25 client. Let's see what it is. Let's find out what it is.

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1 So you're motion to dismiss we're going to
2 have to wait and see.

3 MR. MARTIN: I understand what you're asking
4 me to do.

5 THE COURT: Put together a privilege log.

6 MR. MARTIN: Yes.

7 THE COURT: You're saying they're in
8 possession of information of that they can use against
9 your client in this case.

10 MR. MARTIN: I'm also saying there's
11 information that they would have likely or could have
12 reasonable obtained according to the Court's description
13 of substantially related that may or may not have been
14 obtained.

15 THE COURT: Let's fine out what it is. Do a
16 privilege log, let them examine it and we'll just have to
17 reconvene the hearing.

18 MR. MARTIN: Yes, sir.

19 MR. HOLDER: Thank you.

20 ---END OF TRANSCRIPT RECORD---

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D&C Builders vs. Buckley

1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Court of Common Pleas, Greenville, South Carolina on
8 the 8th of July, 2013.

9 I do further certify that I am neither of
10 kin, counsel, nor interest to any party hereto.

11
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13 

14 Caroline Hiskell
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