

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

RENEE S. BEACH, PHILLIP BEACH,
ROBIN BEACH, SAVANNAH TUTEN,
AND SETH TUTEN,

Plaintiffs,

v.

GREGORY M. PARKER, GREGORY
M. PARKER, INC. d/b/a PARKER'S
CORPORATION, BLAKE GRECO,
JASON D'CRUZ, VICKY WARD,
MAX FRATODDI, HENRY ROSADO,
AND PRIVATE INVESTIGATION
SERVICES GROUP, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

C/A No. 2021-CP-25-00392

**MOTION TO RECONSIDER IN PART
AND TO ALTER/AMEND THE
COURT'S ORDER OF MAY 24, 2023
ON BEHALF OF GREGORY M.
PARKER, GREGORY M. PARKER, INC,
d/b/a PARKER'S CORPORATION,
BLAKE GRECO AND JASON D'CRUZ**

FILED *IN CAMERA* AND *EX PARTE*

Defendants Gregory M. Parker (“**Mr. Parker**”), Gregory M. Parker, Inc., d/b/a Parker’s Corporation (“**Parker’s Corporation**”), Blake Greco, and Jason D’Cruz (“**Mr. D’Cruz**”) (collectively, “**Parker’s Defendants**”), pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, respectfully request the Court to alter or amend its Order of May 24, 2023 for two reasons: (1) the Court failed to rule on all of the documents contained within the Parker’s Defendants’ privilege log; and (2) the Court committed errors of law in finding a number of documents (which are discussed below) were not privileged. For the reasons set forth below, this Court should reconsider its Order of May 24, 2023 and grant the relief sought by the Parker’s Defendants in this Motion. In the alternative, because the Court has already ruled that many of the documents in Plaintiffs’ counsel’s possession are privileged, if the Court grants the Parker’s Defendants pending Motion to Disqualify Plaintiffs’ counsel, the need to rule on all of the documents contained within the Parker’s Defendants privilege log is obviated.

Because this Motion discusses matters related to the Court's *in camera* and *ex parte* review of privileged documents, the Parker's Defendants file this Motion *in camera* and *ex parte*, while simultaneously sending an appropriately redacted version to counsel for all parties. If the Court requires us to file a un-redacted copy under seal and to file a redacted copy on the public docket, the Parker's Defendants are prepared to do so.¹ The Parker's Defendants respectfully request the un-redacted Motion be kept under seal by the Court.

I. BACKGROUND

In the early morning hours of February 24, 2019, the boat crash that led to the death of Mallory Beach occurred, which resulted in litigation involving Parker's Corporation and the Murdaugh family. *See Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111 (“**Related Civil Action**”). The instant action—raising allegations of the disclosure of mediation material used in the Related Civil Action—was filed on December 3, 2021. In early 2022, a discovery dispute arose involving subpoenas issued to third parties by Plaintiffs' counsel. The Parker's Defendants asserted privilege over a majority of the documents subpoenaed by Plaintiffs' counsel, which were within the possession, custody, and control of: (1) Inquiry Agency, LLC, operating through Sara Capelli (“**Inquiry Agency Files**”); and (2) the Laurens Group / Push Digital, LLC, operating at the direction of Wesley Donehue (“**Laurens Group Files**”). These agents and individuals were each separately subpoenaed by Plaintiffs' counsel in January and February of 2022 (the “**Subpoenaed Third Parties**”), and these subpoenas were the subject of Motion to Quash filed by the Parker's

¹ Obviously, if the Court requires the Plaintiffs (or any other party) to file documents under seal, the filing party must follow the requirements of Rule 41.1 of the South Carolina Rules of Civil Procedure by filing a simultaneous motion to seal—and the Parker's Defendants agree that the conditions outlined in Rule 41.1 are present here and will not oppose any Motion to Seal.

Defendants.

After the March 16, 2022 hearing on the Parker's Defendants' Motion to Quash, the Court issued a one-paragraph order on March 28, 2022 denying the Parker's Defendants' Motion to Quash and ordered the subpoenaed third-parties to produce the information to Plaintiffs within thirty days. On March 30, 2022, the Parker's Defendants filed a Motion for Reconsideration, and the Court held a telephone conference on April 1, 2022. In an order filed on April 6, 2022, the Court ordered all discovery be sent to it for an *in camera* review. Further, the April 6, 2022 Order stated that after the trial court determined all issues related to relevance and privilege, the Parker's Defendants would have ten (10) business days to respond with objections on the record and also have the applicable time by which to file an appeal in accordance with the South Carolina Rules of Civil Procedure.

After a hearing on April 29, 2022, during which the Court provided no indication it was considering ordering the production of the subpoenaed documents without following the process for ensuring protection of privileged documents set forth in its own April 6, 2022 Order, Judge Price's law clerk e-mailed all counsel on April 29, 2022, stating all available documents should be produced to Plaintiffs within fifteen days without a privilege log and that any objections by the Parker's Defendants will be taken up pretrial. It is clear this e-mail sent by Judge Price's law clerk occurred without the Court making a determination as to the privileged nature of the documents.

Mr. Tinsley did not wait for an Order from the Court before seeking to immediately obtain and review privileged materials.² On Friday, April 29, 2022, Mr. Tinsley forwarded the law clerk's

² Mr. Tinsley knew or should have known the law clerk's April 29, 2002 email did not amount to an official court order. Rules 54 and 58 of the South Carolina Rules of Civil Procedure require that an order be entered before it is considered officially rendered. Further, Rule 203 of the South Carolina Appellate Court Rules only allows for an appeal "after receipt of written notice *of entry of the order or judgment.*" Rule 203, SCACR (emphasis added).

e-mail immediately to Sandy Senn, counsel for the Laurens Group, PUSH Digital, LLC, and Mr. Donehue, without copying counsel for the Parker's Defendants or otherwise notifying the Parker's Defendants such that they could not object. Two days later, on Sunday, May 1, 2022, Mr. Tinsley received from Mr. Donehue what he requested: the entire Parker's Defendants' file from the Laurens Group, PUSH Digital, LLC, and Mr. Donehue. Notably, according to Ms. Senn, Mr. Tinsley not only forwarded the e-mail "from the law clerk," but then "reached out" again to her at some point after forwarding the e-mail. Moreover, in the May 9, 2022 hearing—which was scheduled in response to the Parker's Defendants' Emergency Motion for Protective Order filed in order to prohibit the review and dissemination of the documents Mr. Tinsley received—Mr. Tinsley informed the Court he had not only received the entire file, but reviewed the entire file comprised of approximately 6,000 pages of privileged documents, over that weekend and prior to the issuance of the Court's Form 4 Order on May 6, 2022. (Exhibit A, May 9 Hearing Transcript, p. 8, ll. 8–22.) Of note, the Parker's Defendants requested for the Court to order Plaintiffs' counsel to stop reviewing the material during the May 9, 2022 hearing as well as in a letter filed with the Court on December 1, 2022.³ Despite this request, it is abundantly clear that Plaintiffs' counsel have reviewed the materials extensively, to the point of dog-earring the pages and compiling six sets of documents they intend to use, and, as set more fully herein, they appear to have improperly and inappropriately solicited, obtained, and reviewed all or portions of the Inquiry Agency Files, which is the impetus of the Parker's Defendants' recently filed Motion to Compel.

³ Additionally, during the May 9, 2022 hearing, the Parker's Defendants expressly requested the Court to order Mr. Tinsley not to disseminate the documents. The Court only ordered Mr. Tinsley not to disseminate the documents, but did not order Mr. Tinsley to stop reviewing the documents. (Exhibit A, May 9 Hearing Transcript, p. 11, l. 16 –p. 12, l. 6.)

Because the Court never conducted a privilege review, the Parker's Defendants filed a Petition for Writ of Mandamus on May 23, 2022. In an Order dated September 15, 2022, the South Carolina Supreme Court held the Petition for Writ of Mandamus in abeyance and directed Judge Price to advise within fifteen days of said Order "whether he finally determined the evidence subpoenaed was not privileged and was, therefore, discoverable." Because no request prior to this date was made to the Parker's Defendants to submit a privilege log, the Parker's Defendants immediately submitted a privilege log to the Court the following day, on September 16, 2022. On September 20, 2022, Judge Price submitted a letter to the South Carolina Supreme Court informing it that he had "not made a final determination as to privilege," and that he intended "to review the privilege log [submitted by the Parker's Defendants] and [would] make specific findings of fact."

On October 5, 2022, the South Carolina Supreme Court granted the Parker's Defendants' Petition for Writ of Mandamus seeking an *in camera* review of the subpoenaed documents that the Parker's Defendants asserted were protected by the attorney-client privilege and work product doctrine. The South Carolina Supreme Court ordered the Court to review the entire privilege log submitted by the Parker's Defendants along with all documents over which the Parker's Defendants asserted privilege. In addition, the South Carolina Supreme Court ordered the Court to "make a final determination, with specific findings as to each document" within the Inquiry Agency Files and the Laurens Group Files on the privilege log that are subject to attorney-client privilege or protected by the attorney work product doctrine. The Supreme Court's Order of October 5, 2022 is attached hereto as **Exhibit B**.

On November 21, 2022, the Court, via its law clerk, requested a status conference regarding the privilege log submitted by the Parker's Defendants on September 16, 2022. Following the status conference on November 22, 2022, the Court requested a more detailed privilege log on

November 28, 2022, which prompted several e-mail exchanges to the Court on behalf of Plaintiffs and the Parker's Defendants. On December 2, 2022, the Court instructed the Parker's Defendants to submit an updated privilege log, which was submitted on January 3, 2023.

The Court scheduled an *ex parte, in camera* hearing for February 16, 2023. Counsel for the Parker's Defendants were present at the hearing as was Mr. Vaux as counsel for Plaintiffs. At the outset of the hearing, the Court indicated it would be most efficient to determine which documents from the subpoenaed files Plaintiffs' counsel actually intended to use in some litigation and Mr. Vaux then provided the Court with one hard-copy of five separate compilation of documents purportedly from the Laurens Group Files, none of which was Bates-stamped.⁴ The Court then excused Mr. Vaux and sealed the courtroom in order to conduct an *in camera, ex parte* hearing with counsel for the Parker's Defendants. After the hearing, counsel for the Parker's Defendants contacted Mr. Vaux to request electronic copies of the five compilations of documents Plaintiffs'

⁴ The Parker's Defendants were not advised prior to the hearing that the Court intended to discuss only the documents that Mr. Tinsley and Mr. Vaux intended to actually use in a proceeding at the February 16, 2023 hearing. Although Mr. Tinsley indicated in a November 29, 2022 e-mail to the Court that he was pulling documents he was primarily interested in and was going to Bates-stamp them himself, the Court did not indicate prior to the hearing that it intended to proceed in the manner that Mr. Tinsley suggested. Mr. Vaux then showed up at the hearing with a hard-copy of five categories of these particular documents without providing any notice to the Parker's Defendants of his intention to do so—and these documents were, notably, not Bates-stamped. Moreover, as noted herein, the Supreme Court did not direct the Court to review only the subpoenaed documents that Plaintiffs seek to use, it directed the Court to review all of the subpoenaed documents over which the Parker's Defendants asserted privilege. As a result, as detailed herein, the Court has not to date fully complied with the Supreme Court's Order. The Parker's Defendants respectfully submit that the Court must proceed to do that expeditiously—or, in the alternative, it can disqualify Mr. Tinsley and Mr. Vaux. In any event, the Court should order that Plaintiffs' counsel immediately return all of the subpoenaed documents to the Parker's Defendants.

counsel intended to use. Mr. Vaux subsequently provided six (not five) sets of documents to counsel for the Parker's Defendants on February 21, 2023.⁵

One portion of the documents produced by Mr. Vaux, totaling twenty-five (25) pages, is especially concerning, because these pages are not in the Laurens Group Files, but instead appear to come from the Inquiry Agency Files, as they are investigatory reports authored and compiled by Sara Capelli ("Ms. Capelli"). Not until the Parker's Defendants were able to take a more comprehensive review of this compilation following the February 16, 2022 *in camera* hearing were the Parker's Defendants aware Plaintiffs' counsel were in possession of some or all of the Inquiry Agency Files. These documents were not produced by Plaintiffs' counsel to the Court or to counsel for the Parker's Defendants. At this juncture, it is unclear how Plaintiffs' counsel obtained these particular pages. Moreover, the pages submitted by Plaintiffs' counsel include handwriting on them, whereas the ones provided by Ms. Capelli's legal counsel to the Parker's Defendants and subsequently provided to the Court do not contain this handwriting.

On March 24, 2023, the Parker's Defendants submitted an *in camera, ex parte* Supplemental Brief regarding the Court's privilege review, which focused on the six sets of documents submitted by Mr. Vaux, but noted the Parker's Defendants' were not waiving their prior assertions of privilege over any other documents not identified by Plaintiffs' counsel—indeed, in that *in camera, ex parte* Supplemental Brief, the Parker's Defendants specifically

⁵ At the February 16, 2023 hearing, counsel for the Parker's Defendants implicitly argued all documents contained within the privilege log were privileged and explicitly argued for the privilege of the Inquiry Agency Files. Further, in the Parker's Defendants' March 24, 2023 Supplemental Brief, which was submitted *in camera* and *ex parte*, the Parker's Defendants expressly stated that they continued to assert the Court is required to rule on each document or categories of documents in the Laurens Group Files and Inquiry Agency Files and that they did not waive any assertions of privilege over any other documents for which it has previously asserted privilege, but which were not identified by Plaintiffs' counsel via their six subsets of documents.

requested the Court address the issue of the remaining documents not identified within Plaintiffs' counsel's six sets of documents by upholding the Parker's Defendants' assertions of privilege over said documents. The Court has not yet done so—and so it has not fully complied with the Supreme Court's October 5, 2022 Order.

On May 24, 2023, the Court issued its Order in response to the Supreme Court's direction to "make a final determination, with specific findings as to each document" over which the Parker's Defendants asserted privilege. The Court's Order of May 24, 2023 is attached hereto as **Exhibit C**. However, as noted above, the Court's Order addressed only the documents identified by Plaintiffs' counsel in their six sets of documents; the Court failed to address the remaining documents over which the Parker's Defendants have asserted privilege.

II. LEGAL STANDARD

The South Carolina Supreme Court has recognized "two basic situations in which a party should consider filing a Rule 59(e)[, SCRCP,] motion." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). Under the rule, "[a] party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." *Id.* But, "[a] party **must** file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." *Id.* (emphasis added). The Supreme Court of South Carolina has also recognized that "[t]here is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument." *Id.* at 22, 602 S.E.2d at 779. Rather, "[i]t is **inherently unfair** to disallow such an opportunity." *Id.* (emphasis added).

III. ARGUMENT

A. **The Court Failed to Address All Documents Contained Within the Parker's Defendants' Privilege Log as Directed by the South Carolina Supreme Court's Order and Should Amend Its Ruling to Find that All Remaining Documents on the Parker's Defendants' Privilege Are Privileged.**

The Court failed to fully comply with the Supreme Court's directive to "make a final determination, with specific findings as to *each* document" over which the Parker's Defendants asserted privilege. (Exhibit B, Supreme Court Order of Oct. 5, 2022, p. 2 (emphasis added).) At the February 16, 2023 hearing,⁶ the Court unilaterally indicated it would be most efficient for it to review documents from the subpoenaed files that Plaintiffs' counsel actually intended to use in some litigation.⁷ The Parker's Defendants were unaware that Plaintiffs' counsel would be coming to the hearing with pre-selected sets of documents and argued the Court should consider all of the documents over which the Parker's Defendants asserted privilege. Moreover, within their Supplemental Brief submitted *in camera* on March 24, 2023, the Parker's Defendants reiterated their request for the Court to follow the Supreme Court's Order and make a ruling on each document on the Parker's Defendants' privilege log, which includes many documents outside of Plaintiffs' counsel's six set of documents. However, the Court failed to address this issue within its May 24, 2023 Order and failed to make detailed privileged determinations as to those

⁶ Prior to the hearing being scheduled, the Court notified the parties via an e-mail on January 24, 2023 that it had recently been contacted by the South Carolina Supreme Court indicating they were awaiting the Court's decision and in light of this contact, the Court stated it "must move forward swiftly."

⁷ As previously stated, counsel for the Parker's Defendants implicitly argued at this hearing that all documents contained within the privilege log were privileged and explicitly argued for the privilege of the Inquiry Agency Files. Further, in the Parker's Defendants' March 24, 2023 Supplemental Brief, which was submitted *in camera* and *ex parte*, the Parker's Defendants expressly stated that they continued to assert the Court is required to rule on each document or categories of documents in the Laurens Group Files and Inquiry Agency Files and that they did not waive any assertions of privilege over any other documents for which it has previously asserted privilege, but which were not identified by Plaintiffs' counsel via their six subsets of documents.

documents; therefore, the Court's ruling does not comply with the Supreme Court's October 5, 2022 Order. The Parker's Defendants request that the Court do so expeditiously or the Parker's Defendants will be required to seek further relief from the Supreme Court. *See Elam*, 361 S.C. at 24, 602 S.E.2d at 780 (holding "[a] party must file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review"). Because Plaintiffs' counsel have no argument to the contrary, this Court should find that the remaining balance of documents not identified within Plaintiffs' counsel's six set of documents are privileged.

Again, because the Court has already ruled that many of the documents in Plaintiffs' counsel's possession are privileged which in and of itself warrants disqualification, if the Court grants the Parker's Defendants pending Motion to Disqualify Plaintiffs' counsel, the need to rule on all of the documents contained within the Parker's Defendants privilege log is obviated.

B. The Court Made Errors of Law in Finding Certain Documents Are Not Privileged and Should Correct These Errors of Law.

1. Set 2: Master Service Agreement with Statement of Work

Excepting the Statement of Work paragraph found in LAURENSGROUP_004433, the Court found that LAURENSGROUP_004429 – 004434 is not privileged for two reasons: (1) it is public knowledge that Mr. D'Cruz engaged Laurens Group, and (2) the fact that the Laurens Group was under contract does not constitute opinion work product. However, the only reason this fact is now within the public domain is due to Plaintiffs' counsel's inappropriate disclosure of this information within the Complaint in this case. No known public outlet reported the relationship between the Parker's Defendants and the Laurens Group prior to the filing of the Complaint in this case. The Parker's Defendants were not the cause of this information becoming public knowledge and it cannot be deemed a waiver. Further, the fact Mr. D'Cruz engaged the Laurens Group demonstrated opinion work product [REDACTED]

[REDACTED], which is found on the very first page of the Master Service Agreement, i.e. LAURENSGROUP_004429. Therefore, this Court should find this entire range of pages privileged.

2. Set 3: Ms. Purves Text Messages

At the time of these documents, the Laurens Group’s CEO was Wesley Donehue (“Mr. Donehue”), with Christiana Purves (“Ms. Purves”) serving as a Vice President. Both served as agents of Mr. D’Cruz on behalf of his client, Mr. Parker. Regarding LAURENSGROUP_002572 – 002576, 002577 – 002581, and 002582, [REDACTED], just as LAURENSGROUP_002583 – 002585 do. However, the Court only found the latter documents were privileged, but not the former. The Court made an inconsistent ruling here and should reconcile this inconsistency by finding that the entire set of communications is privileged, because they all contain advice by the attorney’s agent.

LAURENSGROUP_002586 – 002588 are messages between Mr. D’Cruz and Ms. Purves. [REDACTED]

[REDACTED]

[REDACTED] More broadly, the communications and decision to hire a private investigator “reflect[] the lawyer’s evaluation of the strengths or weaknesses of the opponent’s case,” and “reveal[] the lawyer’s analysis of potentially fruitful areas of investigation,” which

entitles these communications to protection via the attorney work product privilege as well. *Ranft v. Lyons*, 163 Wis. 2d 282, 301, 471 N.W.2d 254, 261 (Ct. App. 1991).

3. Set 4: Assorted E-mails, Memoranda, and Investigatory Reports

The Court found that **LAURENSGROUP_002159** is not privileged, because it is public knowledge that Mr. D’Cruz hired Ms. Capelli as a private investigator. However, the only reason this fact is now within the public domain is due to Plaintiffs’ counsel’s inappropriate disclosure of this information via their Motion for Rule to Show Cause filed on February 24, 2022, in which Plaintiffs’ counsel publishes this agency relationship. No known public outlet reported this agency relationship between the Parker’s Defendants and Ms. Capelli prior to the filing of Plaintiffs’ counsel’s Motion for Rule to Show Cause. The Parker’s Defendants were not the cause of this information becoming public knowledge and it cannot be deemed a waiver.

Regarding **LAURENSGROUP_002483 – 002488**, the Parker’s Defendants are withdrawing our assertions of privilege.

LAURENSGROUP_001735 [REDACTED]

[REDACTED] *See Ranft v. Lyons*, 163 Wis. 2d 282, 301, 471 N.W.2d 254, 261 (Ct. App. 1991) (“A lawyer’s strategic decision to invest a client’s resources on photographic or video surveillance is protected work-product. The decision not only reflects the lawyer’s evaluation of the strengths or weaknesses of the opponent’s case but the lawyer’s instructions to the person or persons conducting the surveillance also reveals the lawyer’s analysis of potentially fruitful areas of

investigation.”). Likewise, LAURENSGROUP_001736 [REDACTED]

[REDACTED] Both e-mails inherently contain opinion work product, given they reveal Mr. D’Cruz’s strategic decision to invest a client’s resources in these potentially fruitful areas of investigation.

The Court was incorrect in concluding LAURENSGROUP_004737 – 005019 was authored by Ms. Capelli; [REDACTED]. Regardless, the entirety of the report is privileged and not just the specific pages identified in the Court’s Order. The Court attempted to sever the opinion work product from the factual work product, but the Court failed to demonstrate the “particular[] sensitiv[ity]” required in this context, given the possibility that an attorney’s compilation of fact work product can “reveal his or her tactical and strategic thoughts.” *See Powell v. U.S. Dep’t of Just.*, 584 F. Supp. 1508, 1520 (N.D. Cal. 1984). Here, the reason the entirety of the report is privileged is because courts have held the compilation of fact work product constitutes opinion work product. For instance, a “lawyer’s compilation of documents for use in preparing that lawyer’s witnesses for deposition constitutes ‘opinion’ work product that is afforded ‘almost absolute protection from discovery.’” *Charleswell v. Chase Manhattan Bank, N.A.*, 277 F.R.D. 277, 282 (D.V.I. 2011) (quoting *Sporck v. Peil*, 759 F.2d 312, 316 (3d Cir. 1985)). Likewise, Mr. D’Cruz’s agents compiling this information is inextricably linked to his and his agents’ mental impressions, conclusions, opinions, and legal theories that are revealed throughout the entire report, which Mr. D’Cruz intended to use to advise his client and prepare for litigation, much like in the *Charleswell* case.

Further, “[c]ourts have held that, although opinion work product documents contain some minor factual content which could be physically severed from those documents, the court will not allow the same to be discovered if said factual content consists of *selective facts* permitting indirect inquiry into the attorney’s mental processes.” *Republican Party of N. Carolina v. Martin*, 136 F.R.D. 421, 430 (E.D.N.C. 1991) (emphasis added) (citing *Williams v. United States Dep’t of Justice*, 556 F. Supp. 63 (D.D.C.1982)). Because this report compiles selective facts that Mr. D’Cruz and his agents believe are important and permits the indirect inquiry into their mental processes, the entirety of the report should be privileged.

Lastly, even assuming some of this material constitutes potentially discovery fact work product, the only way in which discovery is triggered is “upon a showing [by Plaintiffs] of *both* a substantial need and an inability to secure the substantial equivalent of the materials by alternate means without undue hardship.” *In re Grand Jury Proc. #5 Empanelled Jan. 28, 2004*, 401 F.3d 247, 250 (4th Cir. 2005) (emphasis added) (quoting *In re Grand Jury Proc., Thursday Special Grand Jury Sept. Term, 1991*, 33 F.3d 342, 348 (4th Cir. 1994)). Plaintiffs showed neither. Rather, the Court found, without any briefing or argument by Plaintiffs, that Plaintiffs’ counsel demonstrated a substantial need. First, that is only one part of Plaintiffs’ burden, and it is clear the Court did not make a finding that Plaintiffs demonstrated the second prong, i.e. an inability to secure the substantial equivalent of the materials by alternate means without undue hardship. Second, not only have Plaintiffs failed to make a showing of either prong, but they cannot even if they tried. The Court itself contends the information is publicly available, meaning Plaintiffs cannot demonstrate a substantial need or an inability to secure this information themselves. Plaintiffs want this information in this particular form not because they cannot obtain it elsewhere, but because of how revealing it is to Mr. D’Cruz’s and his agents’ thought processes. There simply

is no basis for the Court to find Plaintiffs made a showing of substantial need for these documents. Based on the foregoing, the entirety of the report is privileged and the Court should reconsider its ruling.

At minimum, the Court made an inconsistent ruling regarding a number of pages. On page 11 of the Court's May 24, 2023 Order, after setting forth several discreet pages [REDACTED] that it deemed were privileged, the Court held the remainder of LAURENSGROUP_004737 – 005019 (“First Set”) were not privileged. However, on page 15 of the Court's Order, it found LAURENSGROUP_004474 – 004576 (“Second Set”) were privileged. Scores of pages within both sets are the same or substantially similar, resulting in an inconsistent ruling. The chart below outlines the duplication.

Documents Within the <i>First</i> Set Held <i>Not</i> to Be Privileged	Documents Within the <i>Second</i> Set Held to Be Privileged
004753 – 004793	004489 – 004528
004795 – 004825	004430 – 004558
004827 – 004831	004559 – 004563
004833 – 004836	004565 – 004568
004838 – 004845	004569 – 004576

Because of the inconsistency in the application of privilege for duplicative documents, the Court must correct the record, and the Parker's Defendants respectfully submit the Court was correct in finding the documents in the Second Set were privileged. Likewise, the pages in between these sets were found to need redacting on the basis of privilege by the Court, but were found to be privileged in their entirety elsewhere. Specifically, LAURENSGROUP_004826, 004832, and 004837 are duplicative of LAURENSGROUP_004559, 4564, and 4568 – 4569, respectively, the

latter having all been found privileged on page 15 of the Court's Order finding a larger set (i.e. **LAURENSGROUP_004474 – 4576**) was privileged in its entirety.

LAURENSGROUP_000873 – 000877 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Although the Court is correct this document is not a communication between an attorney and a client, it nevertheless constitutes protected work product, because of its revealing nature.

CAPELLI_000734 – 000739, 000730 – 000731, 000724 – 000729, 000732 – 000733, and 000404 – 000412 are documents that Plaintiffs' counsel denied possessing during a hearing on May 9, 2022 concerning the Parker's Defendants' Emergency Motion for a Protective Order. Mr. Tinsley expressly stated to the Court regarding the Inquiry Agency Files: "I have not received anything from Sara Capelli or the [I]nquiry [A]gency, the other third party that was subject to my Rule to Show Cause, Capelli." (Exhibit A, May 9 Hearing Transcript, p. 9, ll. 11–14.) As noted here and in other recent filings, further discovery is needed in order to ascertain how, when, and why Plaintiffs' counsel obtained these documents, and from what source(s). These documents, however, are privileged. Although the Court is correct these documents do not directly evidence communications between an attorney and his agent or his client, they nevertheless indirectly reveal Mr. D'Cruz's thought processes, because "the lawyer's instructions to the person or persons conducting the surveillance also reveals the lawyer's analysis of potentially fruitful areas of investigation." *Ranft*, 163 Wis. 2d at 301, 471 N.W.2d at 261; *see also Republican Party of N.*

Carolina, 136 F.R.D. at 430 (citing *Williams*, 556 F. Supp. 63). Therefore, the Court should reconsider its holding that these documents do not contain work product. Further, the Court found, without any basis, that Plaintiffs' counsel demonstrated a substantial need. But that is only one part of Plaintiffs' burden, and the Court has not made a finding that Plaintiffs demonstrated an inability to secure the substantial equivalent of the materials by alternate means without undue hardship. Thus, even if the Court is correct this information constitutes fact work product, the Court inappropriately found Plaintiffs met but one-half of their burden.

4. Set 5: E-mails and Other Assorted Documents

The Court incorrectly found the following documents are not privileged: **LAURENSGROUP_002608, 00215,⁸ 002618, 002626, 002635 – 002639, 002641, 002652 – 2656, 002705, 0027110,⁹ 002656, 002726, 002738 – 002740, 002826, 002952, 002808, 002997, 003021, 003023, 003026, 003027, 003048, 003054, 003057, 003082, 003085 – 003087, 003290, 003727, 003731 – 003732, 003389, 003788, 003792, 003819, 000839, 000177, 003190, 003241, 000622, 000330, 000345, 000467 – 000476, 000614 – 000616, 000546, 003091 – 003093, 003095 – 003096, 003100 – 003101, 003107 – 003109, 003115, 000190 – 000191, 003827 – 003829, 004029, 004041, 004073, 000011, 000027, 000060, 000089 – 000090, 000107 – 000109, 000170 – 000172, 002825 – 002826, 002853, 00437,¹⁰ 002984 – 002986, 003058 – 003059, 003320 – 003328, 003350, 000001, 000539 – 000540, 000546, 000558 – 000615, 001071 – 001076, 001098 – 001101, 001255, 001274 – 001275, 001291, 001306 – 001308, 001293, 001317 – 001320,**

⁸ This number appears to be a typo. The Parker's Defendants cannot determine to which document the Court references here.

⁹ This number appears to be a typo, but the Parker's Defendants believe the Court meant to identify this document as **LAURENSGROUP_002711**.

¹⁰ This number appears to reference **LAURENSGROUP_000437**, which is a near duplicate of **LAURENSGROUP_002853**.

001685 – 001699, 001703 – 001704, 001706 – 001709, 001713 – 001714, 001723 – 001724,
001726 – 001728, 001356 – 001358, 001364 – 001366, 001908, 002086, 002093, 002096, 002104
– 002106, 002117, 002134 – 002135, 002142 – 002143, and 002149 – 002150. [REDACTED]

[REDACTED]

[REDACTED] The Court contends these communications are “more
in line with providing business advice rather than legal advice related to the pending litigation.”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Further, the Parker’s Defendants submit it is inconsistent for the Court to find the Statement of Work is privileged, [REDACTED], but not find the numerous aforementioned documents [REDACTED] to be equally privileged. The Court’s ruling on the Statement of Work is clearly correct—and so we respectfully submit that the Court must carefully reconsider this issue, especially given the volume of documents it suggests are not privileged, and find that the entire set is privileged.

Lastly, the Court has made an inconsistent ruling regarding **LAURENSGROUP_002826 and 002825 – 002826**, which not only constitutes a repeat, but was held not to be privileged, when it contains information that is the same or substantially similar with **LAURENSGROUP_005038 – 005040**, the latter being found privileged within the larger set of **LAURENSGROUP_005020 – 005043** on page 14 of the Court’s Order. Likewise, there is an inconsistency in the Court ruling **LAURENSGROUP_003027** was not privileged, when it contains the same or substantially similar content as **LAURENSGROUP_002490**, which was found privileged on page 10 of the Court’s Order. Because of the inconsistency in the application of privilege for duplicative documents, the Court must correct the record, and the Parker’s Defendants respectfully submit the Court should find all of these documents are privileged.

LAURENSGROUP_000840 – 000851¹¹ were found to be not privileged by the Court, but the Court already found duplicates of these documents to be privileged. **LAURENSGROUP_000840 – 000851** are duplicative of **LAURENSGROUP_004441**; **LAURENSGROUP_004450 – 004452**; and **LAURENSGROUP_004442 – 00449**. The Parker’s Defendants believe the Court intended to find all of these documents privileged, because they are clearly strategy memoranda and do not have anything to do with the crime fraud exception. The Court should amend its ruling and find that **LAURENSGROUP_000840 – 000851** are equally as privileged as **LAURENSGROUP_004441**, **LAURENSGROUP_004450 – 004452**, and **LAURENSGROUP_004442 – 00449**, for which the Court already ruled were privileged. (Exhibit C, Court’s May 24, 2023 Order, pp. 11–12.)

LAURENSGROUP_001332 and 01334 – 001337 are drafts of documents previously analyzed in **LAURENSGROUP_004429 – 004434**. For the reasons set forth regarding the latter documents, the former documents should likewise be found privileged in their entirety.

LAURENSGROUP_003063 – 003064, and **003071** reveal the use of a private investigator, which the Court failed to address in its Order. As set forth previously, the decision to hire a private investigator “reflects the lawyer’s evaluation of the strengths or weaknesses of the opponent’s case,” which entitles these communications to protection via the attorney work product privilege as well. *Ranft v*, 163 Wis. 2d at 301, 471 N.W.2d at 261.

¹¹ The Court grouped these documents with **LAURENSGROUP_002984 – 002986**, but these were previously discussed and analyzed above. Additionally, these are the documents for which the Court appears concerned about the crime fraud exception. Regardless, there is nothing criminal about providing information to the press and there is no indication any of the information being gathered by the Laurens Group was subject to a gag order by the court. Therefore, the Court should find the crime fraud exception does not apply to either **LAURENSGROUP_002984 – 002986** or **LAURENSGROUP_000840 – 000851**.

5. **Set 6: Memoranda and Other Assorted Documents**

LAURENSGROUP_004461 – 004472 was found by the Court not to be privileged, because it is a compilation of public facts that do not contain any opinion work product. The Parker’s Defendants incorporate by reference herein the arguments made regarding LAURENSGROUP_004737 – 005019 above. In brief, the compilation of fact work product transforms into opinion work product due to its revealing nature; moreover, there is no basis for a finding that Plaintiff has met its burden of a substantial need or an inability to gather information that the Court already contends is in the public record. Like with LAURENSGROUP_004737 – 005019, this Court should reconsider these documents and find LAURENSGROUP_004461 – 004472 are privileged as well.

LAURENSGROUP_004473 [REDACTED] contains a photograph of the Murdaugh Family. The Court failed to address why it believes this document is not privileged. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

C. **Plaintiffs’ Counsel’s Possession of Documents the Court Has Found Are Privileged Warrants Disqualification.**

Courts can disqualify counsel who have been exposed to privileged materials, because the bell cannot be un-rung¹² and the disclosure of privileged information irreparably taints the case

¹² Indeed, the Court has already agreed, given the following statement during the May 9, 2022 hearing: “Well, as to those documents [for which the Parker’s Defendants assert privilege], obviously, the cat’s out of the bag. I mean, I can’t stuff that mash potato ba[ck] into the bag. I mean, it’s already out.” (Exhibit A, May 9 Hearing Transcript, p. 10, l. 25 – p. 11, l. 3.)

and the lawyers involved. *See, e.g., In re Search Warrant Issued June 13, 2019*, 942 F.3d 159, 175 (4th Cir. 2019) (citing cases and admonishing the trial court for “fail[ing] to recognize that an adverse party’s review of privileged materials seriously injures the privilege holder” and that harm was “plainly irreparable,” because the “review of those privileged materials cannot be undone”); *United States ex rel. Frazier v. IASIS Healthcare Corp.*, No. 2:05-CV-766-RCJ, 2012 WL 130332, at *1 (D. Ariz. Jan. 10, 2012); *United States v. Quest Diagnostics*, 734 F.3d 154, 166-68 (2nd Cir. 2013) (affirming the district court’s disqualification of counsel in a FCA action because counsel was “in a position to use [defendants’ confidential information] to give present or subsequent clients an unfair, and unethical, advantage”).

Two cases are particularly analogous to the one at bar. First, in *Richards v. Jain*, 168 F. Supp. 2d 1195 (W.D. Wash. 2001), the Court held that a paralegal’s access to privileged materials for eleven months, without ceasing review of the materials, warranted disqualification. In the case at bar, Plaintiffs’ counsel have possessed the privileged materials for over a year, surpassing the length of time in *Richards*. Further, despite the Parker’s Defendants’ demand for Plaintiffs’ counsel to stop reviewing the material during the May 9, 2022 hearing and in a letter filed with the Court on December 1, 2022, it is abundantly clear that Plaintiffs’ counsel have reviewed the materials extensively, to the point of dog-earring the pages and compiling six sets of documents they intend to use. Second, in *Clark v. Superior Ct.*, 196 Cal. App. 4th 37, 45, 125 Cal. Rptr. 3d 361, 367 (2011), a review of merely thirty-six (36) privileged documents was sufficient to warrant disqualification of counsel. In the case at bar, the Court already found over two hundred and fifteen (215) pages are privileged.¹³ Because Plaintiffs’ counsel have had access to privileged material for

¹³ The Court did not consider documents falling outside of the six sets of documents provided by Mr. Vaux. The Parker’s Defendants are moving the Court to reconsider, given the Parker’s Defendants contend there are hundreds of more pages of documents that are also privileged.

over a year and their review of the privileged material has been extensive—as well as for other reasons set forth in the Parker’s Defendants’ motions regarding disqualification—this Court should disqualify Plaintiffs’ counsel.¹⁴

Further, the return and/or destruction of privileged documents, verified via an affidavit, is necessary as well. For example, the court in *Clark* ordered both a return of hard-copy documents and the erasure of electronic copies that were deemed privileged. The requirement to verify “destruction by affidavit” is common practice and should be likewise required in this case. *See, e.g., H.L. Hayden Co. of New York v. Siemens Med. Sys., Inc.*, 130 F.R.D. 281, 282 (S.D.N.Y. 1989) (requiring verification of destruction of sensitive material by affidavit via the enforcement of a protective order); *Samsung Elecs. Co. v. Solas Oled Ltd.*, No. 1:21-CV-05205 (LGS), 2021 WL 5154141, at *7 (S.D.N.Y. Nov. 5, 2021) (issuing a protective order that included the requirement a receiving party “shall verify the return or destruction by affidavit”); *see also Singletary Constr., LLC v. Reda Home Builders, Inc.*, No. 3:17-CV-374-JPM, 2019 WL 6870353, at *3 (M.D. Tenn. May 23, 2019) (holding, in a copyright infringement case, that parties possessing infringing material “must identify each specific document that they have destroyed and must verify under penalty of perjury the time, place, and manner of such destruction”). If the Court disqualifies Plaintiffs’ counsel and requires the return and/or destruction of all privileged material, then the

¹⁴ The Parker’s Defendants also intend to file a supplemental motion for disqualification shortly after and/or in conjunction with this pleading. As noted therein, there are multiple reasons why Mr. Tinsley’s disqualification is warranted here in addition to his improper possession and review of documents that this Court has found to be privileged—and, taken the facts as a whole, the Parker’s Defendants respectfully submit his disqualification is mandated. As Mr. Vaux has also reviewed privileged documents, his disqualification must follow as well. If the Court disqualified Plaintiffs’ counsel and ordered the immediate return of the Laurens Group and Capelli Files, such a ruling would moot the Parker’s Defendant’s request for a review of the thousands of documents that have apparently not yet been reviewed by the Court.

Court could defer a ruling on the remaining documents for which the Court has not yet made a privilege determination.

Lastly, Plaintiffs' counsel are not entitled to use the privileged materials in any motion for reconsideration. The specific contents of privileged information are only allowed to be discussed between the party asserting privilege and the Court in an *ex parte* manner. Plaintiffs' counsel simply have no standing to interfere with this process, even if they already possess and have already reviewed the materials.

IV. CONCLUSION

As set forth above, the Court first failed to rule on all of the documents contained within the Parker's Defendants' privilege log—and it has not therefore yet complied with the Supreme Court's October 5, 2022 Order. Further, the Court erred as a matter of law in finding the documents discussed herein were not privileged. Based on the foregoing, the Parker's Defendants respectfully request this Court complete its privilege review and find as privileged all the remaining documents not previously considered by the Court and reconsider its rulings on the documents referenced above and determine them to be privileged. In the alternative, the Parker's Defendants request that the Court grant its Motion to Disqualify Plaintiffs' counsel.

Respectfully submitted,

s/ Mark C. Moore

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CORPORATION, JASON D'CRUZ AND
BLAKE GRECO

June 2, 2023
Columbia, South Carolina

Exhibit A

COURTESY OF
LUNA SHARK MEDIA

1 STATE OF SOUTH CAROLINA
2 IN THE COURT OF COMMON PLEAS
3 COUNTY OF HAMPTON

4 Renee S. Beach, Phillip Beach,
5 Robin Beach, Savannah Tuten,
6 and Seth Tuten,

7 Plaintiffs,

8 vs.

9 Transcript of Record
10 2021-CP-25-00392

11 Gregory M. Parker, Gregory
12 M. Parker, Inc. d/b/a Parker's
13 Corporation, Blake Greco,
14 Jason D'Cruz, Vicky Ward,
15 Max Fratoddi, Henry Rosado,
16 and Private Investigation
17 Services Group, LLC.,

18 Defendants.

19 May 9, 2022
20 Hampton, South Carolina

21 B E F O R E:

22 The HONORABLE BENTLEY PRICE

23 A P P E A R A N C E S:

24 Mark Tinsley, Representing the Plaintiffs
25 Tabor Vaux, Representing the Plaintiffs
Deborah B. Barbier, Representing the Defendants
Ralph E. Tupper, Representing the Defendants

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

1 THE COURT: All right. Miss Barbier, it's my
2 understanding this is your motion?

3 MS. BARBIER: It is, Your Honor.

4 THE COURT: Yes, ma'am. Happy to hear
5 from you.

6 MS. BARBIER: Good afternoon. Your
7 Honor, as you know, the court issued an order on
8 April 6th that provided for the review of the
9 documents at issue, and the -- that were the
10 subject of a motion to quash and a Rule to Show
11 Cause. The order specified that once the court
12 has determined that all the issues related to
13 relevance and privilege, Parker's defendants shall
14 have 10 business days to respond with objections
15 on the record, and that Parker's defendants shall
16 have 10 business days to file an appeal in
17 accordance with the South Carolina rules of civil
18 procedure.

19 With respect to that, Your Honor, on
20 April 29, as you know, the court had a hearing.
21 The court didn't make, during the hearing, any
22 findings related to privilege. The court didn't
23 give us a deadline for the production of a
24 privilege log, and we had no actual dialogue with
25 specific assertions of privilege with respect to

1 those documents. The court didn't give us any
2 indication of how the ruling would go, but
3 indicated that your law clerk would send an email
4 later that day.

5 We did receive an email from your law
6 clerk, Your Honor, in the late afternoon of
7 April 29th, and she related the court's position.

8 We also determined on that next -- that
9 was a Friday. We determined on that Monday
10 morning that a Form 4 order would be forthcoming.

11 And, Your Honor, as you know, the April
12 6th order governed this process and it indicated
13 we would have 10 days to appeal, and we would have
14 the ability to make objections.

15 Prior to that occurring, Mr. Tinsley
16 apparently contacted Miss Sandy Senn on Friday,
17 late afternoon, and then on that weekend asked her
18 to produce those documents prior to us having the
19 ability to move for any kind of stay or asserting
20 our right to appeal.

21 So, on May 4th, we filed an emergency
22 motion for a protective order and relaying our
23 position, which, of course, I think is well-known
24 to the court and to plaintiff's counsel, that an
25 email is not an order of the court. So Mr.

1 Tinsley obtained those documents prior to any
2 order of the court being issued.

3 We filed an emergency motion for
4 protective order asking this court to seek the
5 return of these documents, stop the review of
6 these documents, and prevent any dissemination of
7 these documents, because it's still our position
8 that the vast majority of these documents are
9 privileged.

10 Thereafter, Your Honor, last evening, we
11 filed a motion to stay this matter. We also have
12 sought in that motion an order by the court for
13 the return of these documents, for an order
14 preventing Mr. Tinsley from reviewing these
15 documents any further, from giving us information
16 related to what he's already reviewed, and to stop
17 any further review.

18 We do intend, Your Honor, to file a
19 notice of appeal. It's drafted. We intend to
20 file it this afternoon. But before we file the
21 notice of appeal we would like this court to
22 preclude and order Mr. Tinsley to return those
23 documents, to stop any review of these documents,
24 to set forth which documents he's reviewed, and to
25 stop any dissemination of these documents before a

1 higher court has an opportunity to rule on this
2 issue.

3 THE COURT: All right.

4 MS. BARBIER: That is the basis for our
5 motion, Your Honor. I have a copy of the motion
6 to stay pending appeal, if Your Honor doesn't have
7 a copy of it yet.

8 THE COURT: I'm okay.

9 MS. BARBIER: I'm happy to hand that up,
10 if the court --

11 THE COURT: I'm okay.

12 MS. BARBIER: Okay.

13 THE COURT: All right. So let me give
14 you my procedural history: April 6th, we had the
15 additional hearing to discuss the discovery,
16 obviously, that you-all were seeking to quash, and
17 Mr. Tinsley had filed a Rule to Show Cause on, and
18 so I said that I would take all the documents
19 under review and I would take a look at them and I
20 would make a determination as to what would be
21 relevant and what would be discoverable. And so I
22 did that in pretty quick order. In about four to
23 five days, we got it taken care of. And I took a
24 look at -- I think -- I can't remember what I told
25 you-all. A little over five to 6000 documents.

1 But I was confused and I wanted to have
2 some clarification. So I asked everyone to come
3 on the 29th to ensure I was making the appropriate
4 decision in this, and so met again on the 29th at
5 my direction, and I asked a bunch of questions of
6 yourself and of Mr. Tinsley so I could get better
7 clarification as to what I needed to do as to
8 these documents themselves.

9 So later on, on that day, during that
10 hearing, the plaintiff -- I mean the defendants
11 took the position that nothing in those documents
12 were going to help Mr. Tinsley anyway. And so I
13 took that to mean that it doesn't matter really
14 what's in them. If Mr. Tinsley is not going to be
15 able to move his case forward with those
16 documents, why shouldn't he have them all.

17 What I was trying to prevent is what
18 we're doing today, which is the back and forth.
19 Because what you just indicated Miss Barbier is
20 one hundred percent correct. You are going to
21 claim that 98 percent of that is all privileged,
22 and I'm going to have to go line by line by line
23 and an order of yours, or on behalf of a motion of
24 yours to go and say this is why it's not
25 privileged, this is why it's not privileged, and

1 we're going to take up 14 hours of the courts time
2 to do exactly what I've already done, which is to
3 give Mr. Tinsley everything.

4 If it moves his case forward, great. If
5 it doesn't, as you indicated in your last
6 argument, which was nothing in those documents are
7 going to help him out anyway, then what's the
8 point in not giving it to him, so I gave it to
9 him.

10 MS. BARBIER: Well, Your Honor, I never
11 said there's no point in not giving it to him.

12 THE COURT: No. Your exact quote was,
13 "Nothing in those documents is going to assist
14 Mr. Tinsley's case."

15 MS. BARBIER: That is correct. That does
16 speak to whether the documents are privileged.

17 THE COURT: I understand that. But my
18 point is that, I determined that the information
19 wasn't privileged. And so if you want to appeal
20 that -- I don't know how you're going to because
21 it's a discovery issue -- but if you want to
22 appeal that, you can appeal that.

23 Now, let's get to the point to where we
24 can talk to Mr. Tinsley about what he wants to do
25 about the documents that he's already received

1 from -- I believe you got them from Senator Senn,
2 correct, Mr. Tinsley?

3 MR. TINSLEY: From her client, actually,
4 Your Honor.

5 THE COURT: Go it.

6 MR. TINSLEY: Miss Donahue emailed me the
7 documents.

8 THE COURT: So you have the documents
9 pertaining to what Miss Donahue produced to
10 Mr. Parker; is that correct?

11 MR. TINSLEY: I believe so, Your Honor.

12 THE COURT: And have you taken a look at
13 any of those? Have you just reviewed any of them?

14 MR. TINSLEY: No, sir, I reviewed them.

15 THE COURT: Okay. And how many pages
16 were in that production?

17 MR. TINSLEY: It's hard to tell. About
18 6,000.

19 THE COURT: That's what I think.

20 MR. TINSLEY: Because I think there's one
21 big file, and then they also produced it in parts,
22 so there's overlap. But about 6,000.

23 THE COURT: That's what we -- between
24 that hearing, that's what I indicated, I thought
25 it was 6,000 pages, because there was two files

1 that we had to review.

2 MR. TINSLEY: Yes, sir.

3 THE COURT: And then the only other
4 remaining was the videos and the pictures,
5 correct? Did you receive that?

6 MR. TINSLEY: I have not.

7 THE COURT: Do we have that?

8 LAW CLERK: We have that.

9 THE COURT: All right. We still have
10 that.

11 MR. TINSLEY: Let me clarify. I have not
12 received anything from Sara Capelli or the inquiry
13 agency, the other third party that was subject to
14 my Rule to Show Cause, Capelli. There is one
15 Dropbox link where there are two videos of Paul
16 Murdaugh. But I don't think --

17 THE COURT: That's all.

18 MR. TINSLEY: That's it.

19 (Conversation between law clerk and Judge
20 Price.)

21 THE COURT: I'm trying to figure out what
22 you had.

23 Okay. All right. So what is your
24 position as to their motion, Mr. Tinsley?

25 MR. TINSLEY: Well, Judge, I think it's

1 frivolous, and I think it's too late. I didn't
2 realize that Sandy Senn was not copied on the
3 email on that Friday afternoon. I forwarded it
4 and I filed this email correspondence for the
5 record. I forwarded it to Miss Senn saying I'm
6 happy to come get it. I didn't necessarily know
7 that I was going to get an email link Sunday
8 morning. On Sunday morning, I went and looked at
9 it. I looked at it on Sunday. I looked at it on
10 Monday. They don't send a letter to Miss Senn
11 until 10:00 p.m. almost on Monday night.

12 So it wasn't an emergency on Friday. It
13 wasn't an emergency on Saturday or Sunday, or even
14 all day on Monday, and so I looked at it. It's
15 clear. You raised this on the 29th, that you had
16 a suspicion that they had done this, copied
17 lawyers on these documents to raise this issue, to
18 try to keep secret what it is that they've done.
19 I don't think there's any question about that,
20 Your Honor. And I think that also should weigh
21 into this interlocutory appeal, which I think
22 they're clearly going to take. But it is just
23 that, it's interlocutory.

24 THE COURT: I understand. All right.

25 Well, as to those documents, obviously,

1 the cat's out of the bag. I mean, I can't stuff
2 that mash potato bag into the bag. I mean, it's
3 already out.

4 So as to any other production of
5 documents, I'll withhold at this point in time and
6 give you your opportunity to appeal.

7 Unfortunately, at this point in time,
8 it's really just a moot processes to have you-all
9 begin a privilege as to the documents that he's
10 already received.

11 But, at this point in time, I will
12 withhold whatever remaining portions of the
13 discovery he has not seen and has not been privy
14 to at this point in time until pending the appeal.
15 All right?

16 MS. BARBIER: Thank you, Your Honor. I'd
17 also like you to order him not to disseminate the
18 documents.

19 THE COURT: I don't think he has any
20 intention of disseminating them. I trust
21 Mr. Tinsley.

22 MS. BARBIER: Okay. And I'd like you to
23 order him to not further review them or to provide
24 copies to anybody else.

25 THE COURT: Just don't disseminate them.

1 Fair enough?

2 MR. TINSLEY: That's fine.

3 THE COURT: All right. Well, thank
4 you-all very much. If you-all need something
5 else, just let us know.

6 MR. TINSLEY: Thank you, Your Honor.

7 (The hearing was concluded.)

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COURTESY OF
LUNA SHARK MEDIA

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in General Sessions for Hampton County, South Carolina.

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

May 16, 2022



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

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Exhibit B

COURTESY OF
LUNA SHARK MEDIA

The Supreme Court of South Carolina

Renee S. Beach, Phillip Beach, Robin Beach, Savannah Tuten, and Seth Tuten, Respondents,

v.

Gregory M. Parker, Gregory M. Parker, Inc. d/b/a Parker's Corporation, Blake Greco and Jason D'Cruze, Vicky Ward, Max Fratoddi, Henry Rosado, and Private Investigation Services Group, LLC, Defendants,

of whom Gregory M. Parker, Gregory M. Parker, Inc. d/b/a Parker's Corporation, Blake Greco and Jason D'Cruze, are Petitioners,

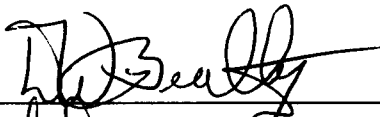
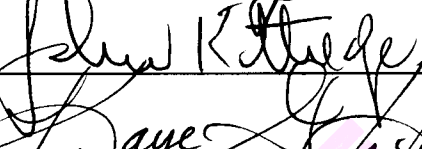
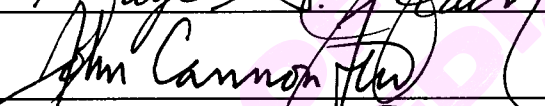


and Bentley Price in his official capacity as Hampton County Circuit Court Judge, In re: Civil Action No. 2021-CP-25-00392, is Respondent.

Appellate Case No. 2022-000691

ORDER

Petitioners seek a writ of mandamus in this Court's original jurisdiction to require the Honorable Bentley Price to vacate his discovery order and conduct an *in camera* review of documents subpoenaed by Respondents and make specific findings as to whether each document is protected by a privilege. By order dated September 15, 2022, we held this matter in abeyance and directed Judge Price to advise the Court whether he finally determined evidence that was subpoenaed was subject to a privilege. Judge Price has now advised the Court that he has not made a final determination as to privilege. However, he received a privilege log from Petitioners on September 16, 2022, and intends to review the privilege log and make specific findings of fact.

We grant Petitioners' request for a writ of mandamus and order Judge Price to review the privilege log submitted to him and make a final determination, with specific findings as to each document, as to whether any of the requested information is subject to a privilege.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina
October 5, 2022

cc:
Mark Carroll Moore, Esquire
Susan Pedrick McWilliams, Esquire
Deborah B. Barbier, Esquire
Ralph E. Tupper, Esquire
Andrew Sims Radeker, Esquire
Edward T. Fenno, Esquire
Mark Brandon Tinsley, Esquire
John Martin Grantland, Esquire
The Honorable Bentley Price

Exhibit C

COURTESY OF
LUNA SHARK MEDIA

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

RENEE S. BEACH, PHILLIP BEACH,
ROBIN BEACH, SAVANNAH TUTEN,
AND SETH TUTEN,

C/A No. 2021-CP-25-00392

Plaintiffs,

v.

ORDER

GREGORY M. PARKER, GREGORY
M. PARKER, INC. d/b/a PARKER'S
CORPORATION, BLAKE GRECO,
JASON D'CRUZ, VICKY WARD,
MAX FRATODDI, HENRY ROSADO,
AND PRIVATE INVESTIGATION
SERVICES GROUP, LLC,

Defendants.

The Court has concluded its privilege review and made determinations as ordered by the South Carolina Supreme Court on October 5, 2022.

I. FACTUAL BACKGROUND

In the early morning hours of February 24, 2019, the boat crash that led to the death of Mallory Beach occurred. Her body was not found until March 3, 2019. On March 20, 2019, Plaintiff Renee S. Beach, as the personal representative of Mallory Beach's estate, by and through attorney Mark Tinsley, the same counsel for Plaintiffs in the above-captioned case, filed a wrongful death lawsuit in Beaufort County against a number of defendants, including Defendant Gregory M. Parker, Inc., d/b/a Parker's Corporation. On March 29, 2019, Plaintiffs' counsel filed

a stipulation of dismissal against Parker’s Corporation in Beaufort County, and filed the same wrongful death lawsuit in Hampton County against the same defendants as in the Beaufort County action, but adding other defendants as well, including members of the Murdaugh family and related Murdaugh family trusts. *See Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111 (“**Related Civil Action**”).

From the onset of litigation, it was clear the Related Civil Action would be high-profile, as it garnered significant press attention after it was filed. On January 3, 2020, the Parker’s Corporation filed a motion to change venue, indicating its concern about the ability for Parker’s Corporation to receive a fair trial in Hampton County; that Motion was denied on October 1, 2021. Mr. Parker was and remains the owner, founder, and Chief Executive Office of the Parker’s Corporation. Ultimately, Mr. Parker’s attorney, Jason D’Cruz, sought public relations assistance on navigating the issues concerning the Related Civil Action.

II. PROCEDURAL BACKGROUND

Plaintiffs filed the subject action asserting common law tort causes of action against all Defendants, Gregory M. Parker, Gregory M. Parker, Inc., d/b/a Parker’s Corporation, Blake Greco, and Jason D’Cruz (collectively, “**Parker’s Defendants**”), for civil conspiracy and intentional infliction of emotional distress. The Plaintiffs are the family of Mallory Beach. As has been detailed in numerous pleadings, the Parker’s Defendants asserted privilege over a majority of the documents within the possession, custody, and control of two of its agents: (1) Inquiry Agency, operating through Ms. Capelli (“**Inquiry Agency Files**”); and (2) the LaurensGroup / Push Digital, operating at the direction of Mr. Donehue (“**Laurens Group Files**”). These agents and individuals were each separately subpoenaed by Plaintiffs’ counsel in January and February of 2022. The

Parker's Defendants filed a Motion to Quash and for a Protective Order on February 24, 2022, and filed a corresponding Memorandum in Support on March 15, 2022. In an Order dated March 24, 2022, the Court denied the Parker's Defendants' Motion to Quash and for a Protective Order and ordered the third parties to produce the information to Plaintiffs within thirty days.

On March 30, 2022, the Parker's Defendants filed a Motion for Reconsideration, and the Court held a status conference on April 1, 2022. On April 6, 2022, the Court reversed its initial order by requiring that all discovery be submitted for an *in camera* review. The Court ordered the third parties to provide their investigatory files (i.e. the Inquiry Agency Files and the Laurens Group Files) to the Parker's Defendants so that a privilege log could be prepared and for the Parker's Defendants to provide said files to the Court. Based on this order, counsel for the Parker's Defendants submitted the Inquiry Agency Files and the Laurens Group Files to the Court and began to prepare a privilege log to submit to the Court for its *in camera* review.

A hearing was scheduled on the Motions to Dismiss filed by the Parker's Defendants for April 29, 2022. Due to a conflict, however, the hearing on those Motions was continued. The Court informed the parties through an e-mail from the Court on April 28, 2022, that it wanted to discuss the *in camera* review of documents pertaining to the Motion to Quash at the hearing scheduled for April 29, 2022. During the hearing, the Court indicated it reviewed all of the subpoenaed files, i.e. the Inquiry Agency Files and Laurens Group Files, and sought Plaintiffs' position as to whether or not any privilege had been waived.

After the hearing, the Court's law clerk e-mailed all counsel on April 29, 2022 and indicated the Court was planning on reversing its prior order again and ordering disclosure of all the documents without a privilege log. On May 5, 2022, a Form 4 Order was issued that stated the materials should be produced to Plaintiffs within fifteen days without a privilege log. On Friday, April 29, 2022, Plaintiffs' counsel forwarded the law clerk's e-mail to Sandy Senn ("Ms. Senn"),

counsel for the Laurens Group, PUSH Digital, LLC, and Wesley Donehue. Two days later, on Sunday, May 1, 2022, Plaintiffs' counsel received the entire Laurens Group Files from Wesley Donehue.

The Parker's Defendants filed a Petition for Writ of Mandamus with the Supreme Court on May 20, 2022. In an Order dated September 15, 2022, the South Carolina Supreme Court held the Petition for Writ of Mandamus in abeyance. Parker's Defendants immediately submitted a privilege log to the Court the following day, on September 16, 2022. As a result, on September 20, 2022, Judge Price submitted a letter to the Supreme Court informing it that it had "not made a final determination as to privilege," and that the Court intended "to review the privilege log [submitted by the Parker's Defendants] and [would] make specific findings of fact." On October 5, 2022, the Supreme Court granted the Parker's Defendants' Petition for Writ of Mandamus seeking an *in camera* review of subpoenaed documents that the Parker's Defendants asserted were protected by the attorney-client privilege and work product doctrine. The Supreme Court ordered the Court to review the privilege log submitted by the Parker's Defendants along with documents over which the Parker's Defendants asserted privilege. In addition, the Supreme Court ordered the Court to make a final determination with specific findings as to which documents within the Inquiry Agency Files and the Laurens Group Files that are specified on the privilege log that are subject to the attorney-client privilege or protected by the attorney work product doctrine.

On November 21, 2022, the Court requested a status conference regarding the privilege log submitted by the Parker's Defendants on September 16, 2022. On December 2, 2022, the Court instructed the Parker's Defendants to submit an updated privilege log, which was submitted on January 3, 2023. On January 23, 2023, the Court indicated it "should complete its review of the privilege log and discovery materials this week," and scheduled the "*ex parte, in camera* hearing

with the Parker's Defendants" for February 16, 2023. Accordingly, the hearing occurred on February 16, 2023.

Counsel for the Parker's Defendants were present at the hearing as was Tabor Vaux as counsel for the Plaintiffs. At the outset of the hearing, the Court indicated that it would be more efficient to determine which documents Plaintiffs' counsel actually intended to use. Mr. Vaux then provided the Court with one hard-copy of five separate compilations of documents within the Laurens Group Files, none of which were Bates-labeled. The Court then excused Mr. Vaux and sealed the courtroom in order to conduct an *in camera, ex parte* hearing with counsel for the Parker's Defendants. The Court then heard legal arguments regarding each of these five compilations of documents within the Laurens Group Files as well as argument on the Inquiry Agency Files. Due to the difficulty of operating off of one hard-copy set of files that were not Bates-labeled, the Court agreed to allow the Parker's Defendants an opportunity to compare the five sets of documents from the Laurens Group Files submitted by Plaintiffs with the Bates-labeled versions provided by the Parker's Defendants and to provide supplemental briefing on these files. After the hearing, counsel for the Parker's Defendants contacted Mr. Vaux to request electronic copies of the five compilations of documents Plaintiffs' counsel intended to use.

Mr. Vaux subsequently provided six sets of documents to counsel for the Parker's Defendants on February 21, 2023. These compilations will be addressed in turn. They are referenced as follows: (A) Set 1: Barebones Invoices; (B) Set 2: Master Service Agreement with Statement of Work; (C) Set 3: Ms. Purves' Text Messages; (D) Set 4: Assorted E-mails, Memoranda, and Investigatory Reports; (E) Set 5: E-mails and Other Assorted Documents; (F) Set 6: Memoranda and Other Assorted Documents.

III. LEGAL STANDARD

A. Attorney-Client Privilege

The attorney-client privilege “is the oldest of the privileges for confidential communications known to the common law,” protecting against disclosure of confidential communications by a client to his or her attorney. *Upjohn Co. v. United States*, 449 U.S. 383, 389 (1981). This privilege is designed to “encourage full and frank communication between attorneys and their clients.” *Id.* In *State v. Doster*, the Court explained the attorney-client privilege as follows:

(1) Where legal advice of any kind is sought (2) from a professional legal adviser in his capacity as such, (3) the communications relating to that purpose (4) made in confidence (5) by the client, (6) are at his instance permanently protected (7) from disclosure by himself or by the legal adviser, (8) except the protection be waived.

276 S.C. 647, 651, 284 S.E.2d 218, 219–20 (S.C. 1981). At the time of the communication, the lawyer must be acting as a legal advisor. *Marshall v. Marshall*, 282 S.C. 534, 320 S.E.2d 44 (Ct. App. 1984). The proponent of the attorney-client privilege bears the burden of establishing its application to a particular communication. *Doster*, 276 S.C. at 653, 284 S.E.2d at 220. Courts will not presume that the elements of the privilege are satisfied merely because of the existence of an attorney-client relationship. *Branden & Nethers v. Gowing*, 41 S.C.L. 459, 7 Rich. 459, 471, 1854 WL 2822 (Ct. App. Law 1854).

Generally speaking, for the attorney client privilege to apply, “[t]he relationship of attorney and client, a communication by the client relating to the subject matter upon which professional advice is sought, and the confidentiality of the expression for which the protection is claimed, all must be established in order for the privilege to attach.” *United States v. Schwimmer*, 892 F.2d 237, 243 (2d Cir. 1989), *cert. denied*, 502 U.S. 810 (1991). “The privilege also is held to cover communications made to certain agents of an attorney . . . hired to assist in the rendition of legal

services.” *Id.* Communications between agents of a lawyer and the lawyer’s client, even without the presence of the lawyer, may fall under the attorney-client communication privilege. *See United States v. Kovel*, 296 F.2d 918, 922 (2d Cir. 1961); *see also Schwimmer*, 892 F.2d at 243 (“Information provided to an [agent] by a client at the behest of his attorney for the purposes of interpretation and analysis is privileged to the extent that it is imparted in connection with the legal representation.”).

B. Work Product Doctrine

The attorney work product doctrine protects from discovery documents prepared in anticipation of litigation, unless a substantial need can be shown by the requesting party. *See* Rule 26(b)(3), SCRCF; *Hickman v. Taylor*, 329 U.S. 495, 67 S.Ct. 385, 91 L.Ed. 451 (1947). Importantly, the work product doctrine applies to both actual and potential litigation. *See, e.g., Nat’l Union Fire Ins. Co. of Pittsburgh, Pa. v. Murray Sheet Metal Co.*, 967 F.2d 980, 984 (4th Cir. 1992). (“The document must be prepared *because* of the prospect of litigation when the preparer faces an actual claim or a potential claim following an actual event or series of events that reasonably could result in litigation.” (emphasis in original)).

Courts will also protect work product of an agent of an attorney. “Courts typically afford work product protection to an investigator’s statement, surveillance tape or other document because the investigator is considered to be an agent of the attorney, who in turn is a representative of the client.” Robert L. Reibold, *Hidden Dangers of Using Private Investigators*, S.C. Law., July 2005, at 18, 20 (2005). Ultimately, as long as work product of an attorney or an agent of the attorney involves “mental impressions, conclusions, opinions, or legal theories . . . concerning the litigation,” then it is protected to “the same extent as an attorney-client communication.” *Nat’l Union*, 967 F.2d at 984.

The work product doctrine includes both “fact” work product and “opinion” work product.

In re Grand Jury Proc. #5 Empanelled Jan. 28, 2004, 401 F.3d 247, 250 (4th Cir. 2005). Fact work product consists of documents prepared by an attorney that do not contain the attorney's mental impressions, which "can be discovered upon a showing of both a substantial need and an inability to secure the substantial equivalent of the materials by alternate means without undue hardship." *Id.* (quoting *In re Grand Jury Proceedings*, 33 F.3d at 348); see also *In re John Doe*, 662 F.2d 1073, 1076 (4th Cir.1981) (defining fact work product). Opinion work product does contain information about the attorney's mental impressions and is "more scrupulously protected as it represents the actual thoughts and impressions of the attorney." *In re Grand Jury Proceedings*, 33 F.3d at 348.

IV. PRIVILEGE DETERMINATIONS

A. Set 1: Barebones Invoices

Plaintiffs seek to use six invoices from the Laurens Group, which correspond to the Bates-labeled documents **LAURENSGROUP_004435 – 004440**. The Parker's Defendants do not assert privilege over these six specific invoices. Furthermore, this Court finds that all other invoices are not privileged as they do not reveal client communications or mental impressions or thoughts of Mr. D'Cruz.

B. Set 2: Master Service Agreement with Statement of Work

The second set of documents are six pages long, consisting of the Master Service Agreement, which includes the Scope of Work to be performed. This document set corresponds to the Bates-labeled documents **LAURENSGROUP_004429 – 004434**. This MSA and SOW are between Mr. D'Cruz and Laurens Group, on behalf of Mr. D'Cruz's client, Mr. Parker. This Court finds that only the SOW paragraph on 004433 is protected work product as it was prepared for pending litigation and reveals Mr. D'Cruz's instructions to the agent as well as his mental impressions about fruitful areas of investigation. Here, the entire MSA is not considered privileged

because it is public knowledge that Mr. D’Cruz engaged Laurens Group and the simple fact that Laurens Group was under contract does not rise to the level of opinion work product. For this same reason, only the SOW is protected by attorney-client privilege.

C. Set 3: Ms. Purves Text Messages

The third set of documents are an assortment screenshots of Ms. Purves’ text messages involving one or more of the following individuals: Mr. D’Cruz, Mr. Parker, Mr. Donehue, and Ms. Stokes-Murray. These documents correspond to the Bates-labeled documents **LAURENSGROUP_002572 – 002588**.

LAURENSGROUP_002572 – 002576—are messages between Mr. Parker and Ms. Purves. These communications between Mr. Parker and Ms. Purves discuss public news stories and talking points related to joint and several liability law in the state. The Court finds these messages do not comport with *Schwimmer* as they were not made for the purposes of interpretation or analysis by the agent in connection with legal representation concerning the litigation. Therefore, these messages are not privileged.

LAURENSGROUP_002577 – 002581—are messages between Mr. Parker, Ms. Purves, Mr. Donehue, and Ms. Stokes-Murray. The messages reference a May 16, 2021 *Post & Courier* article. The messages reflect personal opinions of Mr. Parker about the article and how it relates to joint and several liability laws in the state. Therefore, these messages are not privileged because they were not made for the purpose of obtaining legal assistance or advice.

LAURENSGROUP_002582—are messages where a public news article is shared and the headline of the article is repeated. These messages are not privileged because they were not made for the purpose of obtaining legal assistance or advice.

LAURENSGROUP_002583 – 002585—are messages between Mr. Parker, Ms. Purves, and Mr. Donehue. These messages are protected by attorney-client privilege as they include

advice to Mr. Parker by his attorney's agent.

LAURENSGROUP_002586 – 002588—are messages between Mr. D'Cruz and Ms. Purves. The messages that discuss a handicap placard used by Paul Murdaugh are not privileged, but other messages in this exchange are privileged as they reveal mental impressions and strategy concerning the litigation.

D. Set 4: Assorted E-mails, Memoranda, and Investigatory Reports

LAURENSGROUP_002159—is an e-mail between Ms. Purves and Mr. D'Cruz discussing whether to hire Ms. Capelli as a private investigator. This information is public knowledge and therefore not privileged.

LAURENSGROUP_002483 – 002488—is an e-mail between Mr. D'Cruz and Ms. Purves that discusses a “research book” as a type of attorney work product Mr. D'Cruz sought from the Laurens Group. This Court finds that this discussion is not protected work product as it is not the actual document or tangible item prepared in anticipation of litigation. Furthermore, it is not protected by the attorney-client privilege as it was not made for the purpose of seeking legal advice.

LAURENSGROUP_002490—is an e-mail between Mr. D'Cruz, Ms. Purves, and Mr. Parker. This e-mail reveals the litigation strategy of Mr. D'Cruz and constitutes privileged material.

LAURENSGROUP_001735—is an e-mail between Ms. Capelli and Ms. Purves that attaches an investigatory report obtained and compiled by Ms. Capelli, pursuant to her investigation efforts directed by Mr. D'Cruz. The Court finds this e-mail is not privileged because it does not contain any work product.

LAURENSGROUP_001736—is an e-mail Ms. Purves and Ms. Capelli. It identifies names of individuals who they believe are relevant to the case. This e-mail is not privileged

because it is not between an attorney and a client nor is it seeking legal advice and it does not contain opinion work product.

LAURENSGROUP_004737 – 005019— is an investigatory report titled “The Murdaugh Report” prepared by Ms. Capelli. Certain portions of this report include timeline of the events pertinent to the Murdaugh family and the Related Civil Action as well as potential evidence and testimony of pertinent witnesses, but a majority of this report contains public information that has simply been compiled into one document. The report also contains notes added by Ms. Capelli; some notes serve as summaries, things of note, or her opinions. Ms. Capelli’s notes are in bold and/or in all caps throughout the report. Her notes found on the following pages should be redacted as they are privileged opinion work product: **4826, 4832, 4837, 4856, 4920, 4927, 4931, 4934, 4940, 4945, 4952, 4958, 4961, 4967, 4976, and 4982**. The following pages are privileged in their entirety because they contain opinion work product of Ms. Capelli as agent of Mr. D’Cruz: **4737-4752, 4794, 4850, 4898-4904, and 4936-37**. Therefore, the remainder of documents included in **4737-5019** are not privileged as they contain public information and to the extent that they contain any work product, that work product is fact work product of which Plaintiff’s counsel has demonstrated a substantial need in obtaining.

LAURENSGROUP_000861 – 000872—represent advertising material for Push Digital. The Parker’s Defendants do *not* assert privilege over this document set.

LAURENSGROUP_000873 – 000877—is text of house bill H. 3750. This is not privileged as it does not contain any work product nor is it a communication between privileged persons.

LAURENSGROUP_000878 – 000879—represent advertising material for a podcast hosted by Mr. Donehue. The Parker’s Defendants do *not* assert privilege over this document set.

LAURENSGROUP_000880 – 000883, 000892 – 000894, 000918, 004441, and 004450 –

004452, 000892 – 000894 (duplicate), 001010 – 001012, 001032 – 001033, and 001053—comprise (1) memoranda that discusses Mr. D’Cruz’s litigation strategy, (2) a proposal which identifies the scope of work Mr. D’Cruz was interested in pursuing when hiring the Laurens Group, and (3) secondary legal sources which identifies a focus of Mr. D’Cruz litigation strategy. All of these documents are privileged, because they reveal Mr. D’Cruz’s mental impressions, legal theories, and strategies in the Related Civil Action.

LAURENSGROUP_001071 – 001075, 001079 – 001081, 001098, 001108, 001144 – 001145, 001150, and 001164—are e-mails between the Laurens Group and Mr. D’Cruz and/or Mr. Parker. These e-mails are not privileged as they are not communications from a client seeking legal advice nor do they contain protected work product.

CAPELLI 000734 – 000739, 000730 – 000731, 000724 – 000729, 000732 – 000733, and 000404 – 000412 consist of reports comprised of Ms. Capelli’s investigative efforts. These documents are not privileged. The information contained in these documents constitutes fact work product of which Plaintiff’s counsel has demonstrated a substantial need for the information. The attorney-client privilege does not protect these documents despite counsel’s argument that the reports were shared with Mr. D’Cruz; these are reports and not communications. Just because something was shared with an attorney, that does not make it protected by the privilege.

E. Set 5: E-Mails and Other Assorted Documents

The fifth compilation are mostly e-mails that include communications internal to the Laurens Group, others include Mr. D’Cruz; and others are between the Laurens Group and Mr. Parker. The Court finds that the e-mails are not at the direction of counsel nor do they reflect private client communications. Many of these communications are related to changing joint and several liability laws in this state and building coalitions to aid in that effort. Those types of communications are more in line with providing business advice rather than legal advice related

to the pending litigation. The Court also finds that they do not contain opinion work product. Therefore, the following documents are not privileged: **LAURENSGROUP_002608, 00215, 002618, 002626, 002635-002639, 002641, 002652-2656, 002705, 0027110, 002656, 002726, 002738-2740, 002826, 002952, 002808, 002997, 003021, 003023, 003026, 003027, 003048, 003054, 003057, 003082, 003085-3087, 003290, 003727, 003731-003732, 003389, 003788, 003792, 003819, 000839, 000177, 003190, 003241, 000622, 000330, 000345, 000467-000476, 000614-616, 000546, 003091-3093, 003095-3096, 003100-3101, 003107-3109, 003115, 000190-191, 003827-3829, 004029, 004041, 004073, 000011, 000027, 000060, 000089-90, 000107-109, 000170-172, 002825-2826, 002853, 00437, 002984-2986, 003058-3059, 003320-3328, 003350, 000001, 000539-540, 000546, 000558-615, 001071-1076, 001098-1101, 001255, 001274-1275, 001291, 001306-1308, 001293, 001317-1320, 001685-1699, 001703-1704, 001706-1709, 001713-1714, 001723-1724, 001726-1728, 001356-1358, 001364-1366, 001908, 002086, 002093, 002096, 002104-2106, 002117, 002134-2135, 002142-2143, and 002149-2150.**

LAURENSGROUP_002798—represents the scheduling of a virtual conference call. The Parker’s Defendants do *not* assert privilege over this page.

LAURENSGROUP_003128 and 003129—represents the scheduling of a conference call. The Parker’s Defendants do *not* assert privilege over this document set.

LAURENSGROUP_003412 and 003479 – 003480—represents the coordination of conference calls. The Parker’s Defendants do *not* assert privilege over this document set.

LAURENSGROUP_000605—is an e-mail between Mr. Parker and Mr. Donehue concerning a newspaper article. The Parker’s Defendants do *not* assert privilege over this document.

LAURENSGROUP_000853 – 000860— represent advertising material for Push Digital. The Parker’s Defendants do *not* assert privilege over this document set.

LAURENSGROUP_000557—represents the coordination of conference calls. The Parker’s Defendants do *not* assert privilege over this page.

LAURENSGROUP_002984 – 002986 and LAURENSGROUP_000840 – 000851—are an e-mail chain and memoranda. The Court does not find this information to be privileged communication or work product, and therefore, not protected. However, if the Court was so inclined to consider these documents protected by the attorney-client privilege, the Court is concerned by the nature of these communications and believes they may fall within the crime-fraud exception as they discuss “exposing all of the attorney connections” to the Murdaughs and “leak[ing] information.”

LAURENSGROUP_001332 and 01334 – 001337—are drafts of the SOW and the MSA that demonstrate certain revisions made to the drafts using Track Changes. For the same reasons the finalized and executed SOW paragraph is privileged, this draft of the SOW is also privileged, but not the entirety of the document.

LAURENSGROUP_003063 – 003064, and 003071—are e-mails with Mr. D’Cruz and/or his assistant Kim Brown. These e-mails contain password information, which should be redacted, but the entire e-mail chain is not privileged for the same reasons as set forth above.

F. Set 6: Memoranda and Other Assorted Documents

LAURENSGROUP_004450 – 004456, 004441 – 004449, and 005020 – 005043— are related to the SOW prepared in anticipation of litigation and reveals litigation strategy. Therefore, these documents are privileged.

LAURENSGROUP_004458 – 004460— are privileged work product as they contain mental impressions related to the litigation.

LAURENSGROUP_4461 - 004472— are part of an investigatory report. These documents include snapshots of public record information and therefore fact work product that do not contain

any opinion work product to which Plaintiff's counsel has demonstrated a substantial need. No attorney-client privilege applies as this is not a communication and only a compilation of public record.

LAURENSGROUP_004473— is a page of “The Murdaugh Report” which contains a photo of the family. This document is not privileged.

LAURENSGROUP_004474 – 004576— are portions of The Murdaugh Report which are privileged as they contain opinion work product.

V. CONCLUSION

In accordance with the Supreme Court Order dated October 5, 2022, this concludes the Court's *in camera* review and determination of privilege of all documents submitted to the Court. Due to the nature of the documents reviewed, there may be many duplicates of privileged and non-privileged materials. If a document was deemed privileged in this Order as indicated by a certain Bates Number, any duplicate of that document with a different Bates Number is also privileged even if omitted by the Court. Any privileged material in Plaintiff's possession should be immediately returned to Parker's Defendants or redacted where directed by this Order.

The Honorable Bentley D. Price

May 24, 2023
Charleston, South Carolina



Hampton Common Pleas

Case Caption: Renee S. Beach , plaintiff, et al VS Gregory M. Parker , defendant, et al

Case Number: 2021CP2500392

Type: Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2023-05-24 15:51:16 page 16 of 16

LUNA SHARK MEDIA