

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

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

Plaintiffs,

vs.

GREGORY M. PARKER, GREGORY M.
PARKER, INC. d/b/a PARKER'S
CORPORATION, BLACK 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

CASE NO.: 2021-CP-25-00392

**ORDER DENYING DEFENDANTS
MOTION TO RECONSIDER IN PART
AND TO ALTER/AMEND THE
COURT'S ORDER OF MAY 24, 2023**

The Parker's Defendants, Gregory M. Parker, Gregory M. Parker, Inc. d/b/a Parker's Corporation, Blake Greco, and Jason D'Cruz, filed a Motion to Reconsider in Part and to Alter/Amend filed June 2, 2023, asking this Court to reconsider its May 24, 2023 Order containing Privilege Determinations pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure.

STANDARD OF REVIEW

Motions for reconsideration will not be granted absent "highly unusual circumstances." U.S. ex rel. Becker v. Washington Savannah River Co., 305 F.3d 284, 290 (4th Cir. 2002) (stating that simple disagreements with the court's ruling will not support Rule 59(e) relief).¹ Courts have recognized three circumstances in which a court should grant a Rule 59(e) motion: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Hutchinson

¹ Rule 59 is substantially the same as the Federal Rule. See Elam v. S.C. Dep't of Transp., 361 S.C. 9, 21, 602 S.E. 2d 772, 779 (2004) ("Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical.").

v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Importantly, a motion for reconsideration is not a vehicle to re-litigate previously raised issues or “to raise argument or present evidence that could have been presented prior to the entry of judgment.” Dash v. Mayweather, C/A No. 3:10-1036-JFA, 2010 U.S. Dist. LEXIS 95277, *2 (D.S.C. Sept. 13, 2010) (quoting Exxon Shipping Co. v. Baker, 554 U.S. 471, n.5 (2008)). In other words, “[a] party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not.” Stevens & Wilkinson of S.C., Inc. v. City of Columbia, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014); Patterson v. Reid, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995). Nor does “[a] party’s mere disagreement with the court’s ruling . . . warrant a Rule 59(e) motion.” In re Pella Corp. Architect & Designer Series Windows Mktg., Sales Practices & Prods. Liab. Litig., 269 F.Supp. 3d 685, 691 (D.S.C. 2017); *see also* Lyons v. Fid. Nat’l Title Ins. Co., 415 S.C. 115, 135, 781 S.E.2d 126, 137 (Ct. App. 2015).

After consideration of the issues raised in Parker’s Defendants’ Motion, arguments made during hearings held on this matter, and after reviewing the discovery with accompanying privilege logs, the Court hereby DENIES both Parker’s Defendants Motion to Reconsider in Part and to Alter/Amend.

AND IT IS SO ORDERED.

[SIGNATURE PAGE TO FOLLOW]



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

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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

**THE PARKER'S DEFENDANTS'
SUPPLEMENTAL MOTION TO
DISQUALIFY PLAINTIFFS' COUNSEL**

Defendants Gregory M. Parker ("**Mr. Parker**"), Gregory M. Parker, Inc., d/b/a Parker's Corporation ("**Parker's Corporation**"), Blake Greco ("**Mr. Greco**"), and Jason D'Cruz ("**Mr. D'Cruz**") (collectively, the "**Parker's Defendants**"), by and through their undersigned attorneys, respectfully request that the Court disqualify Plaintiffs' counsel Mark Tinsley ("**Mr. Tinsley**") and Tabor Vaux ("**Mr. Vaux**") (collectively, "**Plaintiffs' counsel**"). By and through his improper actions, as detailed herein, Mr. Tinsley has disqualified himself from being an attorney representing any party in this action, specifically based on his: (1) improper and unlawful receipt and review of privileged documents, as established vis-à-vis the Court's May 24, 2023 Order; (2) improper and unlawful disclosure of privileged information and material to persons not authorized to have them; (3) contravention of the advocate-witness rule; and (4) improper

communication with a represented third party (i.e., the no-contact rule).¹ Likewise, Mr. Vaux has disqualified himself based on the same improper and unlawful receipt and review of privileged documents.² This motion is based on Rules 3.7, 4.1, 4.2, 4.3, 4.4, and 8.4, South Carolina Rules of Professional Conduct, Rule 407, South Carolina Appellate Court Rules.

I. BACKGROUND

This case fundamentally purports to arise from the publication of a mediation video created by Plaintiffs and photographs used by Plaintiffs in the mediation (“**Mediation Video and Photographs**”) of the underlying civil action: *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc et al.*, Case No. 2019-CP-25-00111 (“**Civil Action**”). Defendant Vicky Ward (“**Ms. Ward**”), a nationally-known reporter, was working on a documentary about the murders of Maggie and Paul Murdaugh—the late wife and son, respectively, of Richard Alexander “Alex” Murdaugh, a defendant in the Civil Action. On November 24, 2021, Ms. Ward allegedly published a trailer for the documentary that Plaintiffs allege contains six different sections from the Mediation Video. (Compl. ¶ 9.) Six days later, on November 30, 2021, Mrs. Beach, the Plaintiff in the Civil Action, filed a Motion for a Rule to Show Cause (“**RTSC**”) arguing the Parker’s Corporation and its representatives should be held in contempt and sanctioned for violating the confidentiality requirements of Rule 8(a) of the South

¹ As detailed more fully herein, Mr. Tinsley is a necessary witness in this case given his contacting two witnesses and at least one defendant—and at least one of these interactions was with a person who was represented by counsel at that time. Thus, Mr. Tinsley has violated not only the advocate-witness rule, but the no-contact rule as well, both of which implicate him as a witness in this case. Nevertheless, they are two separate and independent grounds for Mr. Tinsley’s disqualification.

² Of note, Mr. Vaux did not file a notice of appearance in this case until September 15, 2022. At the time of the Parker’s Defendants’ original Motion to Disqualify Mr. Tinsley, there was no evidence Mr. Vaux had also received and reviewed privileged material. Because of Mr. Vaux’s participation in the February 16, 2023 hearing, discussed further herein, it is abundantly clear he also received and reviewed privileged material, warranting his disqualification as well.

Carolina Alternative Dispute Resolution Rules. Of note, the Plaintiff in the Civil Action is represented by the same counsel, Mr. Tinsley, as the Plaintiffs in the instant action. The RTSC was apparently based entirely on Ms. Ward's alleged trailer for her documentary and allegations that Ms. Ward had included six different sections of the Mediation Video and multiple photographs of Mallory Beach's body. Plaintiff's RTSC relied solely upon unsupported allegations put forth by Mr. Tinsley that Ms. Ward had confirmed she had the Mediation Video and she had purchased the so-called "Beach case file" from Mr. Parker and the law firm representing him. To date, Mr. Tinsley is the only person who has made these statements. Because he is the only person who can support these allegations, he is a necessary witness to this matter.

On December 7, 2021, Parker's Corporation filed a response to the RTSC in the Civil Action and denied making the alleged disclosure. The RTSC was set for a hearing on December 10, 2021. Parker's Corporation looked forward to that hearing as it planned to demonstrate at the hearing that Plaintiff's counsel had no evidence to support his baseless allegations. However, the hearing on December 10, 2021 was not held, because, upon being challenged on his baseless allegations, Mr. Tinsley requested to withdraw his RTSC. Mr. Tinsley's request was granted and he was permitted to withdraw the RTSC. The most reasonable inference from the withdrawal of the RTSC is that Mr. Tinsley had no evidence to support the motion and instead had used it in yet another attempt to smear Parker's Corporation in the press.

After withdrawing the RTSC in the Civil Action, Plaintiffs filed the Complaint in this action on December 3, 2021. In early 2022, a discovery dispute arose involving subpoenas issued to third parties by Plaintiffs' counsel, which were initially sent without copying the Parker's Defendants. One can only assume that the failure to copy the other necessary parties on the subpoenas was done intentionally in hopes that the Plaintiffs would receive documents to which

they were not entitled prior to any possible objection. Immediately upon learning about the subpoenas, 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**"). All of these subpoenas sought privileged documents. Further, as highlighted above, these subpoenas were issued before Plaintiffs had even served the Complaint on Mr. Parker, the Parker's Corporation, and Mr. Greco. Moreover, none of the Parker's Defendants was copied on the subpoenas. The apparent intent behind these surreptitious actions by Mr. Tinsley was to obtain documents he wanted for use in related litigation (i.e. the Civil Action), but that he knew he was not legally allowed to obtain.

The Parker's Defendants filed a Joint Motion to Quash Subpoenas and for a Protective Order ("**Motion to Quash**") and Plaintiffs filed a Rule to Show Cause as to why Ms. Capelli and Inquiry Agency should not be held in contempt for failing to comply with their respective subpoenas, which requested privileged documents. The Motion to Quash was based on a number of assertions, but most prominently the attorney-client and attorney work product privileges. A hearing was held on the motions on March 16, 2022—and as detailed herein, the hearing, the issues discussed therein, and its aftermath clearly demonstrate why Mr. Tinsley must be disqualified.

A. Mr. Tinsley's pursuit, receipt, and review of privileged material

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. (Ex. A, March 28, 2022 Order.) 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. (Ex. B, April 6, 2022 Order.) 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. (Ex. B, April 6, 2022 Order.)

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. (Ex. C, Law Clerk E-mail of April 29, 2022.) As noted herein, as a result of the Petition for Writ of Mandamus in the South Carolina Supreme Court filed by the Parker's Defendants on May 20, 2022, 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.³ Similar to the initial improper subpoenas he sent, Mr. Tinsley

³ Mr. Tinsley knew or should have known the law clerk's April 29, 2022 e-mail did not amount to an official court order. Rules 54 and 58 of the South Carolina Rules of Civil Procedure require an entry before an order 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).

again attempted to obtain these documents without notice to the Parker's Defendants. On Friday, April 29, 2022, Mr. Tinsley forwarded the law clerk's e-mail immediately to Ms. Senn, counsel for the Laurens Group, PUSH Digital, LLC, and Mr. Donehue, without copying the Parker's Defendants' counsel on that e-mail. (Ex. D, Plaintiffs' Counsel E-mail of May 3, 2022.) 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. (Ex. D, Plaintiffs' Counsel E-mail of May 3, 2022.) 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. (Ex. E, Ms. Senn E-mail of May 9, 2022.)⁴ 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 he had also *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. (Ex. F, Tr. of May 9, 2022 Hearing, at 8:14.)

As noted at the May 9, 2022 hearing, the Court's Form 4 Order of May 6, 2022 was inconsistent with the Court's detailed Order of April 6, 2022—and the Court's Form 4 Order has no support in the law. The Parker's Defendants therefore filed a Petition for Writ of Mandamus regarding that Order 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

⁴ Mr. Tinsley failed to mention this second contact in his e-mail to counsel for the Parker's Defendants. (Ex. D, Plaintiffs' Counsel E-mail of May 3, 2022.)

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. (Ex. G, Supreme Court Order of Sept. 15, 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.” (Ex. H, Judge Price Letter of Sept. 20, 2022.)

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. (Ex. I, Supreme Court Order of Oct. 5, 2022.) 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. (Ex. I, Supreme Court Order of Oct. 5, 2022.) 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. (Ex. I, Supreme Court Order of Oct. 5, 2022.)

On November 22, 2022, the Court conducted a telephone status conference with the parties to discuss the Supreme Court’s October 5, 2022 Order. No court reporter was present during that status conference, but counsel for the Parker’s Defendants filed a letter with the Court summarizing the status conference. Notably, Mr. Tinsley admitted he had “gone through and ‘dog-eared’ documents” he received from the Laurens Group directly from Wesley Donehue. Mr. Tinsley indicated he was willing to communicate with counsel for the Parker’s Defendants and stated he

did not mind “pulling all those ‘dog-ears’ out, so that Defendants can tell us what those Bates-stamped versions are, so we can then hash them out,” or words to that effect. (Ex. J, Dec. 1, 2022 Letter.) In other words, Mr. Tinsley offered to continue reviewing documents over which the Parker’s Defendants were asserting privilege in order to come to some sort of an agreement on the privilege review.

Following further communications after the status conference, the Court requested an updated privilege log and the Parker’s Defendants submitted an updated privilege log 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 Plaintiffs’ counsel actually intended to use, given that Plaintiffs’ counsel already possessed the Laurens Group Files (albeit improperly). Mr. Vaux admitted during the hearing that he had reviewed the documents and then provided the Court with one hard-copy of five separate compilation of documents within the Laurens Group Files, none of which was Bates-stamped. 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’ 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.

On March 24, 2023, the Parker’s Defendants submitted an *in camera* Supplemental Brief regarding the Court’s privilege review, which focused on the six sets of documents submitted by Mr. Vaux, but noted that there was no waiver as to the Parker’s Defendants’ prior assertions of privilege over any other documents not identified by Plaintiffs’ counsel. Additionally, within their

in camera Supplemental Brief, the Parker's Defendants specifically 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.

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 found over two hundred and fifteen (215) pages were privileged.⁵ Given this Order, it is undisputed both Plaintiffs' counsel have received and reviewed significant privileged material, in both qualitative and quantitative measures.

B. Mr. Tinsley's improper and unlawful disclosure of privileged information

During the May 9, 2022 hearing, the Court ordered Mr. Tinsley not to disseminate any of the privileged material. (Ex. F, Tr. of May 9, 2022 Hearing, at 11:22–25.) Despite this order, Mr. Tinsley nevertheless disclosed privileged material in a November 30, 2022 e-mail to the Court and counsel for all parties, including counsel for Max Fratoddi, Henry Rosado, and Private Investigation Services Group, LLC (collectively, the "**Private Investigator Defendants**"), which have no right to the privileged material. Specifically, in his e-mail of November 30, 2022, Mr. Tinsley provided separate screenshots of a portion of the documents Bates-labelled as LAURENSGROUP_004745 and LAURENSGROUP_004898, both of which were found to be privileged by the Court in its May 24, 2023 Order. Further, the e-mail included a screenshot of surveillance video taken by Ms. Capelli, for which the Court has not yet ruled, but over which the Parker's Defendants assert privilege. Similarly, in an e-mail sent on May 25, 2023, Mr. Tinsley

⁵ 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.

discussed an investigatory report found to be privileged by the Court. That e-mail was sent to the Court and counsel for all parties, including counsel for the Private Investigator Defendants as well as John Nichols (“**Mr. Nichols**”), who is not a counsel of record in this case and has never made an appearance. Mr. Nichols’ presence on this e-mail, wherein Mr. Tinsley openly discusses privileged information, suggests Mr. Tinsley has disseminated the privileged material to Mr. Nichols. Further discovery is needed on this point, but, at minimum, Mr. Tinsley violated the Court’s direct order via Mr. Tinsley’s e-mail of November 30, 2022.

C. **Mr. Tinsley’s role as an essential witness based on his communications with Defendant Vicky Ward**

During the hearing on the Motion to Quash, Mr. Tinsley relayed alleged conversations he supposedly had with co-defendant Vicky Ward (“**Ms. Ward**”). Mr. Tinsley stated:

In September, I believe, I got a call from a Dateline producer . . . [T]his producer told me that a woman by the name of Vicky Ward, a reporter from New York, had purchased the Beach file. I didn’t know what she meant. It didn’t make any sense to me. And so a couple of days later, I picked up the phone and I called Vicky Ward. I didn’t get an answer. I hang on my cell phone, and, coincidentally, the receptionist tells me Vicky Ward is on the phone, and I said, I understand you bought the file. Because I’m thinking, there are lots of documents filed in the Beach case, why on earth would anybody buy these public documents. And she tells me that she got the documents from the law firm of Baker Hostetler [sic], which is the law firm that Mr. D’Cruz works for.

...

Miss Ward told me, among other things, that Parker’s had an agenda. I said, I have an agenda too. My agenda is to hold these people accountable. She said, well, they’re dirty, they’re slimy. I don’t have anything to do with them other than I bought their documents. And I’m coming to South Carolina and I want you to sit for my sizzle reel, which apparently is a trailer that they put together to be able to sell a project like a documentary to, in this case, Discovery Channel. I said I would agree to meet with her. I met with her in Beaufort to Taylor [sic] Vaux’s office shortly thereafter to find out what she had. Now, what she had was, the first time I learned, she had a copy of my mediation video. She also had copies

of the lawyer notes from the depositions, which would include things like when the officer was being deposed we would go off the record for the officer's phone number. She has those notes. I didn't take any of those notes. I don't have any of those notes.

(Ex. K, Tr. of March 16, 2022 Hearing, at 5:10–6:7, 6:18–7:14.) It should be noted that Ms. Ward adamantly disputes Mr. Tinsley's version of the facts and denies that she received the mediation video or any of the other information from the Parker's Defendants. (Answer of Defendant Vicky Ward; Motion to Dismiss of Defendant Vicky Ward; Ex. L, FITSNews Articles.) In fact, she claims that Mr. Tinsley *gave his express permission for her to use the mediation video in her documentary*. (Answer of Defendant Vicky Ward, ¶¶ 33, 38.) Should this case survive dismissal and proceed to trial, the jury will have to assess the credibility of Ms. Ward versus Mr. Tinsley as to these facts.⁶ Perhaps most important for purposes of this motion to disqualify, this phone call occurred solely between Ms. Ward and Mr. Tinsley. Therefore, Mr. Tinsley is the sole witness that supports the statements he claims were made.

D. Mr. Tinsley's unlawful communications and contact with witness Sara Capelli, a person known by him to be represented by counsel

During that same hearing, Mr. Tinsley also relayed conversations he had with (1) Sandy Senn ("**Ms. Senn**"), counsel for the Laurens Group, PUSH Digital, LLC, and Wesley Donehue ("**Mr. Donehue**"),⁷ and (2) Sara Capelli ("**Ms. Capelli**"), an investigator who Mr. Tinsley knew

⁶ Of note, according to the September 30, 2021 affidavit of Ms. Ward, as she was preparing to leave South Carolina after conducting four days of newsgathering, Mr. Tinsley called her and was willing to grant her the in-person interview she had previously requested. She informed Mr. Tinsley she was scheduled to board a plane and requested to do the interview by video-conferencing when she returned to her office in New York. Mr. Tinsley insisted on the in-person interview, resulting in Ms. Ward changing her flight and that of her camera crew in order to conduct the interview. They agreed to conduct the interview at Mr. Vaux's law offices in Bluffton, South Carolina, but upon arrival, Mr. Tinsley was not present and Ms. Ward was met with a process server and served a subpoena.

⁷ As set forth more fully herein, the full details of Mr. Tinsley's interactions with Mr. Donehue are unknown, but are the subject of ongoing discovery requests. Mr. Tinsley has objected to each of these discovery requests and moved to quash multiple subpoenas. However, it should be noted that

was engaged on behalf of the Parker's Defendants. (Ex. K, Tr. of March 16, 2022 Hearing, at 11:11–12:20.)

Additionally, new evidence was discovered pursuant to valid subpoenas issued by the Parker's Defendants to Ms. Capelli and Inquiry Agency. On July 5, 2022, Ms. Capelli, via her counsel, provided responsive materials. These materials included various improper text messages and phone calls between Ms. Capelli and Mr. Tinsley, which Mr. Tinsley knew to be in violation of the South Carolina Rules of Professional Conduct. These unethical communications are attached as **Exhibit M** and pertinent portions will be discussed below.

E. The three pending Motions to Compel

The Parker's Defendants have filed three separate Motions to Compel, which could provide additional information that is relevant to the instant Motion to Disqualify. The Parker's Defendants contend the evidence already before this Court is sufficient to disqualify Mr. Tinsley. However, in the alternative, should this clear evidence not be sufficient at this time for the Court to rule, this Court should grant the Parker's Defendants' three Motions to Compel which, in part, will likely provide additional evidence to support disqualification.

The first Motion to Compel was based upon learning of the previously-discussed grounds for disqualification. The Parker's Defendants issued subpoenas on May 24, 2022, to Mr. Tinsley and his law firm, which seek, in part, to obtain further information that may corroborate these grounds for disqualification. On June 3, 2022, Mr. Tinsley submitted written objections. On June 7, 2022, the Parker's Defendants requested further explanation from Mr. Tinsley by June 10, 2022.

at the emergency hearing on May 9, 2022, Mr. Tinsley indicated he and Mr. Donehue communicated over the weekend of April 30, 2022, to discuss the unauthorized transfer of privileged files to Mr. Tinsley. It is currently unknown if this contact with Mr. Donehue was authorized by Mr. Donehue's counsel, Ms. Senn. However, it is highly likely that Mr. Tinsley committed an unlawful contact not just with Ms. Capelli, but Mr. Donehue as well.

When Mr. Tinsley failed to respond by the requested deadline, the Parker's Defendants filed a Motion to Compel Production of Subpoenaed Material on June 15, 2022. This Motion to Compel was supplemented with additional evidence and argument via a Supplemental Brief filed on July 13, 2022.

The second Motion to Compel followed Mr. Tinsley's testimony about jury fixing and evidence he provided money to a witness in the case of *The State of South Carolina v. Richard Alexander Murdaugh*, Indictment Numbers 2022-GS-15-00592 – 00595. The Parker's Defendants issued subpoenas to Mr. Tinsley and Mr. Vaux on February 15, 2023, regarding their knowledge and communications about jury fixing. On February 28, 2023, Plaintiffs' counsel submitted written objections. In response, on March 3, 2023, counsel for the Parker's Defendants e-mailed Plaintiffs' counsel explaining why the objections are without merit, and requested a response as to whether a meet-and-confer would be helpful by March 6, 2023. Plaintiffs' counsel failed to respond to the March 6, 2023 e-mail and the Parker's Defendants filed their second Motion to Compel on March 31, 2023.

The third Motion to Compel arose following the *ex parte, in camera* hearing for February 16, 2023, which, as set forth above, led to the Parker's Defendants' discovery that Plaintiffs' counsel appear to have inappropriately and improperly obtained and reviewed some or all of the Inquiry Agency Files. As a result, counsel for the Parker's Defendants notified the Court and all parties of this issue on March 15, 2023. The Parker's Defendants subsequently served the Subpoenas on Mr. Vaux and Mr. Tinsley on April 7 and April 10, 2023, respectively, seeking documents that are in the possession, custody, or control of Plaintiffs' counsel. These Subpoenas were reasonably calculated to lead to the discovery of admissible evidence related to Plaintiffs' counsel unauthorized possession of documents received from the Subpoenaed Third Parties by

Plaintiffs' counsel. On April 20, 2023, Plaintiffs' counsel submitted written objections. In response, on May 3, 2023, counsel for the Parker's Defendants e-mailed Plaintiffs' counsel and requested a response as to whether a meet-and-confer would be helpful by May 5, 2023. Plaintiffs' counsel failed to respond to the May 3, 2023 e-mail and the Parker's Defendants filed their third Motion to Compel on May 31, 2023.

In sum, and in the alternative, should the current evidence not be sufficient at this time for the Court to rule, this Court should grant the Parker's Defendants' three Motions to Compel which, in part, will likely provide additional evidence to support disqualification.

II. LEGAL STANDARD

"A motion to disqualify counsel is subject to the Court's supervisory authority to ensure fairness in all judicial proceedings." *Meyer v. Anderson*, No. 2:19-cv-640-DCN, 2020 WL 4437851, at *2 (D.S.C. Aug. 3, 2020).

A. Prohibition on the inducement of disclosure of privileged information and subsequent review

Rule 1.6 of the South Carolina Rules of Professional Conduct covers the confidentiality of information, including information subject to the attorney-client and attorney work product privileges. It states a lawyer "shall not reveal information relating to the representation of a client," unless an exception has been met, such as to comply with a court order. Rule 1.6(a) & (b)(7), RCP, Rule 407, SCACR.

Rule 8.4 holds that it is professional misconduct for a lawyer to "violate or attempt to violate the Rules of Professional Conduct, [or to] knowingly assist or induce another to do so." Rule 8.4, RCP, Rule 407, SCACR. Further, a "pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation." Rule 8.4 cmt. [2], RCP, Rule 407, SCACR.

B. Witness-advocate rule

Rule 3.7 of the South Carolina Rules of Professional Conduct provides:

(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:

- (1) the testimony relates to an uncontested issue;
- (2) the testimony relates to the nature and value of legal services rendered in the case; or
- (3) disqualification of the lawyer would work substantial hardship on the client.

Rule 3.7, RPC, Rule 407, SCAR. The Comment to Rule 3.7 describes the rationale behind the advocate witness rule: “Combining the roles of advocate and witness can prejudice the tribunal and the opposing party and can also involve a conflict of interest between the lawyer and client.”

Rule 3.7 cmt. [1], RPC, Rule 407, SCACR. “The fundamental justification for the rule is to preserve the integrity of the judicial system and the adversary process by ensuring the objective, professional representation of parties before the court.” *Rizzuto v. De Blasio*, No. 17-cv-7381ILGST, 2019 WL 1433067, at *8 (E.D.N.Y. Mar. 29, 2019) (citing *Murray v. Metro. Life Ins. Co.*, 583 F.3d 173, 178 (2d Cir. 2009)).

C. No-contact rule

Rule 4.2 of the South Carolina Rules of Professional Conduct provides: “In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.” Rule 4.2, RPC, Rule 407, SCACR. This Rule exists for a number of critical reasons. The Rule “contributes to the proper functioning of the legal system by protecting a person who has chosen to be represented by a

lawyer against”: (1) “possible overreaching by other lawyers who are participating in the matter,” (2) “interference by those lawyers with the client lawyer relationship,” and (3) “the uncounselled [sic] disclosure of information relating to the representation.” Rule 4.2 cmt. [1], RPC, Rule 407, SCACR. Further, consent is no defense, as the Rule “applies even though [the] represented person initiates or consents to the communication.” Rule 4.2 cmt. [3], RPC, Rule 407, SCACR. “A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this Rule.” *Id.*

III. ARGUMENT

A. **Mr. Tinsley and Mr. Vaux should be disqualified pursuant to Rule 8.4 of the Rules of Professional Conduct, because they have committed misconduct in the pursuit, receipt, and review of privileged documents.**

There is a third independent ground for disqualifying Mr. Tinsley. He committed professional misconduct in inducing Ms. Senn and her clients to release privileged information prior to a Court Order being issued. Further, Mr. Tinsley compounded this misconduct by reviewing thousands of pages of documents he knew were still subject to a claim of privilege. Likewise, Mr. Vaux received these documents from Mr. Tinsley and reviewed them as well, warranting his disqualification.

Numerous courts have disqualified counsel on this basis alone in similar situations. *See, e.g., United States v. Quest Diagnostics, Inc.*, 734 F.3d 154, 166–68 (2d Cir. 2013) (affirming the district court’s disqualification of counsel, because counsel was “in a position to use privileged information” in such a manner “to give present or subsequent clients an unfair, and unethical, advantage”); *Harleysville Ins. Co. v. Holding Funeral Home, Inc.*, No. 1:15CV00057, 2017 WL 4368617, at *14 (W.D. Va. Oct. 2, 2017) (disqualifying counsel where they reviewed privileged materials for which they believed that privilege had been waived, rather than alert the court);

United States ex rel. Hartpence v. Kinetic Concepts, Inc., No. CV 08-1885-GHK AGRX, 2013 WL 2278122, at *2 (C.D. Cal. May 20, 2013) (disqualifying counsel where counsel “should have known” documents were privileged and should have sought guidance from the court in advance, but transferred them instead to the U.S. Attorney’s Office and “repeatedly used them in the pleadings”); *United States ex rel. Frazier v. IASIS Healthcare Corp.*, No. 2:05-CV-766-RCJ, 2012 WL 130332, at *4, *15 (D. Ariz. Jan. 10, 2012) (disqualifying counsel for failure to disclose privileged documents, despite counsel’s declaration that she had instructed client not to give the firm privileged documents, and “never read or relied on” documents she believed might be privileged); *Richards v. Jain*, 168 F. Supp. 2d 1195, 1201 (W.D. Wash. 2001) (holding plaintiffs’ access to privileged documents for eleven months and failure to notify defense of their possession of such materials warranted disqualification, even where counsel’s review and knowledge of the documents was not extensive); *Walker v. GEICO Indem. Co.*, No. 615CV1002ORL41KRS, 2017 WL 1174234, at *12 (M.D. Fla. Mar. 30, 2017) (disqualifying counsel where “highly impactful” privileged information, albeit disclosed inadvertently, had been “extensively reviewed, discussed, and disseminated,” noting that “what is required for disqualification is a showing that there is a ‘possibility’ that an unfair informational advantage was obtained”); *Arnold v. Cargill Inc.*, No. 01-2086 (DWF/AJB), 2004 WL 2203410, at *10 (D. Minn. Sept. 24, 2004) (finding the proceedings had been tainted by the reckless disregard of “the risks associated with playing fast and loose with the rules protecting . . . privileged and confidential material”).

Over 215 pages of documents have been deemed privileged so far, because they detail case strategy and reveal attorney-work product. By contacting Ms. Senn and/or her clients not once, but twice, rather than obtaining guidance from the Court on whether and when a formal order would be issued, Mr. Tinsley committed an unprofessional overreach. Both Plaintiffs’ counsel’s receipt

and review of an extensive amount of privileged material unfairly prejudices the Parker's Defendants, not only in the case at bar, but in the underlying Civil Action. Although the Parker's Defendants have moved for a Stay of the Court's Order regarding these particular subpoenaed documents, Mr. Tinsley likely plans to use all of these documents in his representations of the Plaintiff in the other, underlying Civil Action. This bell cannot simply be un-rung either. The receipt and review of privileged information irreparably taints the case and Plaintiffs' counsel. *See In re Search Warrant Issued June 13, 2019*, 942 F.3d 159, 175 (4th Cir. 2019), *as amended* (Oct. 31, 2019) (admonishing the lower court for "fail[ing] to recognize that an adverse party's review of privileged materials seriously injures the privilege holder," and holding the harm was "plainly irreparable" because the "review of those privileged materials cannot be undone").

Two cases are particularly analogous to the one at bar. First, in *Richards v. Jain*, 168 F. Supp. 2d 1195, 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. Due to Plaintiffs' counsel's extensive and lengthy review of privileged

material, both Plaintiffs' counsel should be immediately disqualified from acting any further as counsel for Plaintiffs for the remainder of this litigation.

Moreover, it should be noted that at the May 9, 2022 hearing, the Court ordered Mr. Tinsley not to disseminate any of the Laurens Group Files. (Ex. F, Tr. of May 9, 2022 Hearing, at 11:22–25.) Despite this order from the Court, Mr. Tinsley nevertheless disclosed privileged material contained within the Laurens Group Files in a November 30, 2022 e-mail to the Court and counsel for all parties, including counsel for the Private Investigator Defendants, who have no right to access or review the privileged material. Specifically, in his e-mail of November 30, 2022, Mr. Tinsley provided separate screenshots of a portion of the documents Bates-labelled as LAURENSGROUP_004745 and LAURENSGROUP_004898, both of which were found to be privileged by the Court in its May 24, 2023 Order. Further, the e-mail included a screenshot of surveillance video taken by Ms. Capelli, for which the Court has not yet ruled, but over which the Parker's Defendants assert privilege. Similarly, in an e-mail sent on May 25, 2023, Mr. Tinsley discussed an investigatory report found to be privileged by the Court.

That e-mail demonstrates the recklessness with which Mr. Tinsley continues to treat the Parker's Defendant's privileged documents. Mr. Nichols' inclusion on May 25, 2023 email by Mr. Tinsley raises multiple questions, including whether Mr. Tinsley has disseminated the privileged material he possesses to Mr. Nichols without leave of the Court or the permission of the Parker's Defendants to do so. While counsel for the Parker's Defendants has the utmost respect for Mr. Nichols, further discovery is needed to ascertain to what extent Mr. Tinsley has violated the Court's direct order discussed above—and based on Mr. Tinsley's apparent disregard of ethical standards and his other, improper acts, summarized above, he must be disqualified from this case.

Further, based on Mr. Vaux's possession and review of sensitive and privileged information, he should also be disqualified from this case.

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 the return and/or 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"). The return of documents has been ordered in South Carolina courts as well in cases involving the inadvertent disclosure, which demonstrates how much more justifiable the return and/or destruction of documents is required in this case when Plaintiffs' counsel improperly solicited, received, and reviewed privileged material. *See Carolina Park Associates, LLC v. Marino*, No. 2010-CP-10-6042, 2011 WL 9369845 (S.C.Com.Pl. June 28, 2011). If the Court disqualifies Plaintiffs' counsel and orders the return and/or destruction of the Laurens Group Files and Inquiry Agency 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 ruled upon by the Court.

B. Mr. Tinsley should be disqualified pursuant to Rule 3.7 of the Rules of Professional Conduct, the witness-advocate rule, because he is a necessary witness and none of the Rule's exceptions applies.

Rule 3.7 of the South Carolina Rules of Professional Conduct, referred to as the “witness-advocate rule,” prohibits a lawyer from acting as an advocate in a trial in which the lawyer is likely to be called as a necessary witness except under certain circumstances. Rule 3.7(a), RPC, Rule 407, SCACR. This rule provides that a lawyer may act as an advocate and witness in the same trial only when “(1) the testimony relates to an uncontested issue; (2) the testimony relates to the nature and value of legal services rendered in the case; or (3) disqualification of the lawyer would work substantial hardship on the client.” *Id.* “When counsel for a party to a cause finds that he is required to be a material witness for his client he should immediately so advise his client and retire as counsel in the case.” *Edmiston v. Wilson*, 146 W.Va. 511, 531, 120 S.E.2d 491 (W. Va. 1961) (internal citation omitted) (applying West Virginia’s Rule 3.7).⁸

If the attorney fails to excuse himself as required by Rule 3.7, the opposing party should object as the Court has the inherent authority to disqualify counsel. *Meyer v. Anderson*, No. 2:19-cv-00640-DCN, 2020 WL 4437851, at *2 (D.S.C. Aug. 3, 2020). Comment 2 to Rule 3.7 provides, in pertinent part:

The opposing party has proper objection where the combination of roles may prejudice that party’s rights in the litigation. A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate witness should be taken as proof or as an analysis of the proof.

Rule 3.7 cmt. [2], RPC, Rule 407, SCACR. This rule recognizes that “[t]he roles of an advocate and of a witness are inconsistent; the function of an advocate is to advance or argue the cause of

⁸ The West Virginia and South Carolina’s Rule 3.7 of the state Professional Rules of Conduct are essentially identical.

another, while that of a witness is to state facts objectively.” *Collins v. Entm’t, Inc. v. White*, 363 S.C. 546, 564, 611 S.E.2d 262, 271 (Ct. App. 2005). The concerns implicating the rule are

(1) the lawyer will appear to vouch for his own credibility, (2) the lawyer’s testimony will put opposing counsel in a difficult position when he has to vigorously cross-examine his lawyer-adversary and seek to impeach his credibility, and (3) there may be an implication that the testifying attorney may be distorting the truth as a result of bias in favor of his client.

Lember Law, LLC v. eGeneration Mtkg., Inc., No. 3:18-cv-570 (CSH), 2020 WL 2813177, at *20 (D. Conn. May 29, 2020) (citations omitted).

Further, “[w]here an attorney has observed or participated in events giving rise to facts disputed at trial, a jury may misinterpret his questions or summation as testimony conveying his own version of those events.” *Nelson v. Hartford Ins. Co. of Midwest*, No. CV11-162-M-DWM, 2012 WL 761965, at *4 (D. Mont. Mar. 8, 2012) (quoting *Northern Mont. Hosp. v. Contl. Casualty Co.*, CV 91-078-GF (D. Mont. May 14, 1993)). “Such misinterpretation could prove extremely prejudicial to the adverse party, since as an unsworn witness he [the attorney] would not be subject to cross-examination or explicit impeachment.” *Id.*

“South Carolina courts have relied upon two factors in determining whether an attorney is or will be a ‘necessary witness’: whether ‘the attorney’s testimony is relevant to disputed, material questions of fact’ and whether ‘there is no other evidence available to prove those facts.’” *Meyer* 2020 WL 4437851, at *3 (quoting *Brooks v. S.C. Comm’n on Indigent Def.*, 419 S.C. 319, 326, 797 S.E.2d 402, 405 (Ct. App. 2017)). “These requirements strike a reasonable balance between the potential for abuse and those instances where the attorney’s testimony may be truly necessary.” *Id.* (quoting *Brooks*). However, the attorney need not be “the only witness to these events.” *Brooks*, 419 S.C. at 327, 797 S.E.2d at 406. Rather, an attorney can be disqualified under Rule 3.7 if “no other witness would be able to provide evidence regarding the full [circumstances]” and other

“material information.” *Id.* Moreover, “doubts are to be resolved in favor of disqualification.” *Lember Law*, 2020 WL 2813177, at *19.

Mr. Tinsley is a necessary witness because his testimony is material and relevant to the issues being litigated in this action. Moreover, he is the *only witness* that could testify to the alleged statements made by Ms. Ward to him. There is no other support for them. In their Complaint, Plaintiffs allege claims for civil conspiracy and the intentional infliction of emotional distress based upon the alleged dissemination of the Mediation Video and Photographs. Based upon the statements he made at the hearing on March 16, 2022, it is clear Mr. Tinsley is involved in this case as a witness. Mr. Tinsley’s statements at the hearing were based on his recollection as a witness and not simply his comments on evidence as a lawyer. Again, he is the *only witness* that supports the version of events alleged.

Mr. Tinsley stated he had spoken to co-defendant Ms. Ward on the phone and she allegedly told him she had obtained the Mediation Video and Photographs and other documents from the BakerHostetler law firm where Mr. D’Cruz is employed. (Ex. K, Tr. of March 16, 2022 Hearing, at 6:5–7.) He also informed the Court Ms. Ward told him the Parker’s Defendants have “an agenda.” (Ex. K, Tr. of March 16, 2022 Hearing, at 6:18–20.) In their Complaint, Plaintiffs specifically allege that Defendant “Vicky Ward acknowledged that Parker and his law firm, referencing Defendant D’Cruz’s law firm Baker Hostetler [sic], ‘had an agenda’ and that she had ‘nothing to do with them other than having their stuff.’” (Compl. ¶ 14.) These allegations obviously arise from what Mr. Tinsley states occurred during a phone call that he had with Ms. Ward. No one other than Ms. Ward, who is a co-defendant, was on that phone call. Further, how Ms. Ward received the video is the principal contested issue in this case. Therefore, Mr. Tinsley’s testimony as to their conversation is not only relevant to specific allegations in the Complaint and material

to questions of fact, but it is necessary testimony. There is no other witness who would be able to provide the full circumstances and other material information surrounding these allegations.

Mr. Tinsley is a necessary witness and therefore cannot also act as Plaintiffs' counsel in this action. Here, the equities plainly weigh in favor of disqualifying Mr. Tinsley as counsel for the Plaintiffs. Additionally, as set forth below, Mr. Tinsley also communicated with an investigator engaged on behalf of the Parker Defendants, which renders him a fact witness in this case for a second time. Allowing Mr. Tinsley to serve as Plaintiffs' counsel in this case would compromise the integrity of the tribunal. Mr. Tinsley is counsel for Plaintiffs and he cannot effectively represent them while also testifying at trial. There is a real danger that the finder of fact would be unable to discern when he is acting as an attorney and when he is acting as a witness.

Rule 3.7 provides three exceptions to disqualification. However, none of these exceptions applies here. The first two exceptions clearly do not apply, because the testimony does not relate to an uncontested issue or the nature and value of legal services rendered. In fact, the issue alleged is very much contested, not only by the Parker's Defendants, but the alleged speaker, Ms. Ward herself. Moreover, the third exception, where disqualification will lead to a substantial hardship on the client, is also inapplicable here.

The substantial hardship exception to Rule 3.7 is construed narrowly. *Fine Hous., Inc. v. Sloan*, 431 S.C. 499, 510, 848 S.E.2d 581, 586 (Ct. App. 2020), *reh'g denied* (Oct. 26, 2020). "To find substantial hardship,' courts have required something beyond the normal incidents of changing counsel, such as the loss of extensive knowledge of a case based upon a long-term relationship between the client and counsel and substantial discovery conducted in the actual litigation." *Brown v. Daniel*, 180 F.R.D. 298, 302 (D.S.C. 1998) (citing *Lumbard v. Maglia*, 621 F. Supp. 1529, 1540 (S.D.N.Y. 1985)). "[E]xpense and possible delay inherent in any

disqualification of counsel,' without more, do not qualify as substantial hardship.” *Fine Housing*, 431 S.C. at 510, 848 S.E.2d at 586 (quoting *Brown*, 180 F.R.D. at 302). Here, there is no substantial hardship. To be sure, Mr. Tinsley has knowledge of this case. However, the pending action is exclusively based on the alleged disclosure of the Mediation Video and Photographs after the mediation of the underlying Civil Action. (Compl. ¶¶ 13, 15.) There is no extensive knowledge that cannot be gained by simply reviewing the Plaintiffs’ Complaint. Further, little discovery has occurred in this case, the most notable being the improper inducement, receipt, and review of the privileged documents at issue in this pending motion. Thus, the substantial hardship exception is not applicable in this case.

“Parties have a well-recognized and entirely reasonable interest in securing counsel of their choice.” *Murray v. Metropolitan Life Ins. Co*, 583 F.3d 173, 180 (2d Cir. 2009). However, “[t]he ethical rules strike a balance between the competing interests of a client’s right to choose counsel and the inconsistency of an advocate giving testimony.” *Optyl Eyewear Fashion Int’l Corp. v. Style Companies, Ltd.*, 760 F.2d 1045, 1050 (9th Cir. 1985). The clients’ interest in securing counsel of their choice must be weighed against the interest in protecting the integrity of the process and the other interests of the parties. While Mr. Tinsley may be Plaintiffs’ first choice, there is no risk that Plaintiffs cannot be competently represented by other attorneys of Plaintiffs’ choice. The disqualification of Mr. Tinsley does not constitute the sort of “substantial hardship” that can be grounds for denying an otherwise proper motion to disqualify under Rule 3.7. Accordingly, the court should disqualify Mr. Tinsley from representing Plaintiffs in this action.

C. **Mr. Tinsley should also be disqualified because he communicated with a person represented by counsel in violation of Rule 4.2 of the Rules of Professional Conduct.**

Rule 4.2 of the Rules of Professional Conduct, commonly referred to as the “no contact rule,” prohibits a lawyer from communicating with a person represented by counsel. Rule 4.2, RPC, Rule 407, SCACR. In representing a client, a lawyer is prohibited from communicating about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order. Mr. Tinsley’s violation of Rule 4.2 provides an independent ground for disqualification. “The appropriate remedy for this violation of the Rules of Professional Responsibility is to disqualify counsel from any further representation in the matters covered by this lawsuit.” *Zachair, Ltd. v. Driggs*, 965 F. Supp. 741 (D. Md. 1997) (disqualifying attorney for violations of Rule 4.2); *see also McCallum v. CSZ Transp., Inc.*, 149 F.R.D. 104 (M.D.N.C. May 4, 1993) (holding when an attorney violates ethical standards, it is proper for the opposing party to file a motion to disqualify counsel).

As background, Mr. Tinsley first signed a subpoena to Inquiry Agency on January 14, 2022. Ms. Capelli is the sole member and registered agent for Inquiry Agency, and her name is listed on this January 14, 2022 subpoena. It appears the subpoena was served shortly thereafter and prior to serving the Complaint on all of the Parker’s Defendants, who were also conveniently not provided copied of these subpoenas. During a hearing before the Court on March 16, 2022, Mr. Tinsley stated:

[Ms.] Senn tells me, the person I really want, [is] the PI who was doing lots of this work -- because Mr. Parker wanted three things; he wanted video of Paul Murdaugh drinking, partying, and talking about killing that girl, and I assume that’s Mallory Beach, and he wanted to prove that Buster Murdaugh was gay. And so they hired Sara Capelli. . . . So we served Sara Capelli.

Almost immediately, Sara Capelli sends me a friend request on Facebook ***and calls me***, and she has the most extreme case of diarrhea of the mouth of any person I've ever talked to. She begins to explain all the details of what Parker's was hired to do -- I mean, what Parker's hired her to do, what they hired the two PIs, Max and Henry, to do, and that their intent was to paint a picture that, because Buster Murdaugh was gay, he must have been involved in the murder of Steven Smith. And because they had this narrative that they were pushing out that the Murdaughs were terrible people, and they may very well be terrible people, but because they are terrible people, then a jury ought not find against him in the boat crash. That is what I'm told that Mr. Parker wanted the information related to Buster Murdaugh for, as well as the information related to Paul's drinking, partying, talking about killing that girl.

(Ex. K, Tr. of March 16, 2022 Hearing, at 11:11–25, 12:1–20 (emphasis added)).

However, based upon the communications recently received as a result of the Parker's Defendants' subpoena to Ms. Capelli, it was Mr. Tinsley who initiated contact with Ms. Capelli, first via phone call and then via text message the following day. Below is a summary of the initial communications between Mr. Tinsley and Ms. Capelli.

January 20, 2022 Mr. Tinsley initiated contact with Ms. Capelli via phone call, which lasts 16 minutes.

January 21, 2022 Mr. Tinsley initiated contact with Ms. Capelli via text. The conversation is as follows:

9:47 AM **Mr. Tinsley:** "I hope the fact that we are Facebook friends means you're gonna help me"⁹

9:53 AM **Ms. Capelli:** "May I ask who this is?"

9:53 AM **Mr. Tinsley:** "Mark Tinsley"

9:54 AM **Ms. Capelli:** "Well, I am certainly on the side of truth!"

9:57 AM **Mr. Tinsley:** "You certainly can be"

⁹ This text message as with all others within this Motion are copied verbatim without inserting "[sic]" after slang, misspelled words, or improper punctuation. Where appropriate, footnotes are used to assist in interpreting the messages.

9:58 AM **Ms. Capelli:** “About board plane. Talk soon.”

10:00 AM **Mr. Tinsley:** “Sounds good”

10:07 AM **Ms. Capelli:** “Some light reading on plane.”

Sends a .pdf file via text titled “Discoverability of Private Investigator Surveillance in South Car”

10:08 AM **Mr. Tinsley:** “Looks like you’re leaning towards the wrong side now”

Although the Parker’s Defendants currently cannot verify whether Mr. Tinsley asked if Ms. Capelli was represented during the phone call on January 20, 2022, Mr. Tinsley’s initial text messages reveal he never asked whether Ms. Capelli was represented—and his later conduct demonstrates he did not care whether she was, in fact, represented.

However, it is abundantly clear Mr. Tinsley was aware Ms. Capelli was represented by counsel by at least **January 31, 2022**, because on that date, Cheryl Shoun of Nexsen Pruet (“**Ms. Shoun**”) sent a letter to Mr. Tinsley informing him that Nexsen Pruet was representing Inquiry Agency, and that Inquiry Agency objected to the subpoena he issued. As indicated in Ms. Shoun’s letter, this first subpoena to Inquiry Agency was procedurally invalid and appeared to have been captioned incorrectly. That same day, Mr. Tinsley contacted Ms. Shoun and informed her he would fix the identified issues. Mr. Tinsley then signed two new subpoenas on February 1, 2022, one for Ms. Capelli and another one for Inquiry Agency, and his paralegal provided copies of those subpoenas to Ms. Shoun via an e-mail on February 2, 2022, on which Mr. Tinsley is copied. On February 9, 2022, Ms. Shoun sent a second letter on behalf of both Ms. Capelli and Inquiry Agency objecting to the two new subpoenas and reminding Mr. Tinsley of Nexsen Pruet’s representation of Inquiry Agency, with its sole member being Ms. Capelli. Accordingly, what this timeline shows is that Mr. Tinsley absolutely had actual knowledge of Ms. Capelli’s status as a represented individual by at least January 31, 2022.

Despite this knowledge, Mr. Tinsley continued communicating with Ms. Capelli after Ms. Shoun's two letters, as revealed by the next portion of the timeline:

February 26, 2022

1:06 PM **Ms. Capelli:** "Can we talk off the record?"

1:08 PM **Ms. Capelli:** "Well come Monday I'll be pro se."

1:22 PM **Mr. Tinsley:** "Come Monday we definitely can. I won't let Parker do anything to you."

1:24 PM **Ms. Capelli:** "I had independent counsel and then over night they had to back out. So I had to have some type of counsel. But this is just too much for this PI."¹⁰

1:25 PM **Ms. Capelli:** "Monday it is. What time works best for us to talk?"

1:42 PM **Ms. Capelli:** "I am not afraid of P.G. I am afraid of how attorneys will know me and define me."

5:32 PM **Mr. Tinsley:** "As soon as you fire the Parkers lawyers"

5:32 PM **Mr. Tinsley:** "I can't talk to you while you're represented"

6:23 PM **Ms. Capelli:** "Understood"

The impact of these communications cannot be understated. Mr. Tinsley offers a guarantee to protect Ms. Capelli from Defendant Gregory M. Parker when he states he "won't let Parker do anything to you." Further, Mr. Tinsley agrees to communicate with Ms. Capelli, a potential witness, "off the record."

¹⁰ Admittedly, Ms. Capelli mentions having lost independent counsel, but noticeably, she does not state that she has terminated Nexsen Pruet's representation of her. Further, Mr. Tinsley does not ask for any clarification and based upon the context of his following text messages, he clearly believes she is still represented by Nexsen Pruet, which in fact she was at the time.

It can be inferred that Mr. Tinsley hoped his professional conduct violations would be hidden by his agreeing to such an “off the record” conversation, because:

- 1) He believed the discussions would be kept from the evidentiary record, as he is continuing to try to do with his motion to quash a subpoena issued to him by the Parker’s Defendants, despite the high likelihood such information would be discoverable and not subject to any sort of privilege, and/or
- 2) He believed the discussions would be kept from Ms. Capelli’s counsel.

Not to be deterred, Mr. Tinsley’s communications with Ms. Capelli continued:

February 27, 2022

5:12 PM **Mr. Tinsley:** “As soon as to tell Cheryl [i.e. Ms. Shoun, counsel for Ms. Capelli] she’s not representing you I am happy to come meet you. Or talk on the phone if you prefer”¹¹

5:13 PM **Mr. Tinsley:** “It’s doesn’t have to be fancy. An email to her will suffice.”

5:18 PM **Ms. Capelli:** “Meet me...in CHS”

...

5:23 PM **Mr. Tinsley:** “I tend to be direct so I’d quite Trump and just sat ‘sorry you’re fired’”¹²

5:23 PM **Mr. Tinsley:** “Quote”

...

5:24 PM **Ms. Capelli:** “Are you bloodying the waters.”

5:24 PM **Ms. Capelli:** “baiting me”

¹¹ It is clear from the context that the beginning of this text message meant to use the word “you” rather than “to,” such that it would read, “As soon as [you] tell Cheryl”

¹² It is clear from the context there are a couple misspelled words, such that this message should read, “I tend to be direct so I’d [quote] Trump and just [say] ‘sorry you’re fired.’”

- 5:25 PM **Ms. Capelli:** “Because I’ve never been a paranoid PI until you.”
- 5:25 PM **Mr. Tinsley:** “Trying to get you to see the light.”
- 5:26 PM **Mr. Tinsley:** “But I have no interest in causing you any problems”
- 5:26 PM **Mr. Tinsley:** “I’m after Parker. Wes Donahue have you up to me”¹³
- 5:26 PM **Mr. Tinsley:** “Gave”
- 5:27 PM **Mr. Tinsley:** “After I served him”

The first two communications are bad enough—but this third one is damning. The Parker’s Defendants submit that Mr. Tinsley’s violations of the Rules of Professional Conduct are abundantly clear, as further explained by the Affidavit of Professor Nathan Crystal, attached as Exhibit N. The “no contact” rule “applies even though [the] represented person initiates or consents to the communication,” and holds that a “lawyer *must immediately terminate communication* with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this Rule.” Rule 4.2 cmt. [3], RPC, Rule 407, SCACR (emphasis added). Instead, in this portion of the communications timeline, Mr. Tinsley is the one initiating the communication and he initiates the communication with full awareness that Ms. Capelli is represented by counsel, because he is instructing her on how to fire her counsel. Comment 1 of Rule 4.2 demonstrates the rule

contributes to the proper functioning of the legal system by protecting a person who has chosen to be represented by a lawyer in

¹³ Similarly, this message should read, “I’m after Parker. Wes [Donehue] [gave] you up to me,” as seen by the following text, “Gave.” Further, as another example of potential less-than-fulsome candor to the Court, Mr. Tinsley informed the Court at the March 16, 2022, hearing that counsel for Mr. Donehue provided him with the name of Ms. Capelli, but here Mr. Tinsley indicates that Mr. Donehue himself provided her name. Thus, this message further supports compelling production of Mr. Tinsley’s communications not only with Ms. Capelli, but with Mr. Donehue as well.

a matter against possible overreaching by other lawyers who are participating in the matter, interference by those lawyers with the client lawyer relationship and the uncounselled [sic] disclosure of information relating to the representation.

Ms. Capelli is the type of person in need of protection, specifically from the overreaching of Mr. Tinsley, because she describes herself as being “paranoid” due to Mr. Tinsley’s misconduct.

A similar case, albeit one in which criminal misconduct occurred in addition to professional misconduct, is informative. In the case of *In re Walker*, 393 S.C. 305, 713 S.E.2d 264 (2011), an attorney represented a husband in a domestic matter in which the husband’s represented wife was the opposing party. The attorney went with the husband to the wife’s home and convinced the wife, outside the presence of and without knowledge of her counsel, to fire her counsel and enter into an agreement with the husband. *Id.* at 309, 713 S.E.2d at 265. Ultimately, the attorney entered into an “Agreement for Discipline by Consent,” in which he admitted to violating Rule 4.2 for this inappropriate communication with the wife. *Id.* at 310–11, 713 S.E.2d at 266–67. In the same way, Mr. Tinsley has violated Rule 4.2 for instructing Ms. Capelli to fire her counsel. And it is not a stretch to suggest he was encouraging and inducing Ms. Capelli to fire her counsel through his prior offer to protect her. At minimum, Mr. Tinsley should have never even initiated this portion of the communication.

As an aside, despite clear knowledge that Ms. Capelli is a represented third party, Mr. Tinsley informed the Court on March 16, 2022, that “Cheryl Shoun, who claimed at the time -- who is also with Nexsen Pruet -- claimed to be representing Sara Capelli. That never was true, but she represented in an email that she was representing Sara Capelli.” (Ex. K, Tr. of March 16, 2022 Hearing, at 18:3–7.) This representation is belied by the fact that Mr. Tinsley communicated on multiple occasions with Ms. Capelli regarding firing Ms. Shoun. If Mr. Tinsley did not believe Ms. Shoun was actually representing Ms. Capelli, he would have no need to instruct Ms. Capelli

on how to fire her. Thus, not only has Mr. Tinsley misrepresented to the Court on who initiated contact between him and Ms. Capelli, but he also misrepresented to the Court Ms. Capelli's status as a represented third party.

Further, Professor Crystal opines that Mr. Tinsley's statement that he "won't let Parker do anything to you" constitutes a violation of Rules 4.1 and 8.4(c) as well, because he had no reasonable basis for making this representation. (Ex. N, Professor Crystal Affidavit, pp. 3–4.)

Still, Mr. Tinsley's improper conduct continued:

February 27, 2022

5:32 PM **Ms. Capelli:** "Are we meeting face to face or?"

5:33 PM **Mr. Tinsley:** "Sure I'll meet you. Send me a copy of the email firing Cheryl and tell me where."

5:34 PM **Mr. Tinsley:** "I can make tomorrow work"

5:35 PM **Mr. Tinsley:** "I think you know enough. Maybe more than you realize."

...

5:37 PM **Mr. Tinsley:** "Let's meet. If you think you need counsel after then fine. I honestly don't think you do."

5:37 PM **Ms. Capelli:** "Provided I don't get shot or hit by Bambi tonight. Let's say 2pm. Location TBD"

5:38 PM **Mr. Tinsley:** "Ok"

The same violations of Rule 4.2 are present here. Moreover, Mr. Tinsley initiated and arranged a time to meet with Ms. Capelli, and offered legal advice that she did not need legal representation. As set forth in Professor Crystal's affidavit, even if Mr. Tinsley thought that Ms. Capelli would be firing Ms. Shoun and thought she would become unrepresented, Mr. Tinsley "still could not ethically give legal advice to her because Rule 4.3 prohibits a lawyer from giving legal advice to

an unrepresented person other than the advice to obtain counsel.” (Ex. N, Professor Crystal Affidavit, p. 2.) Thus, Mr. Tinsley violated Rule 4.3 as well as Rule 4.2.

On February 28, 2022, Ms. Capelli informed Nexsen Pruet at 12:45 PM she was terminating representation and securing separate counsel. She also provided the name of said counsel, who is the same attorney representing her as of this filing. Nexsen Pruet acknowledged the termination four minutes later at 12:49 PM via e-mail. Prior to that termination, however, and before he apparently learned of the termination and simultaneous hiring of new counsel, Mr. Tinsley initiated communication again with Ms. Capelli:

February 28, 2022

8:08 AM **Mr. Tinsley:** “I’m set to come. I just need the email.”

Not having received a response, Mr. Tinsley initiated contact again on February 28, 2022:

10:47 AM **Mr. Tinsley:** “Have you changed your mind?”

11:02 AM **Ms. Capelli:** “I have sent the email. And I am waiting for response.”

11:08 AM **Mr. Tinsley:** “Ok. My guess is she won’t respond. All you really needed to say was they are no longer representing you, if they ever actually were. I need to leave my office around 12 to get there by 2, so let me know. You can forward the email to me at mark@goodingandgooding.com”

As set forth in Professor Crystal’s affidavit, Mr. Tinsley “pressured [Ms. Capelli] to fire her counsel and prevent Ms. Capelli from obtaining legal advice,” which constitutes a violation of Rule 4.4 in addition to Rule 4.2. (Ex. N, Professor Crystal Affidavit, p. 3.)

The communications continued into the evening with Ms. Capelli specifically recognizing Mr. Tinsley’s improprieties:

7:18 PM **Ms. Capelli:** “I’m not the fall girl. I hope...lol. Your pretty crafty though.”

7:19 PM **Mr. Tinsley:** “I try to be crafty but I’m not after you”

...

7:21 PM **Ms. Capelli:** “Plus, you did communicate to me while still with counsel”
Sends bullseye emoji and heart emoji: “🎯❤️”

7:22 PM **Ms. Capelli:** “I think we have reached a truce!”

7:22 PM **Mr. Tinsley:** “Ha. Trust me I’m not worried about my communications”

In early March 2022, Mr. Tinsley initiated contact again, which leads to a string of communications showing he also inquired into specifics of Ms. Capelli’s privileged and confidential work:

March 2, 2022

10:26 AM **Mr. Tinsley:** “Your motion”
Sends screenshot of law clerk’s e-mail stating the motions regarding the subpoenas will be scheduled for the week of March 14, 2022.

...

11:07 AM **Ms. Capelli:** “I cannot wait for this to come out. You’re going to be so dissatisfied. I was.”

11:09 AM **Mr. Tinsley:** “Dissatisfied about what? What you videoed?”

11:09 AM **Ms. Capelli:** “Exactly what did I video?”

11:09 AM **Ms. Capelli:** “Again I was disappointed”

After over twelve hours pass, Ms. Capelli texts Mr. Tinsley again in the early morning.

March 3, 2022

1:18 AM **Ms. Capelli:** “Please file a motion to compel before the 15th on my ass and define the discovery evidence or that is rumored to be thrown out if too broad. I need this to stop. I can’t take new cases, I have no income, literally I did not sign up for this. I never even knew where Hampton was and I sure as hell did not know the Murdaugh name. On top of all this I didn’t even know the corrupt PI’s names until your subpoena. I was hired to ID Locate and Document Paul. I am not in this 3 year ago crap. I did not even live here yet.”

...

1:28 AM **Ms. Capelli:** “I have nothing. Literally all I did was locate Paul.”

...

2:34 AM **Ms. Capelli:** “Listen to this on your way into work.”
Sends audio file titled “AUDIO_7902.m4a”

8:33 AM **Ms. Capelli:** “This is not an interview of a bad, corrupt PI willing to cover up illegal activity. She is happy working in the field...”

Rather than immediately terminating any of these March communications or confirming whether counsel represented Ms. Capelli, Mr. Tinsley inquired into and accepted communications and audio messages regarding the subject matter of the case. He specifically requested information on why she was disappointed and whether it was about what Ms. Capelli videoed, i.e. her privileged and confidential work. Further, he accepted a phone call from Ms. Capelli on March 15, 2022, which lasted seven minutes. It certainly does not take seven minutes to confirm whether counsel represents a person and then terminate the communication. The circumstantial evidence strongly supports the two talked substantively about the subject matter during those seven minutes. Moreover, Mr. Tinsley’s statement that he was “not worried about [his] communications”

demonstrates a “blatant and intentional disregard for the ethics rules.” (Ex. N, Professor Crystal Affidavit, p. 4.)

The facts regarding Mr. Tinsley’s interactions with Ms. Capelli do not raise some esoteric argument regarding a possible violation of an ethics rule. Rather, they present clear and repeated violations of Rule 4.2 among other Rules of Professional Conduct. Accordingly, Mr. Tinsley should be disqualified from further representation of Plaintiffs in this case.

D. Mr. Tinsley and Mr. Vaux should be disqualified pursuant to Rule 8.4 of the Rules of Professional Conduct, because he has committed misconduct in the pursuit, receipt, and review of privileged documents.

There is a third independent ground for disqualifying Mr. Tinsley. He committed professional misconduct in inducing Ms. Senn and her clients to release privileged information prior to a Court Order being issued. Further, Mr. Tinsley compounded this misconduct by reviewing thousands of pages of documents he knew were still subject to a claim of privilege. Likewise, Mr. Vaux received these documents from Mr. Tinsley and reviewed them as well, warranting his disqualification.

Numerous courts have disqualified counsel on this basis alone in similar situations. *See, e.g., United States v. Quest Diagnostics Inc.*, 734 F.3d 154, 166–68 (2d Cir. 2013) (affirming the district court’s disqualification of counsel, because counsel was “in a position to use privileged information” in such a manner “to give present or subsequent clients an unfair, and unethical, advantage”); *Harleysville Ins. Co. v. Holding Funeral Home, Inc.*, No. 1:15CV00057, 2017 WL 4368617, at *14 (W.D. Va. Oct. 2, 2017) (disqualifying counsel where they reviewed privileged materials for which they believed that privilege had been waived, rather than alert the court); *United States ex rel. Hartpence v. Kinetic Concepts, Inc.*, No. CV 08-1885-GHK AGRX, 2013 WL 2278122, at *2 (C.D. Cal. May 20, 2013) (disqualifying counsel where counsel “should have known” documents were privileged and should have sought guidance from the court in advance,

but transferred them instead to the U.S. Attorney's Office and "repeatedly used them in the pleadings"); *United States ex rel. Frazier v. IASIS Healthcare Corp.*, No. 2:05-CV-766-RCJ, 2012 WL 130332, at *4, *15 (D. Ariz. Jan. 10, 2012) (disqualifying counsel for failure to disclose privileged documents, despite counsel's declaration that she had instructed client not to give the firm privileged documents, and "never read or relied on" documents she believed might be privileged); *Richards v. Jain*, 168 F. Supp. 2d 1195, 1201 (W.D. Wash. 2001) (holding plaintiffs' access to privileged documents for eleven months and failure to notify defense of their possession of such materials warranted disqualification, even where counsel's review and knowledge of the documents was not extensive); *Walker v. GEICO Indem. Co.*, No. 615CV1002ORL41KRS, 2017 WL 1174234, at *12 (M.D. Fla. Mar. 30, 2017) (disqualifying counsel where "highly impactful" privileged information, albeit disclosed inadvertently, had been "extensively reviewed, discussed, and disseminated," noting that "what is required for disqualification is a showing that there is a 'possibility' that an unfair informational advantage was obtained"); *Arnold v. Cargill Inc.*, No. 01-2086 (DWF/AJB), 2004 WL 2203410, at *10 (D. Minn. Sept. 24, 2004) (finding the proceedings had been tainted by the reckless disregard of "the risks associated with playing fast and loose with the rules protecting . . . privileged and confidential material").

Over 215 pages of documents have been deemed privileged so far, because they detail case strategy and reveal attorney-work product. By contacting Ms. Senn and/or her clients not once, but twice, rather than obtaining guidance from the Court on whether and when a formal order would be issued, Mr. Tinsley committed an unprofessional overreach. Both Plaintiffs' counsel's receipt and review of an extensive amount of privileged material unfairly prejudices the Parker's Defendants, not only in the case at bar, but in the underlying Civil Action. Although the Parker's Defendants have moved for a Stay of the Court's Order regarding these particular subpoenaed

documents, Mr. Tinsley likely plans to use all of these documents in his representations of the Plaintiff in the other, underlying Civil Action. This bell cannot simply be un-rung either. Indeed, the Court has already agreed, given the Court's 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." (Ex. I, May 9 Hearing Transcript, p. 10, l. 25 – p. 11, l. 3.) The receipt and review of privileged information irreparably taints the case and Plaintiffs' counsel. See *In re Search Warrant Issued June 13, 2019*, 942 F.3d 159, 175 (4th Cir. 2019), as amended (Oct. 31, 2019) (admonishing the lower court for "fail[ing] to recognize that an adverse party's review of privileged materials seriously injures the privilege holder," and holding the harm was "plainly irreparable" because the "review of those privileged materials cannot be undone").

Two cases are particularly analogous to the one at bar. First, in *Richards v. Jain*, 168 F. Supp. 2d 1195, 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. Due to Plaintiffs' counsel's extensive and lengthy review of privileged

material, both Plaintiffs' counsel should be immediately disqualified from acting any further as counsel for Plaintiffs for the remainder of this litigation.

Moreover, it should be noted that at the May 9, 2022 hearing, the Court ordered Mr. Tinsley not to disseminate any of the Laurens Group Files. (Ex. F, Tr. of May 9, 2022 Hearing, at 11:22–25.) Despite this order from the Court, Mr. Tinsley nevertheless disclosed privileged material contained within the Laurens Group Files in a November 30, 2022 e-mail to the Court and counsel for all parties, including counsel for the Private Investigator Defendants, who have no right to access or review the privileged material. Specifically, in his e-mail of November 30, 2022, Mr. Tinsley provided separate screenshots of a portion of the documents Bates-labelled as LAURENSGROUP_004745 and LAURENSGROUP_004898, both of which were found to be privileged by the Court in its May 24, 2023 Order. Further, the e-mail included a screenshot of surveillance video taken by Ms. Capelli, for which the Court has not yet ruled, but over which the Parker's Defendants assert privilege. Similarly, in an e-mail sent on May 25, 2023 (including attorney Mr. Nichols, who has not made an appearance in this case for any party), Mr. Tinsley discussed an investigatory report found to be privileged by the Court. Additionally, the May 25, 2023, which includes Mr. Nichols, is a continuation of the e-mail chain that includes Mr. Tinsley's November 30, 2022 e-mail disclosing privileged information. Thus, Mr. Tinsley has not only disclosed privileged material to the Private Investigator Defendants, but to Mr. Nichols as well.

This May 25, 2023 e-mail demonstrates the recklessness with which Mr. Tinsley continues to treat the Parker's Defendant's privileged documents. Mr. Nichols' inclusion on May 25, 2023 email by Mr. Tinsley raises multiple questions, including whether Mr. Tinsley has disseminated other privileged material he possesses to Mr. Nichols without leave of the Court or the permission of the Parker's Defendants to do so. While counsel for the Parker's Defendants has the utmost

respect for Mr. Nichols, further discovery is needed to ascertain to what extent Mr. Tinsley has violated the Court's direct order discussed above—and based on Mr. Tinsley's apparent disregard of ethical standards and his other, improper acts, summarized above, he must be disqualified from this case. Further, based on Mr. Vaux's possession and review of sensitive and privileged information, he should also be disqualified from this case.

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 the return and/or 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”). The return of documents has been ordered in South Carolina courts as well in cases involving the inadvertent disclosure, which demonstrates how much more justifiable the return and/or destruction of documents is required in this case when Plaintiffs' counsel improperly solicited, received, and reviewed privileged material. *See Carolina Park Associates, LLC v. Marino*, No. 2010-CP-10-6042, 2011 WL 9369845 (S.C.Com.Pl. June 28, 2011). If the Court disqualifies Plaintiffs' counsel

and orders the return and/or destruction of the Laurens Group Files and Inquiry Agency Files, such a ruling could moot at this time the Parker's Defendant's request for a review of the thousands of documents that have apparently not yet been ruled upon by the Court.

IV. CONCLUSION

Mr. Tinsley has acted in ways that disqualify him from continuing as a lawyer advocate in this case in multiple ways. First, he acted essentially as an independent investigator on behalf of Plaintiffs, to the point of being the only witness that can support particular allegations of misconduct, thereby turning himself into an indispensable witness through his interactions with Ms. Ward and Ms. Capelli, a potential witness. Second, he inappropriately communicated with Ms. Capelli, a person he knew was represented. Third, he induced the disclosure of confidential and privileged information, and double-downed on the unscrupulous behavior by reviewing thousands of pages of potentially privileged documents *before* any court had determined whether any of the documents in question were privileged. Lastly, the Court directly ordered him not to disseminate any of the privileged material, yet did so in his November 30, 2022 e-mail. Similarly, Mr. Vaux conducted the same inappropriate review of documents. Each of these transgressions (some of which amount to ethical violations, as discussed above and in earlier pleadings) viewed in isolation constitutes a ground for disqualification. Together, they leave no other remedy but disqualification.

Plaintiffs' counsel are the ones who chose to take on the risk of disqualification with their disregard for their specific role in this lawsuit, their general status as licensed attorneys, and their own ethical obligations. Therefore, based upon the foregoing "pattern of repeated offenses" and violations of the professional standards of ethics, *see* Rule 8.4 cmt. [2], RCP, Rule 407, SCACR, this Court should grant the Parker's Defendants' Motion to Disqualify Plaintiffs' counsel from

participating as a counsel in this action and order the return and/or destruction of the Laurens Group Files and Inquiry Agency Files.

Respectfully submitted,

s/Mark C. Moore

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PARKER, INC. d/b/a PARKER'S
CORPORATION, JASON D'CRUZ AND
BLAKE GRECO

June 5, 2023
Columbia, South Carolina

Renee S. Beach, et al. v. Gregory M. Parker, et al.
Case No. 2021-CP-25-00392
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

EXHIBIT A

MARCH 28, 2022
ORDER

COURTESY OF
LUNA SHARK MEDIA

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2021-CP-25-00392

RENEE S. BEACH, PHILLIP BEACH,)
ROBIN BEACH, SAVANNAH TUTEN,)
and SETH TUTEN,)

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 INVESTIGATIONS SERVICES)
GROUP, LLC,)

Defendants.)

This matter came before the Court on Wednesday, March 16, 2022, in Hampton County upon Plaintiffs' motion for rule to show cause and Defendants' motions to quash and for protective order. Upon hearing arguments from counsel and reviewing all materials submitted, the Court finds that the information sought in Plaintiffs' subpoenas to Laurens Group, PUSH Digital, LLC, Wesley Donehue, Inquiry Agency, LLC, and Sara Capelli is not protected by the attorney-client privilege or as work product. Accordingly, the Defendants' motions to quash and for protective order are denied, and the third parties to whom Plaintiffs' subpoenas were directed are hereby ordered to produce to Plaintiffs within 30 days of the date of this Order all information in their possession that is responsive to Plaintiffs' subpoenas. Further, in the event the Parker Defendants or their counsel sent any information to these third parties that the Parker Defendants or their counsel deem attorney-client privileged or work product, defense counsel shall immediately send any such information to the Court for its review.

It is so ordered.

Bentley Price
Chief Administrative Judge
Fourteenth Judicial Circuit

<Judicial e-signature and date found on subsequent page>

COURTESY OF
LUNA SHARK MEDIA



Hampton Common Pleas

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

Case Number: 2021CP2500392

Type: Order/Rule To Show Cause

IT IS SO ORDERED!

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

Electronically signed on 2022-03-24 13:03:46 page 3 of 3

Renee S. Beach, et al. v. Gregory M. Parker, et al.
Case No. 2021-CP-25-00392
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

EXHIBIT B

APRIL 6, 2022
ORDER

COURTESY OF
LUNA SHARK MEDIA

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

ORDER

This matter comes before the Court upon a Motion for Reconsideration and Motion for Stay filed on March 30, 2022, by Defendants Gregory M. Parker, Gregory M. Parker, Inc. d/b/a Parker's Corporation, Blake Greco, and Jason D'Cruz (collectively, "**Parker's Defendants**"), by and through their undersigned attorneys. The Parker's Defendants sought a reconsideration of the Court's Order signed on March 24, 2022, regarding the production of documents pursuant to subpoenas issued by Plaintiffs' counsel to Sara Capelli, Inquiry Agency, LLC, Laurens Group, PUSH Digital, LLC, and Wesley Donehue ("**Subpoenaed Parties**"). The Court held a status conference telephonically on April 1, 2022. After hearing from counsel for the Plaintiffs, counsel for the Parker's Defendants, and Senator Senn, who participated in the conference, the Court hereby modifies its Order signed on March 24, 2022.

In the interest of judicial efficiency, the Court hereby orders that all discovery (documents responsive to the two subpoenas) be sent to the Court for an *in camera* review. It should then be

sent to counsel for the Parker's Defendants in order for them to make their assertions of attorney-client and attorney work product privilege and to prepare a privilege log. The Court was informed that counsel for Sara Capelli and Inquiry Agency, LLC, has recently produced the entire investigatory files of his clients to counsel for the Parker's Defendants. Accordingly, counsel for the Parker's Defendants are to provide the files compiled by Sara Capelli and Inquiry Agency, LLC, to the Court. Additionally, the Court hereby directs counsel for Laurens Group, PUSH Digital, LLC, and Wesley Donehue to provide the entire investigatory files produced by her clients to the Court and then to counsel for the Parker's Defendants. Because of this Court Order, the Court finds that none of the Subpoenaed Parties, nor their counsel, are nor will be in violation of the confidentiality agreements signed between them and counsel for Defendant Gregory M. Parker by producing the said investigatory files.

The Court will conduct its *in camera* review of all of the subject files and, with consent from Plaintiffs' counsel during the status conference held on April 1, 2022, the Court may communicate *ex parte* with counsel for the Parker's Defendants, if necessary, on issues related to relevance and privilege. Once the Court has determined all issues related to relevance and privilege, the Parker's Defendants shall have ten (10) business days to respond with objections on the record, and the Parker's Defendants shall also have the applicable time by which to file an appeal in accordance with the South Carolina Rules of Civil Procedure.

Based on the above ruling, the Parker's Defendants' Motions to Reconsider and to Stay are denied.

IT IS SO ORDERED.

Bentley Price
Chief Administrative Judge
Fourteenth Judicial Circuit

April 4, 2022
Columbia, South Carolina

COURTESY OF
LUNA SHARK MEDIA



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 2022-04-05 11:36:30 page 4 of 4

COURTESY OF
LUNA SHARK MEDIA

Renee S. Beach, et al. v. Gregory M. Parker, et al.
Case No. 2021-CP-25-00392
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

EXHIBIT C

LAW CLERK'S APRIL
28, 2022 E-MAIL

COURTESY OF
LUNA SHARK MEDIA

From: Price, Bentley Law Clerk (Aimee Intagliata) <bpricelc@sccourts.org>
Sent: Thursday, April 28, 2022 3:05 PM
To: McWilliams, Susan P.
Cc: Price, Bentley; John M. Grantland; Mark Tinsley; Moore, Mark C.; Laine Gooding; Drew Radeker; Taylor Smith; Sarah Larabee; nedtupper@tgdcpa.com; Deborah Barbier; Rhonda Lawson; Tabor Vaux; Jody Lyles
Subject: Re: Renee S. Beach, et al. v. Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPGVL1.FID1075329]

{EXTERNAL EMAIL}

Good afternoon,

Although the pending motions have already been heard by Judge Price, I believe he would like to discuss the in camera review of documents pertaining to those motions.

Thank you,
Aimee

Get Outlook for iOS<[---

From: McWilliams, Susan P. <SMcWilliams@nexsenpruet.com>
Sent: Thursday, April 28, 2022 2:48:19 PM
To: Price, Bentley Law Clerk \(Aimee Intagliata\) <bpricelc@sccourts.org>
Cc: Price, Bentley <bpricej@sccourts.org>; John M. Grantland <jgrantland@murphygrantland.com>; Mark Tinsley <mark@goodingandgooding.com>; Moore, Mark C. <MMoore@nexsenpruet.com>; Laine Gooding <laine@goodingandgooding.com>; Drew Radeker <Drew@harrisonfirm.com>; Taylor Smith <taylor@harrisonfirm.com>; Sarah Larabee <sarah@harrisonfirm.com>; nedtupper@tgdcpa.com <nedtupper@tgdcpa.com>; Deborah Barbier <dbb@deborahbarbier.com>; Rhonda Lawson <rlawson@goodingandgooding.com>; Tabor Vaux <tabor.vaux@vmbllawfirm.com>; Jody Lyles <JLyles@murphygrantland.com>
Subject: RE: Renee S. Beach, et al. v. Gregory M. Parker, et al; Case No. 2021-CP-25-00392 \[IWOV-NPGVL1.FID1075329\]](https://urldefense.com/v3/__https://aka.ms/o0ukef__;!!JA-VgILBzC!pb1Ehfd5U9_qr8dBc90_laXGLXZMzFExBi139XZ77nkVX542ok38i2CGVPgwxCu4el6uTkSLPwaqqcm8udxW$>></p></div><div data-bbox=)

*** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Good afternoon, Aimee.

I did want to note for you, Judge Price, and all counsel that in addition to the Motion to Dismiss by Defendants Cruz and Greco, which has been continued by Judge Price, the Roster for tomorrow morning shows as pending the Motion to Quash filed by the Parker's defendants and the Plaintiffs' Motion for Rule to Show Cause in the above-referenced case. Those two motions have already been heard on March 16th by Judge Price, so as to Renee S. Beach, et al. v. Gregory M.

Parker, et al; Case No. 2021-CP-25-00392, there are no pending motions to be heard. I realize there are other motions on the roster in another case that will go forward.

With best regards,

Susi McWilliams for Defendants Gregory M. Parker,

Gregory M. Parker, Inc. d/b/a Parker's Corporation,

Blake Greco, and Jason D'Cruz

Susan P. McWilliams

Member

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1230 Main Street, Suite 700
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PO Drawer 2426 (29202)
T: 803.253.8221

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SMcWilliams@nexsenpruet.com<mailto:SMcWilliams@nexsenpruet.com>

<http://www.nexsenpruet.com>

[Nexsen Pruet]<[From: Price, Bentley Law Clerk \(Aimee Intagliata\) <bpricelc@sccourts.org>](https://urldefense.com/v3/__http://secure-web.cisco.com/1fcf0AKIWHBupCBoVidxwi3ko_CuF9BeWm1WhxVtIf8hMGyjJ02QgnfUrzQZETuto0C3vsoAyXlma6ugwktxnbybLu-sl8TKGBxOD_vZ3r3R9V7AWnjupiJQV2OuSK4ntq3lzHc7GCiqTwz82XfPX25h5QpOmNCJ-5ExXlxzY0hhA1_LDrYGSsUQM9Fereia_vimkKU1vwfJnvi6EcVR1rGtbEDr3h6ZERFjAnCv3VKuPoLDV-69lWKfl-fzbzpS_B-b7L5WyDSbjs4xjtOSgijGeMjMTQ5f6clnHJhqWCHp7Emcx42TRH1601qefjGTncotsOdws4nSv4OVCjm6RXHeVe-VqtN1NjCPsUtxpV-DFw-qP_DvHSrWDMnxYhegePXotoO5MANaSdh8xnP_IEMK4ExyMbPEi9jHyqLeTR7IANGdsalITO9lqEhFTLPNX6OYyjadnZMBYBcQrhHStTlw/http*3A*2F*2Fwww.nexsenpruet.com*2F__;JSUIJQ!!JA-VglIJBzzC!pb1Ehfd5U9_qr8dBc90_laXGLXZMzFExBi139XZ77nkVX542ok38i2CGVPgwxCu4el6uTkSLPwaqqTWixUGY$ ></p></div><div data-bbox=)

Sent: Thursday, April 28, 2022 2:34 PM

To: John M. Grantland <jgrantland@murphygrantland.com>; Mark Tinsley <mark@goodingandgooding.com>; Moore, Mark C. <MMoore@nexsenpruet.com>

Cc: Price, Bentley <bpricej@sccourts.org>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com>; Laine Gooding <laine@goodingandgooding.com>; Drew Radeker <Drew@harrisonfirm.com>; Taylor Smith <taylor@harrisonfirm.com>;

Sarah Larabee <sarah@harrisonfirm.com>; nedtupper@tgdcpa.com; Deborah Barbier <dbb@deborahbarbier.com>; Rhonda Lawson <rlawson@goodingandgooding.com>; Tabor Vaux <tabor.vaux@vmblawfirm.com>; Jody Lyles <JLyles@murphygrantland.com>
Subject: RE: Renee S. Beach, et al. v. Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPGVL1.FID1075329]

{EXTERNAL EMAIL}

Good afternoon,

Yes sir. The motion to dismiss is the only motion Judge Price has continued. The others will go forward.

Thank you,

Aimee

From: John M. Grantland <jgrantland@murphygrantland.com<mailto:jgrantland@murphygrantland.com>>
Sent: Thursday, April 28, 2022 2:33 PM
To: Price, Bentley Law Clerk (Aimee Intagliata) <bpricelc@sccourts.org<mailto:bpricelc@sccourts.org>>; Mark Tinsley <mark@goodingandgooding.com<mailto:mark@goodingandgooding.com>>; Mark Moore <MMoore@nexsenpruet.com<mailto:MMoore@nexsenpruet.com>>
Cc: Price, Bentley <bpricej@sccourts.org<mailto:bpricej@sccourts.org>>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com<mailto:SMcWilliams@nexsenpruet.com>>; Laine Gooding <laine@goodingandgooding.com<mailto:laine@goodingandgooding.com>>; Drew Radeker <Drew@harrisonfirm.com<mailto:Drew@harrisonfirm.com>>; Taylor Smith <taylor@harrisonfirm.com<mailto:taylor@harrisonfirm.com>>; Sarah Larabee <sarah@harrisonfirm.com<mailto:sarah@harrisonfirm.com>>; nedtupper@tgdcpa.com<mailto:nedtupper@tgdcpa.com>; Deborah Barbier <dbb@deborahbarbier.com<mailto:dbb@deborahbarbier.com>>; Rhonda Lawson <rlawson@goodingandgooding.com<mailto:rlawson@goodingandgooding.com>>; Tabor Vaux <tabor.vaux@vmblawfirm.com<mailto:tabor.vaux@vmblawfirm.com>>; Jody Lyles <JLyles@murphygrantland.com<mailto:JLyles@murphygrantland.com>>
Subject: RE: Renee S. Beach, et al. v. Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPGVL1.FID1075329]

*** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Hi Aimee,

Just to confirm, the other two motions in this case will go forward tomorrow morning? I think there is also a Rule to Show Cause and a Motion to Quash.

Thank you and take care,
JG

From: Price, Bentley Law Clerk (Aimee Intagliata) <bpricelc@sccourts.org<mailto:bpricelc@sccourts.org>>
Sent: Thursday, April 28, 2022 1:51 PM
To: John M. Grantland <jgrantland@murphygrantland.com<mailto:jgrantland@murphygrantland.com>>; Mark Tinsley <mark@goodingandgooding.com<mailto:mark@goodingandgooding.com>>; Mark Moore <MMoore@nexsenpruet.com<mailto:MMoore@nexsenpruet.com>>
Cc: Price, Bentley <bpricej@sccourts.org<mailto:bpricej@sccourts.org>>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com<mailto:SMcWilliams@nexsenpruet.com>>; Laine Gooding <laine@goodingandgooding.com<mailto:laine@goodingandgooding.com>>; Drew Radeker <Drew@harrisonfirm.com<mailto:Drew@harrisonfirm.com>>; Taylor Smith <taylor@harrisonfirm.com<mailto:taylor@harrisonfirm.com>>; Sarah Larabee <sarah@harrisonfirm.com<mailto:sarah@harrisonfirm.com>>; nedtupper@tgdcpa.com<mailto:nedtupper@tgdcpa.com>; Deborah Barbier <dbb@deborahbarbier.com<mailto:dbb@deborahbarbier.com>>; Rhonda Lawson <rlawson@goodingandgooding.com<mailto:rlawson@goodingandgooding.com>>; Tabor Vaux <tabor.vaux@vmlawfirm.com<mailto:tabor.vaux@vmlawfirm.com>>
Subject: RE: Renee S. Beach, et al. v. Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPGVL1.FID1075329]

Good afternoon,

Judge Price is fine with continuing the motion to dismiss. The other motions on the roster will go forward tomorrow morning.

Thank you,

Aimee

From: John M. Grantland <jgrantland@murphygrantland.com<mailto:jgrantland@murphygrantland.com>>
Sent: Thursday, April 28, 2022 9:31 AM
To: Mark Tinsley <mark@goodingandgooding.com<mailto:mark@goodingandgooding.com>>; Mark Moore <MMoore@nexsenpruet.com<mailto:MMoore@nexsenpruet.com>>

Cc: Price, Bentley <bpricej@sccourts.org<mailto:bpricej@sccourts.org>>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com<mailto:SMcWilliams@nexsenpruet.com>>; Laine Gooding <laine@goodingandgooding.com<mailto:laine@goodingandgooding.com>>; Drew Radeker <Drew@harrisonfirm.com<mailto:Drew@harrisonfirm.com>>; Taylor Smith <taylor@harrisonfirm.com<mailto:taylor@harrisonfirm.com>>; Sarah Larabee <sarah@harrisonfirm.com<mailto:sarah@harrisonfirm.com>>; nedtupper@tgdcpa.com<mailto:nedtupper@tgdcpa.com>; Deborah Barbier <dbb@deborahbarbier.com<mailto:dbb@deborahbarbier.com>>; Rhonda Lawson <rlawson@goodingandgooding.com<mailto:rlawson@goodingandgooding.com>>; Price, Bentley Law Clerk (Aimee Intagliata) <bpricelc@sccourts.org<mailto:bpricelc@sccourts.org>>; Tabor Vaux <tabor.vaux@vmblawfirm.com<mailto:tabor.vaux@vmblawfirm.com>>
 Subject: RE: Renee S. Beach, et al. v. Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPGVL1.FID1075329]

*** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Thank you Mark.

We would consent to designating the case as complex and assigning to Judge Price.

Take care,
 JG

From: Mark Tinsley <mark@goodingandgooding.com<mailto:mark@goodingandgooding.com>>
 Sent: Thursday, April 28, 2022 9:17 AM
 To: Mark Moore <MMoore@nexsenpruet.com<mailto:MMoore@nexsenpruet.com>>
 Cc: Price, Bentley <bpricej@sccourts.org<mailto:bpricej@sccourts.org>>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com<mailto:SMcWilliams@nexsenpruet.com>>; Laine Gooding <laine@goodingandgooding.com<mailto:laine@goodingandgooding.com>>; Drew Radeker <Drew@harrisonfirm.com<mailto:Drew@harrisonfirm.com>>; Taylor Smith <taylor@harrisonfirm.com<mailto:taylor@harrisonfirm.com>>; Sarah Larabee <sarah@harrisonfirm.com<mailto:sarah@harrisonfirm.com>>; John M. Grantland <jgrantland@murphygrantland.com<mailto:jgrantland@murphygrantland.com>>; nedtupper@tgdcpa.com<mailto:nedtupper@tgdcpa.com>; Deborah Barbier <dbb@deborahbarbier.com<mailto:dbb@deborahbarbier.com>>; Rhonda Lawson <rlawson@goodingandgooding.com<mailto:rlawson@goodingandgooding.com>>; Price, Bentley Law Clerk (Aimee Intagliata) <bpricelc@sccourts.org<mailto:bpricelc@sccourts.org>>; Tabor Vaux <tabor.vaux@vmblawfirm.com<mailto:tabor.vaux@vmblawfirm.com>>
 Subject: Re: Renee S. Beach, et al. v. Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPGVL1.FID1075329]

Judge Price:

I received Ned Tupper's request to continue the defendants' motions to dismiss which you had set for tomorrow. I do not know why everyone wasn't copied on the email, but I am responding to everyone. I have no objection to his request.

However, I would ask the court, if you have time to hear it, to please set the matter to be heard at another time in the near future. I am happy to have my office coordinate that with counsel based on your availability when may have some free time or be able to make some. I also have no issue traveling to where you may be holding court.

Additionally, since you have so much time already invested in this matter, I would ask that you designate this matter complex and assign it to yourself. I understand you're the chief administrative judge for the next six months anyway. If I need to make a formal motion, please advise. Thank you.

Mark Tinsley

Sent from my iPhone

On Apr 22, 2022, at 9:36 AM, Moore, Mark C. <MMoore@nexsenpruet.com<mailto:MMoore@nexsenpruet.com>> wrote:

Judge Price:

I understand that Your Honor plans to hear these motions to dismiss next week and so I wanted to notify you of conflicts that I have on Monday and Tuesday. I would respectfully request that you're on her schedule this earnings for Wednesday or after next week.

On Monday, I have a sealed hearing before United States District Judge Donald Coggins in Spartanburg at 2:30. This hearing has been scheduled for sometime and I am meeting with counsel for multiple other claimants at 12 PM prior to the hearing.

Yesterday, I receive notice of a critical hearing before a three judge panel in the federal redistricting case where I represent the Speaker of the House, the Chairman of the Judiciary Committee and other House officials. That hearing is now set for 1 PM Tuesday and I will be meeting with at least one client representative and co-counsel prior to that hearing.

Due to those federal court conflicts, I respectfully request that the court schedule next weeks hearings for either Wednesday, Thursday or Friday if at all possible.

Respectfully,

Mark Moore

Sent from my iPhone

On Apr 21, 2022, at 2:12 PM, Price, Bentley <bpricej@sccourts.org<mailto:bpricej@sccourts.org>> wrote:

{EXTERNAL EMAIL}

All,

I can hear all outstanding motions next week so no need to continue. We're currently working on a time and date. Thanks in advance.

Bentley

From: Mark Tinsley <mark@goodingandgooding.com<mailto:mark@goodingandgooding.com>>
Sent: Thursday, April 21, 2022 9:40 AM
To: McWilliams, Susan P. <SMcWilliams@nexsenpruet.com<mailto:SMcWilliams@nexsenpruet.com>>
Cc: Murphy, Maite Secretary (Robin Dukes) <mmurphysc@sccourts.org<mailto:mmurphysc@sccourts.org>>; Murphy, Maite Law Clerk (Alan G. Lee) <mmurphylc@sccourts.org<mailto:mmurphylc@sccourts.org>>; Laine Gooding <laine@goodingandgooding.com<mailto:laine@goodingandgooding.com>>; Drew Radeker <Drew@harrisonfirm.com<mailto:Drew@harrisonfirm.com>>; Taylor Smith <Taylor@harrisonfirm.com<mailto:Taylor@harrisonfirm.com>>; Sarah Larabee <sarah@harrisonfirm.com<mailto:sarah@harrisonfirm.com>>; jgrantland@murphygrantland.com<mailto:jgrantland@murphygrantland.com>; nedtupper@tgdcpa.com<mailto:nedtupper@tgdcpa.com>; Moore, Mark C. <MMoore@nexsenpruet.com<mailto:MMoore@nexsenpruet.com>>; dbb@deborahbarbier.com<mailto:dbb@deborahbarbier.com>; Rhonda Lawson <rlawson@goodingandgooding.com<mailto:rlawson@goodingandgooding.com>>; Price, Bentley Law Clerk (Aimee Intagliata) <bpricelc@sccourts.org<mailto:bpricelc@sccourts.org>>; Price, Bentley <bpricej@sccourts.org<mailto:bpricej@sccourts.org>>
Subject: Re: Renee S. Beach, et al. v. Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPGVL1.FID1075329]

*** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Judge Murphy:

I hope you are well. Even though you have not indicated you will hear anything in this matter, I have asked my clients about the the possibility of you hearing the pending motions, given your husband's representation by Mr. Moore. While I certainly have no issues with you hearing anything in which I'm involved, given all of the goings on in the matters in

which my clients have been involved they do not feel comfortable with your Honor hearing this matter given defense counsel's representation of your husband. I hope you understand.

Additionally, Judge Price currently has a couple of discovery issues under advisement which could bear on the motions to dismiss.

Accordingly, I ask that the motions be continued. Please let me know if you need or want me to e-file an order of continuance.

Thank you,

Mark Tinsley

Sent from my iPhone

On Apr 19, 2022, at 4:02 PM, McWilliams, Susan P.
<SMcWilliams@nexsenpruet.com<mailto:SMcWilliams@nexsenpruet.com>> wrote:

Dear Judge Murphy:

The undersigned, along with Mark Moore and Debbie Barbier, represent Gregory M. Parker, Gregory M. Parker, Inc., d/b/a Parker's Corporation, Blake Greco, and Jason D'Cruz (collectively the "Parker's Defendants") in Renee S. Beach, Phillip Beach, Robin Beach, Savannah Tuten, and Seth Tuten 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 Investigations Services Group, LLC, Case No. 2021-CP-25-00392. There are pending Motions to Dismiss by the Parker's Defendants on the Motions Roster for Tuesday, April 26, 2022 which are therefore scheduled to be heard by you.

Nexsen Pruet (specifically Mark Moore) is also representing three members of the House of Representatives in their official capacity, including Representative Chris Murphy, your spouse, in the redistricting litigation pending in the US District Court, Columbia Division, styled SC State Conference of the NAACP and Taiwan Scott v. Thomas C. Alexander, in his official capacity as the President of the Senate; Luke A. Rankin, in his official capacity as Chairman of the Senate Judiciary; James H. Lucas, in his official as Speaker of the House of Representatives; Chris Murphy, in his official capacity as Chairman of the House of Representatives Judicial Committee; Wallace H. Jordan, in his official capacity as Chairman of the House of Representatives Elections Law Subcommittee; Howard Knapp, in his official capacity as Interim Executive Director of the South Carolina State Election Commission; John Wells, JoAnne Day, Clifford J. Edler, Linda McCall, and Scott Mosely, in their official capacity as members of the South Carolina State Election Commission, Civil Action No. 3: 21-cv-033032- RMG-MBS-TJH.

The Parker's Defendants certainly have no objection to the motions hearing going forward before Your Honor on the 26th as we do not believe any sort of conflict exists based on Mr. Moore's representation. However, we did want to be sure that Your Honor and all counsel of record, who are copied here, were aware of this representation.

Respectfully submitted,

Susi McWilliams

Susan P. McWilliams

Member

Nexsen Pruet, LLC
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Columbia, SC 29201
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T: 803.253.8221

C: 803-331-3116

F: 803-727-1476

SMcWilliams@nexsenpruet.com<mailto:SMcWilliams@nexsenpruet.com>

<http://www.nexsenpruet.com><[<image001.jpg><\[9\]\(https://urldefense.com/v3/__https://secure-web.cisco.com/10cu-5goWJ69_6vq37tKGsfXI56NN7P1wCYB8LOvjDYCBMQDpHFwUAKTvtPCFgsLcOoK1LtLoDIqKzx5eAw-VLm3REE028axVR4P0c6yYomMEAA0UpTwiNCCh6DBQfqQCoIPGTymMb2DMKGBOEUuoDzW2q89ypKZrbBXII9sZJATZd15</p></div>
<div data-bbox=\)](https://urldefense.com/v3/__https://secure-web.cisco.com/12Nas5HNjr4gRSsKxVG8AJDqb5cRKsoLUC0gArsNmzAM_ML2JL4ORweufb18xKos3clt1B7mWorQubfs19cCONPEbOYQrv11zkgeCxo1OYc_p78ZJBGa4E3WjLW_WyRYNUPB5qVIDJXxyOsCHyiH2z6JT5Zw8yx7w14GO_x6CXuHdSBK_UhEsqgpCYdgy-JwInWDUvRSzxsqqEDxKjY0nwwyBndlgsOFD9e70FP5P3MuH3WLhoxMCIDhHDVx7renZCARukRBU8s9nVivJqYmJnDmkq7K4tNXVCOQH-_0ZzuSBuRe69nP7jf_tji4GWzCRCAHe6iRSRcpA2hu9cgCYZcMU4p8MzK2xDLNVwp6j2Z6cJgKdk5aa2rvVI37Mr09eZrcdvFwLWbcnJd6v7WGfhi1wCINEBdZ9sc1ScGbXh2TUYQXu4kdsjTcxojfEuxtYJL7bTAzsN_Nzv6AK31w/https*3A*2F*2Furldefense.com*2Fv3*2F__http*3A*2Fsecure-web.cisco.com*2F1cYwcv3ElfuNppHdEMH0mItBvhLHziFWwC9F1XvjOt30Asy3CDVs1IODnyfomNcm2tkGVBZbOdWUNYUuC1D7DWLTbGKoDBQnUJqN_FZOEDJBH_HSM3dLTAHSKjfv1IcPJvzHsdqAKOJ2ZmHQ2vKU75LHRUedt1qJV8QruHUuliftxQvTo75dfrtv-LsFOC87sOhc3XVfBTpKDJwCmRscJT-J9BTsrBfhH_vU5udbxielo4J-zS9vNys7IZL1ATYfF2TGoFAFEzOCLuiprX9a9ex4RGG6W1m9oRoXQKfrBosVTIR5t5BBhk2yd0AVW3mzCfarnECK-LUTtnrmcPxyP-8hJK8FXHivDFWBP3at_v6yN129oHnlHFD4eLzkkpcXfyBZsXkaSnTlf3dTU9qQOXVR9pfQblmzUA6v0d80OfTct0Afi2Qo-paz9K3AcCQvl6KJYG6QFjdHUIB6IQTEw*2Fhttp*2A3A*2A2F*2A2Fwww.nexsenpruet.com__*3BJSUI*21*21JA-VglIJBzzC*21p9ShRAWstp-11yeRfjpuwqE9DvtejXegRk_FuDVB5IhIrlTO_z9VbGmKe3qNGFRGDdU0UXA-Z9F52Mj-t6hmF8Ao*24__JSUIJSUIJSUIJSUIJSUIJSU!!JA-VglIJBzzC!pb1Ehfd5U9_qr8dBc90_laXGLXZMzFExBi139XZ77nkVX542ok38i2CGVPgwxCu4el6uTkSLPwaaqpeP5hcRw$ ></p></div>
<div data-bbox=)

Renee S. Beach, et al. v. Gregory M. Parker, et al.
Case No. 2021-CP-25-00392
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

EXHIBIT D

PLAINTIFFS' COUNSEL
E-MAIL OF MAY 3, 2022

COURTESY OF LUNA SHARK MEDIA

From: Mark Tinsley <mark@goodingandgooding.com>
Sent: Tuesday, May 3, 2022 10:38 AM
To: McWilliams, Susan P.
Cc: Moore, Mark C.; dbb@deborahbarbier.com; Ricard, Rhett D.; Ralph Tupper; Laine Gooding; Tabor Vaux
Subject: Re: Beach v. Parker, et al. [IWOV-NPGVL1.FID1075329]

{EXTERNAL EMAIL}

Susie I forwarded the email from the Judge to Senator Senn on Friday. You obviously had not told Senator Senn that you intended to appeal and for her client not to comply with the Judge's order, as you had instructed them with regard to the subpoena. Then on Sunday morning Mr. Donahue sent me the documents which we reviewed.

I dispute that there was no final order compelling the production of the materials by Senator Senn's client or that Senator Senn's client had to wait until they received a form 4 order. If you all had intended to appeal the Judge's latest ruling, it seems the prudent thing would have been to have told the people subject to the subpoena not to comply with the court's order, but that was not done. Is it safe to conclude that you just got around to telling Senator Senn not to comply even though you still don't have the Form 4?

Mark Tinsley
Sent from my iPhone

On May 3, 2022, at 9:36 AM, McWilliams, Susan P. <SMcWilliams@nexsenpruet.com> wrote:

Mark,
We have just been informed that you apparently gave a copy of or informed Senator Senn of the email from Aimee Intagliata from Friday afternoon and have obtained documents from her client prior to any final order directing their production. The email is not an Order and as you know, Aimee indicated a Form 4 Order would be issued. From that Order, we intended to appeal as was contemplated by Judge Price's April 6th Order.

We request that you not review anything you have received, which as you know we contend are privileged and any review by you at this time is improper. We also request that you return those materials to us immediately. We intend to seek relief from an appellate court.
Susi

Susan P. McWilliams
Member
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, SC 29201

PO Drawer 2426 (29202)
T: 803.253.8221
C: 803-331-3116
F: 803-727-1476
SMcWilliams@nexsenpruet.com

www.nexsenpruet.com

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COURTESY OF
LUNA SHARK MEDIA

Renee S. Beach, et al. v. Gregory M. Parker, et al.
Case No. 2021-CP-25-00392
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

EXHIBIT E

MS. SENN E-MAIL OF
MAY 9, 2022

COURTESY OF
LUNA SHARK MEDIA

From: Sandy Senn <sandy@sennlegal.com>
Sent: Monday, May 9, 2022 6:23 PM
To: Mark Tinsley
Cc: McWilliams, Susan P.; Rhett D. Klok; dbb@deborahbarbier.com; Ralph Tupper; John M. Grantland; Moore, Mark C.; Laine Gooding; Drew Radeker; Taylor Smith; Sarah Larabee; Rhonda Lawson; Tabor Vaux; Jody Lyles; Missi Kinard; Edward T. Fenno
Subject: Re: Renee S. Beach, et al. v. Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPGVL1.FID1075329]

{EXTERNAL EMAIL}

Well I'm sorry if I messed up but when I got that email forwarded from the law clerk and then you reached out, I certainly believed it was a go.

Best,

Sandy Senn

This text or email is being dictated or thumb-typed, often clumsily, from a cell phone. Please excuse any typographical errors.

Sandra J. Senn, Esquire
Senn Legal, LLC.
[3 Wesley Drive](#)
[Charleston, SC 29407](#)
[P.O. Box 12279](#)
[Charleston, SC 29422](#)
Phone: [\(843\) 556-4045](#)
Fax: [\(843\) 556-4046](#)
E-mail: Sandy@sennlegal.com

Unless otherwise indicated or obvious from its nature, the information contained in this communication is attorney-client privileged and confidential work product. The communication is intended for the use of the individual or entity named. If you have received this communication in error please notify the sender and erase and do not distribute. Our law firm does not handle taxation matters so if you have a tax question please reach out to a tax lawyer.

On May 9, 2022, at 6:17 PM, Mark Tinsley <mark@goodingandgooding.com> wrote:

Sandy he ruled the cat was out of the bag and they indicated they were filing an appeal. So I am not disseminating the materials at this time.

Mark Tinsley

Sent from my iPhone

On May 9, 2022, at 5:56 PM, Sandy Senn <sandy@sennlegal.com> wrote:

And what of Push defendants please?

This text or email is being dictated or thumb-typed, often clumsily, from a cell phone. Please excuse any typographical errors.

Sandra J. Senn, Esquire
Senn Legal, LLC.
[3 Wesley Drive](#)
[Charleston, SC 29407](#)
[P.O. Box 12279](#)
[Charleston, SC 29422](#)
Phone: [\(843\) 556-4045](#)
Fax: [\(843\) 556-4046](#)
E-mail: Sandy@sennlegal.com

Unless otherwise indicated or obvious from its nature, the information contained in this communication is attorney-client privileged and confidential work product. The communication is intended for the use of the individual or entity named. If you have received this communication in error please notify the sender and erase and do not distribute. Our law firm does not handle taxation matters so if you have a tax question please reach out to a tax lawyer.

On May 9, 2022, at 4:03 PM, McWilliams, Susan P.
<SMcWilliams@nexsenpruet.com> wrote:

Rhett,
We were not sure if you were at the hearing today before Judge Price on the Parker's Defendants' motion to stay, but wanted to inform you that Judge Price directed that the plaintiffs were not entitled to any documents in your or your clients' possession that are the subject of the subpoena issued by counsel for the plaintiffs pending the Parker's defendants' appeal of Judge Price's Form 4 Order entered May 6, 2022.

Please call Debbie Barbier or Ned Tupper, who attended the hearing on behalf of the Parker's Defendants, if you have any questions about Judge Price's ruling from the bench today.
Best regards,
Susi McWilliams

Susan P. McWilliams

Member

Nexsen Pruet, LLC

1230 Main Street, Suite 700

Columbia, SC 29201

PO Drawer 2426 (29202)

T: 803.253.8221

C: 803-331-3116

F: 803-727-1476

SMcWilliams@nexsenpruet.com

www.nexsenpruet.com

NEXSEN | PRUET

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COURTESEY MEDIA
LUNA SHARK

Renee S. Beach, et al. v. Gregory M. Parker, et al.
Case No. 2021-CP-25-00392
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

EXHIBIT F

TRANSCRIPT OF MAY
9, 2022, HEARING

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

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

17 Defendants.

18 May 9, 2022
19 Hampton, South Carolina

20 B E F O R E:

21 The HONORABLE BENTLEY PRICE

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

23 Mark Tinsley, Representing the Plaintiffs
24 Tabor Vaux, Representing the Plaintiffs
25 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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Renee S. Beach, et al. v. Gregory M. Parker, et al.
Case No. 2021-CP-25-00392
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

EXHIBIT G

SUPREME COURT
ORDER OF
SEPTEMBER 15, 2022

COURT REPORTERS
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.

At a hearing on April 29, 2022, Judge Price indicated he had reviewed all of the discovery material. A Form 4 order issued on May 5, 2022, however, stated the materials should be produced to Respondents within fifteen days without a privilege log, and "[a]ny objections by [Petitioners] will be taken up pretrial as to the admissibility of any *privileged* documents at trial." (emphasis added). Because it is unclear from the materials before us whether Judge Price made a final determination on Petitioners' claims of

privilege, we hold the petition for a writ of mandamus in abeyance and direct Judge Price to advise the Court, within fifteen days of the date of this order, whether he finally determined the evidence subpoenaed was not privileged and was, therefore, discoverable. *See State v. Doster*, 276 S.C. 647, 652, 284 S.E.2d 218, 220 (1981) (requiring the circuit court to determine the question of privilege without first requiring disclosure of the substance of the evidence).

	_____	C.J.
	_____	J.
	_____	J.
	_____	J.

I agree with the Court's decision to direct the circuit court to clarify whether the court actually ruled on Petitioners' claims of attorney-client privilege. In my opinion, however, this question cannot be answered by stating simply "yes" or "no." I would require the circuit court to make specific findings as to whether each communication—individually or by meaningfully defined category—is privileged.

In my opinion, the law requires a trial court to review a privilege log prepared by the party claiming privilege unless the court can explain in clear terms that doing so was unnecessary to resolve the claims of privilege. *See* MANUAL FOR COMPLEX LITIGATION § 11.43 (4th ed. 2004) ("A claim for protection against disclosure based on privilege or protection of trial preparation materials must be made 'expressly' and describe the nature of the allegedly protected information sufficiently. . . . This is usually accomplished by counsel submitting a log. . . identifying documents or other communications by date and by the names of the author(s) and recipient(s), and describing their general subject matter (without revealing the privileged or protected material)."); *Avery Dennison Corp. v. Four Pillars*, 190 F.R.D. 1, 1 (D.D.C. 1999) (stating "a 'privilege log' . . . has become . . . the universally accepted means of asserting privileges in discovery"). After conducting this review, the law requires the trial court to make specific findings of fact and conclusions of law—either as to each communication or by meaningfully

defined category—whether each communication is privileged. See 2 PAUL R. RICE, ATTORNEY-CLIENT PRIVILEGE IN THE UNITED STATES § 11:14, at 1330-31 (2021-2022 ed. 2021) ("To resolve a privilege claim, the judge as the finder of facts must examine the available evidence, ascertain the circumstances surrounding the creation of each communication in question, independently assess the merits of the claimed privilege or exceptions to the privilege, and make factual findings with regard to each element of each claim."); *In re Grand Jury Subpoena (Mr. S.)*, 662 F.3d 65, 71 (1st Cir. 2011) ("Determining whether documents are privileged demands a highly fact-specific analysis—one that most often requires the party seeking to validate a claim of privilege to do so document by document.").


_____ J.

Columbia, South Carolina
September 15, 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

Renee S. Beach, et al. v. Gregory M. Parker, et al.
Case No. 2021-CP-25-00392
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

EXHIBIT H

JUDGE PRICE
RESPONSE LETTER
OF
SEPTEMBER 20, 2022

COURT REPORTERS
LUNA SHARPE MEDIA



State of South Carolina
The Circuit Court of the Ninth Judicial Circuit

Bentley Price
Judge

100 Broad Street, Suite 432
Charleston, SC 29401
Phone: (843) 958-4450
Fax: (843) 958-5095
bpricej@sccourts.org

By email
The Honorable Chief Justice Beatty & Justices
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

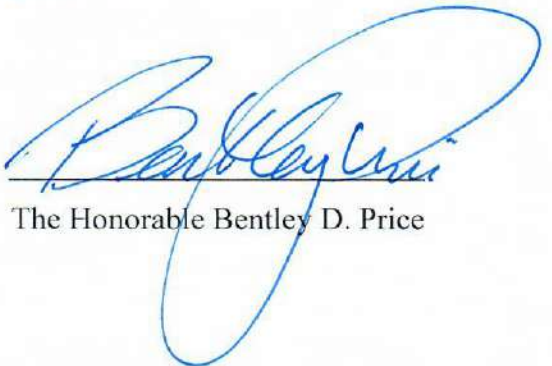
RECEIVED
Sep 20 2022
S.C. SUPREME COURT

Re: Appellate Case No. 2022-000691

Chief Justice Beatty and Justices,

This letter is in response to the Order issued by the Supreme Court on September 15, 2022 in Appellate Case No. 2022-000691 asking for a final determination on Petitioners' claims of privilege. In response to the inquiry, the Court has not made a final determination as to privilege and on September 16, 2022, received a privilege log from the Petitioners. The Court intends to review the privilege log and will make specific findings of fact.

The Court will await direction from the Supreme Court as to whether the Writ is rendered moot and the Court should move forward or should await further guidance.



The Honorable Bentley D. Price

Charleston, South Carolina
September 20th, 2022

Renee S. Beach, et al. v. Gregory M. Parker, et al.
Case No. 2021-CP-25-00392
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

EXHIBIT I

SUPREME COURT
ORDER OF
OCTOBER 5, 2022

COURT REPORTER
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,


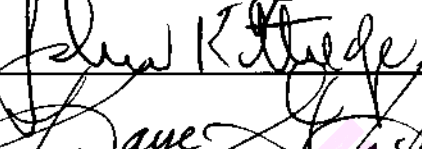
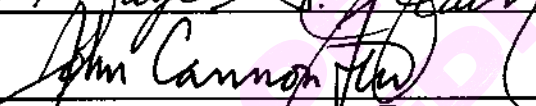


and Bentley Price in his official capacity as Hampton County Circuit Court Judge, In re: Civil Action No. 2021-CP-25-00392, is Respondent.

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

Renee S. Beach, et al. v. Gregory M. Parker, et al.
Case No. 2021-CP-25-00392
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

EXHIBIT J

DECEMBER 1, 2022
LETTER

COURTESY OF
LUNA SHARK MEDIA

November 29, 2022

VIA E-MAIL

The Honorable Bentley Price
bpricesc@sccourts.org
100 Broad Street, Suite 432
Charleston, SC 29401

Re: *Renee S. Beach, Phillip Beach, Robin Beach, Savannah Tuten, and Seth Tuten 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 – Civil Action No. 2021-CP-25-00392*

Dear Judge Price:

Austin

Charleston

Charlotte

Columbia

Greensboro

Greenville

Bluffton / Hilton Head

Myrtle Beach

Raleigh

We write on behalf of Defendants Gregory M. Parker, Gregory M. Parker, Inc., d/b/a Parker's Corporation, Blake Greco, and Jason D'Cruz (collectively, the "Parker's Defendants") to follow-up on the telephone conference with Your Honor that occurred on November 22, 2022. As there was no court reporter present for the call, this letter summarizes our impressions and notes from the telephone conference and also sets forth in writing the Parker's Defendants' position as to the proper way forward for the Court to comply with the Supreme Court's Order of October 5, 2022.

I. Timeline and Summary of the Telephone Conference

At 12:19 PM on November 21, 2022, Your Honor's law clerk requested, via e-mail to the parties, for a telephone conference occur on the following day to discuss the privilege log provided to the Court on September 16, 2022 to assist the Court in conducting a privilege review of the investigatory files of Sara Capelli and the Laurens Group. The e-mail submitted by Your Honor's law clerk stated: "Our office has been working on this matter and reviewing the documents that were provided to us. Since Defendants are claiming that all 5,000+ items are privileged in the attached Privilege Log, Judge Price is requesting a status conference to discuss further." (Enclosure A.)

November 29, 2022

Page 2

Approximately an hour prior to the aforementioned e-mail being sent by Your Honor's law clerk, the law clerk called counsel for the Parker's Defendants, Susan McWilliams ("Ms. McWilliams"), at 11:07 AM and left her a voicemail requesting the privilege log the Parker's Defendants previously provided. At 11:22 AM, Your Honor's law clerk e-mailed Ms. McWilliams, informing her the privilege log had been located.

During the telephone conference, Your Honor questioned whether the Parker's Defendants were asserting that every document within the Sara Capelli files and the Laurens Group files was privileged, indicating the Court was concerned that we were asserting privilege over all of the documents in question and that the volume of documents was significant. Your Honor also asked whether we expected the Court "to go line-by-line" through the items on the privilege logs. Your Honor noted the Court had not yet had the time to conduct the privilege review that was directed by the Supreme Court on October 5, 2022.

Plaintiffs' counsel, Mark Tinsley ("Mr. Tinsley") jumped in and during his presentation, he admitted he had "gone through and 'dog-eared' documents" he received from the Laurens Group directly from Wesley Donehue. Mr. Tinsley indicated he was willing to communicate with counsel for the Parker's Defendants and stated he did not mind "pulling all those 'dog-ears' out, so that Defendants can tell us what those Bates-stamped versions are, so we can then hash them out," or words to that effect. In other words, Mr. Tinsley offered to continue reviewing documents over which the Parker's Defendants were asserting privilege in order to come to some sort of an agreement on the privilege review.

Counsel for the Parker's Defendants made it clear Mr. Tinsley should not have had access to these documents in the first instance—noting, in response to the Court's suggestion that the "ship has sailed" due to Mr. Tinsley already having access to the Laurens Group documents, that Mr. Tinsley's access to those documents was and still is improper—and argued that Mr. Tinsley cannot be an active participant in any privilege review. In response to the Court's questions, we stated our position that based on the Supreme Court's Order, the Court is required to review each document over which the privilege logs reflect we assert either the attorney-client privilege or work product privilege. When Your Honor again asked whether we were asking the Court to go "line-by-line," we responded in the affirmative. Your Honor stated it appeared that we were claiming every single document was privileged and we explained that the privilege logs themselves indicated to the contrary. We attempted to explain that there are 1,334 total documents within the Laurens Group files, and there were 1,120 documents of which we claimed privilege. We also explained the breakdown of the privilege assertions on the Capelli files as detailed below. Your Honor then stated we would "have to have a hearing and go line-by-line," that such a hearing would take days, and "if that's what you want to do, that's what we'll do." We indicated that the Supreme Court ordered the Court review all documents over which we assert privilege, that the review should be *in camera*, and that if, after review, the Court disagrees with

any of our privilege assertions, then and only then should a hearing be scheduled, and that such a hearing should be an *ex parte* hearing with counsel for the Parker's Defendants only. In response, Your Honor stated again the Court would schedule a hearing and that we were "going to have to have a hearing." The telephone conference ended abruptly and lasted approximately eight (8) minutes.

II. The Parker's Defendants' Position as to the Privilege Review

As a preliminary matter, there are 1,432 documents/files within the Sara Capelli and the Laurens Group files, combined. The documents contain 6,106 pages. As the privilege logs that we submitted in September make clear, the Parker's Defendants are ***not*** asserting privilege over the 1,432 documents/files. Instead, we are asserting privilege over 89 out of 98 documents/files in the Sara Capelli production, and 1,120 out of 1,334 documents in the Laurens Group production.

In order to conduct a proper privilege review, the Court is required to perform its review of the privilege logs "line-by-line" and to examine each document over which we assert privilege. For example, in the case of *Parisi v. State Farm Mutual Auto. Ins. Co.*, the court specifically stated it went line-by-line:

This Court has reviewed all of the documents which State Farm has provided. ***This Court conducted a line-by-line review*** of the privilege log; examined each claims file note identified in the privilege log; and reviewed each letter that State Farm has produced. This Court finds that State Farm properly claimed the attorney-client privilege and/or the work-product doctrine for each matter it withheld from production.

No. CV 3:16-179, 2017 WL 9438478, at *1 (W.D. Pa. Nov. 14, 2017) (emphasis added). South Carolina courts require as much as well. *See, e.g., Tucker v. Honda of S.C. Mfg., Inc.*, 354 S.C. 574, 578, 582 S.E.2d 405, 407 (2003) (holding "a trial court should not require the disclosure of attorney client communications to other parties without first determining whether the communications are privileged by inquiring into all the facts and circumstances of the communication). Justice Few's concurrence in the Supreme Court Order dated September 15, 2022 recognizes this requirement as well. (Enclosure B, pp. 2–3.) Mr. Tinsley's acquisition and continued possession of the Laurens Group documents flies in the face of *Tucker*, which remains a substantial issue in this case.

More importantly, in its October 5, 2022 Order, the Supreme Court ordered this type of review as well: "We grant [the Parker's Defendants'] 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 privilege.” (Enclosure C, p. 2 (emphasis added).) This order tracks Justice Few’s concurrence in the September 15, 2022 Order, wherein he stated the law requires a trial court “to review a privilege log prepared by the party claiming privilege” and “to make specific findings of fact and conclusions of law—either as to each communication or by meaningfully defined category—whether each communication is privileged.” (Enclosure B, pp. 2–3.)

Notably, an *ex parte* hearing only occurs after a court first makes an initial privilege determination by conducting its own *in camera* review of the documents reflected on the privilege logs. As the Supreme Court of South Carolina has stated:

Further, if necessary to determine the application of the privilege, the trial judge may consider, *in camera*, the questions sought to be asked and the responses which are contended to be subject to the privilege.

In the event such *in camera* hearing is necessary, the trial judge shall limit attendance as required to ensure protection of the communication in the event it is found to be entitled to the protection of the privilege.

Tucker, 354 S.C. at 578, 582 S.E.2d at 407 (emphasis added).

Based on the foregoing, the Parker’s Defendants respectfully request this Court use the privilege log they submitted and conduct an *in camera* review of each document over which we have asserted privilege. To the extent the Court requires assistance in conducting such a review, the Court may request that the Parker’s Defendants provide it with written submissions concerning the nature of the privilege asserted. After conducting your review, to the extent Your Honor disagrees with any of the Parker’s Defendants’ assertions or needs further oral explanation, then an *ex parte* hearing should be conducted to allow the Parker’s Defendants the opportunity to explain why its assertions are legally sufficient.

III. The Parker’s Defendants’ Position as to Plaintiffs’ Counsel’s Continued Possession of Privileged Documents

As the *Tucker* Court makes clear, trial courts are obligated “to ensure protection of the communication in the event it is found to be entitled to the protection of privilege.” *Tucker*, 354 S.C. at 578, 582 S.E.2d at 407. The Parker’s Defendants requested such protection previously. The following discussion occurred in the May 9, 2022 hearing in this case, which concerned the Laurens Group files that Mr. Tinsley received and reviewed:

MS. BARBIER: Thank you, Your Honor. I'd also like you to order him [Mr. Tinsley] not to disseminate the documents.

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

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

THE COURT: Just don't disseminate them. Fair enough?

MR. TINSLEY: That's fine.

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

MR. TINSLEY: Thank you, Your Honor.

(The hearing was concluded.)

(Enclosure D, at 11:16–12:7.) Clearly, Mr. Tinsley's admission in the November 22, 2022 telephone conference that he has "dog-eared" the documents indicates he has reviewed them extensively and may be continuing to review them, perhaps because he does not believe he is prevented from reviewing the documents based on the exchange above. Therefore, not only should Plaintiffs' counsel be barred from any participation in the privilege review, but the Parker's Defendants also reassert their prior request for Your Honor to order Plaintiffs' counsel to stop any and all further review of the Laurens Group documents unless and until the Court completes its privilege determination. Of course, to the extent that Mr. Tinsley wishes to simplify the process by conceding the privileged status of documents that he has already reviewed that are reflected on the Laurens Group privilege log itself, that would be appropriate.

IV. The Parker's Defendants' Position as to the Case Moving Forward

The issue of Mr. Tinsley's disqualification has been exacerbated given his admissions in the November 22, 2022 telephone conference reflected above. Further, the Parker's Defendants would inform the Court that despite their pending Motion for Partial Stay of Discovery filed on November 7, 2022, we also recently received Requests for Admission served by Mr. Tinsley.

As the Court is aware, the Parker's Defendants previously filed their Motion to Compel Production of Subpoenaed Documents relative to Mr. Tinsley's communications on

June 15, 2022, their Motion to Disqualify Mr. Tinsley on September 28, 2022, and their Motion for Partial Stay Discovery on November 7, 2022, all of which need to be addressed before other discovery is pursued in this case—and to date, Mr. Tinsley has not responded to any of those motions. We respectfully submit that in order to resolve the Motion to Disqualify, this Court must first conduct the privilege review and rule on our Motion to Compel, which we believe will generate further evidence that will support Mr. Tinsley’s disqualification. Therefore, we reassert our Motion for Partial Stay of Discovery and respectfully request that the Court grant that motion.

Finally, we request that in the future, all status conferences in this matter be conducted on the record and transcribed by a court reporter. As noted above, it is important to have a record documenting admissions like the ones made by Mr. Tinsley that he had “dog-eared” pages within the Laurens Group files he received, and also his express admission that he received certain files directly from Wesley Donehue (“Mr. Donehue”).

We appreciate Your Honor’s time and attention in this matter, and remain willing and able to address any questions or concerns Your Honor may have.

Respectfully,



Mark C. Moore

Enclosures

cc: Mark Tinsley, Esq. via e-mail: mark@goodingandgooding.com
Laine Gooding, Esq. via e-mail: laine@goodingandgooding.com
Tabor Vaux, Esq. via e-mail: tabor.vaux@vmlawfirm.com
John Grantland, Esq. via e-mail: jgrantland@murphygrantland.com
Andrew “Drew” Radeker, Esq. via e-mail: drew@harrisonfirm.com
Taylor Smith, IV, Esq. via e-mail: taylor@harrisonfirm.com
Sarah Larabee, Esq. via e-mail: sarah@harrisonfirm.com
Edward Fenno, Esq. via e-mail: efenno@fennolaw.com
Ben Tripp, Esq. via e-mail: btripp@fennolaw.com
Ralph “Ned” Tupper, Esq. via e-mail: nedtupper@tgdcpa.com
Deborah Barbier, Esq. via e-mail: dbb@deborahbarbier.com
Susan “Susi” McWilliams, Esq. via e-mail:
smcwilliams@nexsenpruet.com
Rhett Ricard, Esq. via e-mail: rricard@nexsenpruet.com

ENCLOSURE A

COURTESY OF
LUNA SHARK MEDIA

From: Price, Bentley Law Clerk (Haley Kiser) <bpricelc@sccourts.org>
Sent: Monday, November 21, 2022 12:19 PM
To: McWilliams, Susan P.; Mark Tinsley; Laine Gooding; Tabor Vaux; John M. Grantland; Drew Radeker; Taylor Smith; Sarah Larabee; nedtupper@tgdcpa.com; efenno@fennolaw.com; Ben Tripp; Deborah Barbier; Moore, Mark C.; Ricard, Rhett D.
Cc: Price, Bentley; Price, Bentley Secretary (Tamara Walters)
Subject: RE: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPGVL1.FID1075329]
Attachments: Parker_s Defendants Privilege Log (Submitted to Court and counsel 9 16 2022)-c.XLSX

{EXTERNAL EMAIL}

Good afternoon, all,

Our office has been working on this matter and reviewing documents that were provided to us. Since Defendants are claiming that all 5,000+ items are privileged in the attached Privilege Log, Judge Price is requesting a status conference to discuss further. Judge Price is available tomorrow at 2:30pm. Please confirm that everyone is available at that time for a phone conference. Once confirmed, please send conference call in details.

Thank you,

Haley Kiser

Law Clerk
The Honorable Bentley Price
100 Broad Street, Suite 432
Charleston, South Carolina 29401
Phone: (843) 958-4450
Fax: (843) 958-5095

From: McWilliams, Susan P. <SMcWilliams@nexsenpruet.com>
Sent: Friday, September 16, 2022 2:11 PM
To: Price, Bentley <bpricej@sccourts.org>; Price, Bentley Law Clerk (Haley Kiser) <bpricelc@sccourts.org>
Cc: Mark Tinsley <mark@goodingandgooding.com>; Laine Gooding <laine@goodingandgooding.com>; Tabor Vaux <tabor.vaux@vmlawfirm.com>; John M. Grantland <jgrantland@murphygrantland.com>; Drew Radeker <Drew@harrisonfirm.com>; Taylor Smith <Taylor@harrisonfirm.com>; Sarah Larabee <sarah@harrisonfirm.com>; nedtupper@tgdcpa.com; efenno@fennolaw.com; Ben Tripp <btripp@fennolaw.com>; Deborah Barbier <dbb@deborahbarbier.com>; Moore, Mark C. <MMoore@nexsenpruet.com>; Ricard, Rhett D. <RRicard@nexsenpruet.com>
Subject: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPGVL1.FID1075329]

*** **EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Judge Price,

Attached please find our correspondence and attachments following the telephonic conference today. Counsel of record are copied on this communication.

With best regards,
Susi McWilliams

Susan P. McWilliams

Member
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, SC 29201
PO Drawer 2426 (29202)
T: 803.253.8221
C: 803-331-3116
F: 803-727-1476
SMcWilliams@nexsenpruet.com

<https://checkpoint.url-protection.com/v1/url?o=www.nexsenpruet.com&q=MGQwMzFiNWZmZmNjxNTlxNA==&h=OWYzNjMzZTFjZTBjYWFKZTVmYmNiMmlwMTlhZmI4ODMwNDVhMTc1MWQyZWZmZmE4NTk2NDlyMjg0MTgzYTQzZA==&p=YzJ1OnNjanVkaWNpYWw6YzpvOjhiYTM2MTIjOGUwZDIIMDYyODdhMmE1MmFiYWYxMjg3OnYxOnQ6VA==>

NEXSEN | PRUET

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ENCLOSURE 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

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## ORDER




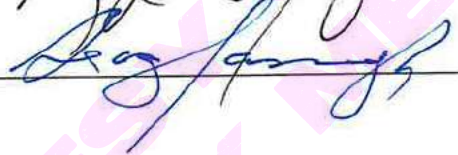
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Petitioners seek a writ of mandamus in this Court's original jurisdiction to require the Honorable Bentley Price to vacate his discovery order and conduct an *in camera* review of documents subpoenaed by Respondents and make specific findings as to whether each document is protected by a privilege.

At a hearing on April 29, 2022, Judge Price indicated he had reviewed all of the discovery material. A Form 4 order issued on May 5, 2022, however, stated the materials should be produced to Respondents within fifteen days without a privilege log, and "[a]ny objections by [Petitioners] will be taken up pretrial as to the admissibility of any *privileged* documents at trial." (emphasis added). Because it is unclear from the materials before us whether Judge Price made a final determination on Petitioners' claims of



privilege, we hold the petition for a writ of mandamus in abeyance and direct Judge Price to advise the Court, within fifteen days of the date of this order, whether he finally determined the evidence subpoenaed was not privileged and was, therefore, discoverable. *See State v. Doster*, 276 S.C. 647, 652, 284 S.E.2d 218, 220 (1981) (requiring the circuit court to determine the question of privilege without first requiring disclosure of the substance of the evidence).

  
\_\_\_\_\_ C.J.  
  
\_\_\_\_\_ J.  
  
\_\_\_\_\_ J.  
  
\_\_\_\_\_ J.

I agree with the Court's decision to direct the circuit court to clarify whether the court actually ruled on Petitioners' claims of attorney-client privilege. In my opinion, however, this question cannot be answered by stating simply "yes" or "no." I would require the circuit court to make specific findings as to whether each communication—individually or by meaningfully defined category—is privileged.

In my opinion, the law requires a trial court to review a privilege log prepared by the party claiming privilege unless the court can explain in clear terms that doing so was unnecessary to resolve the claims of privilege. *See* MANUAL FOR COMPLEX LITIGATION § 11.43 (4th ed. 2004) ("A claim for protection against disclosure based on privilege or protection of trial preparation materials must be made 'expressly' and describe the nature of the allegedly protected information sufficiently. . . . This is usually accomplished by counsel submitting a log. . . identifying documents or other communications by date and by the names of the author(s) and recipient(s), and describing their general subject matter (without revealing the privileged or protected material)."); *Avery Dennison Corp. v. Four Pillars*, 190 F.R.D. 1, 1 (D.D.C. 1999) (stating "a 'privilege log' . . . has become . . . the universally accepted means of asserting privileges in discovery"). After conducting this review, the law requires the trial court to make specific findings of fact and conclusions of law—either as to each communication or by meaningfully

defined category—whether each communication is privileged. See 2 PAUL R. RICE, ATTORNEY-CLIENT PRIVILEGE IN THE UNITED STATES § 11:14, at 1330-31 (2021-2022 ed. 2021) ("To resolve a privilege claim, the judge as the finder of facts must examine the available evidence, ascertain the circumstances surrounding the creation of each communication in question, independently assess the merits of the claimed privilege or exceptions to the privilege, and make factual findings with regard to each element of each claim."); *In re Grand Jury Subpoena (Mr. S.)*, 662 F.3d 65, 71 (1st Cir. 2011) ("Determining whether documents are privileged demands a highly fact-specific analysis—one that most often requires the party seeking to validate a claim of privilege to do so document by document.").

  
\_\_\_\_\_ J.

Columbia, South Carolina  
September 15, 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

ENCLOSURE C

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


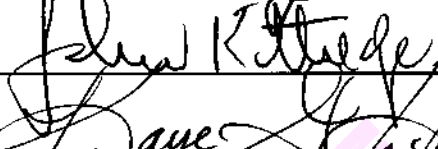
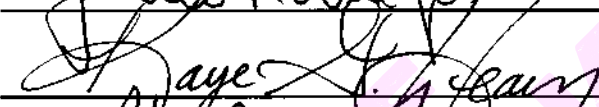
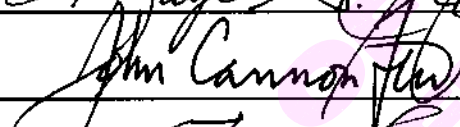

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## ORDER

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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



ENCLOSURE D

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

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

17 Defendants.

18 May 9, 2022  
19 Hampton, South Carolina

20 B E F O R E:

21 The HONORABLE BENTLEY PRICE

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

23 Mark Tinsley, Representing the Plaintiffs  
24 Tabor Vaux, Representing the Plaintiffs  
25 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

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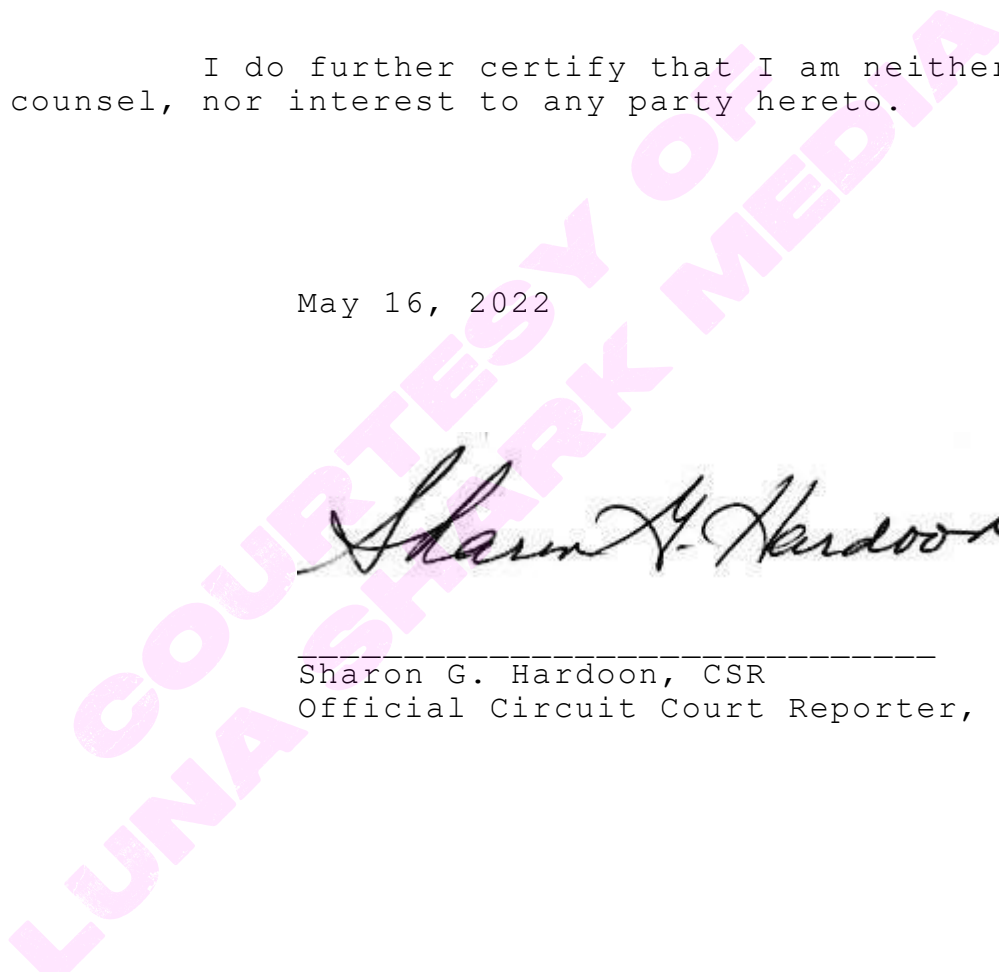
I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in General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



Renee S. Beach, et al. v. Gregory M. Parker, et al.  
Case No. 2021-CP-25-00392  
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

# EXHIBIT K

**TRANSCRIPT OF**  
**MARCH 16, 2022,**  
**HEARING**

COURT REPORTER 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 March 16, 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 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. Whose motion is it?

2 MR. TINSLEY: Judge, I had a motion, a  
3 Rule to Show Cause.

4 THE COURT: All right.

5 MR. TINSLEY: It relates to subpoenas  
6 that were issued on some third parties in this  
7 case. Mr. Tupper has filed a motion to quash  
8 those subpoenas.

9 THE COURT: Okay.

10 MR. TINSLEY: I don't think -- I don't  
11 really have strong feelings who goes first,  
12 because I think it's the same issue. If they want  
13 to argue the motion to quash first, I'm okay with  
14 that.

15 THE COURT: Let me hear what you want  
16 first.

17 MR. TINSLEY: Sure.

18 THE COURT: Obviously, I know what they  
19 want, which is to not give you what you want.

20 MR. TUPPER: Yes, sir.

21 THE COURT: Problem solved.

22 All right. What are you looking for,  
23 Mr. Tinsley?

24 MR. TINSLEY: We filed a civil conspiracy  
25 outrage case. The case arises out of a handling

1 of a lawsuit, a wrongful death lawsuit, and  
2 specifically alleges, among other things, that  
3 Greg Parker, the Parkers entity, which is doing  
4 business as Parker's Corporation, Blake Greco, who  
5 is Mr. Parker's general counsel, Jason D'Cruz, who  
6 is also a lawyer with the firm of Baker Hostetler,  
7 two PIs named Max Fratoddi and Henry Rosado and  
8 their company, Private Investigation Services  
9 conspired to inflict severe emotional distress and  
10 waged a campaign of emotional warfare against the  
11 plaintiff in the boat crash wrongful death case.

12 THE COURT: Okay.

13 MR. TINSLEY: And they did this among  
14 other ways by employing -- they say that I  
15 conjured this term, social media night fighter.  
16 But Wes Donahue, who is a political consultant who  
17 on his website says he is, in fact, a social media  
18 night fighter. They employed these political  
19 firms to -- that often engage, according to their  
20 website, in crisis management for companies and  
21 driving down the leftist pundite, which I assume  
22 that's me.

23 THE COURT: That's you.

24 MR. TINSLEY: Yes, sir.

25 So in this scheme, they did a number of

1 things. One of the things is, we allege that the  
2 lawyer, along with Mr. Parker, engaged in  
3 fraudulent conduct to obtain among other things,  
4 the mediation presentation video that was a part  
5 of the boat crash case.

6 THE COURT: Okay.

7 MR. TINSLEY: It was produced pursuant to  
8 Rule 8, confidentiality. We had filed in response  
9 to the motion to dismiss an affidavit of  
10 Professor Michael Bersie that basically says that  
11 Rules 3.3 and 4.4 would be violated by conduct,  
12 and that conduct would be outside the scope of any  
13 representation if what we allege in the complaint  
14 is true. If the lawyers conspired with Mr. Parker  
15 to release the video that contained the private  
16 images of the plaintiffs in this case, which is  
17 the family of Mallory Beach, in addition to, we  
18 also allege, that they abused process by serving a  
19 subpoena on the Beaufort County Sheriff's  
20 Department to obtain photographs of Mallory's dead  
21 body, which they also released.

22 Now, they make some -- I don't want to  
23 argue their motion, but they make some arguments  
24 that these photographs have been publicly  
25 released. They've never been publicly released.



1 There were different agencies involved in the  
2 recovery of Mallory's body. The different  
3 agencies -- photos were taken from different  
4 perspectives, they have different gloves, and  
5 Parker's is the only entity that received the  
6 Beaufort County Sheriff's Department video and  
7 photographs.

8 In November -- well, I can back up  
9 because they bring this up.

10 In September, I believe, I got a call  
11 from a Dateline producer, and in that call she  
12 says, essentially, there's these two PIs, Max and  
13 Henry, and they destroyed Sandy Smith's iPad.  
14 This case has lots of attention. The Beach case  
15 has lots of attention. When I call it the Beach  
16 case, I mean the boat crash case. And so I often  
17 get calls from different people.

18 In addition to that, she -- this producer  
19 told me that a woman by the name of Vicky Ward, a  
20 reporter from New York, had purchased the Beach  
21 file. I didn't know what she meant. It didn't  
22 make any sense to me. And so a couple of days  
23 later, I picked up the phone and I called Vicky  
24 Ward. I didn't get an answer. I hang on my cell  
25 phone, and, coincidentally, the receptionist tells

1 me Vicky Ward is on the phone, and I said, I  
2 understand you bought the file. Because I'm  
3 thinking, there are lots of documents filed in the  
4 Beach case, why on earth would anybody buy these  
5 public documents. And she tells me that she got  
6 the documents from the law firm of BakerHostetler,  
7 which is the law firm that Mr. D'Cruz works for.  
8 Mr. D'Cruz is --

9 THE COURT: Spell his last name.

10 MR. TINSLEY: D, apostrophe, C-r-u-z.

11 THE COURT: Thank you. And it's Greco  
12 and D'Cruz?

13 MR. TINSLEY: Greco and D'Cruz. Greco is  
14 here. This is Mr. Greco. Both of them attended  
15 the mediation. Both of them participated in the  
16 mediation. Just like today, Mr. Greco has been  
17 here for most of the proceedings in the case.

18 In the documents, it relates that  
19 Miss Ward told me, among other things, that  
20 Parker's had an agenda. I said, I have an agenda  
21 too. My agenda is to hold these people  
22 accountable. She said, well, they're dirty,  
23 they're slimy. I don't have anything to do with  
24 them other than I bought their documents. And I'm  
25 coming to South Carolina and I want you to sit for

1 my sizzle reel, which apparently is a trailer that  
2 they put together to be able to sell a project  
3 like a documentary to, in this case, Discovery  
4 Channel. I said I would agree to meet with her.  
5 I met with her in Beaufort to Taylor Vaux's office  
6 shortly thereafter to find out what she had.

7 Now, what she had was, the first time I  
8 learned, she had a copy of my mediation video.  
9 She also had copies of the lawyer notes from the  
10 depositions, which would include things like when  
11 the officer was being deposed we would go off the  
12 record for the officer's phone number. She has  
13 those notes. I didn't take any of those notes. I  
14 don't have any of those notes.

15 She had none of the information that  
16 relates to Parker's actual conduct, but she had  
17 lots of information that related to the Murdaughs  
18 and related to things other than that would cast  
19 Parker or Parker's Corporation in a bad light.

20 Ultimately, I did not sit for her sizzle  
21 reel.

22 And, at that time, I raised the issue of  
23 the breach of the confidentiality under the ADR  
24 rules to Mitch Griffith, who then was representing  
25 Parker's. But in the last few days, Parker's has

1 terminated Mr. Griffith's representation.

2 I did not believe that there was any  
3 issue about the disclosure of those confidential  
4 materials other than, does she have them. If she  
5 has them, this is where they came from, because I  
6 gave to them -- to Parker's under the auspices of  
7 the mediation.

8 So I filed a Rule to Show Cause. I go to  
9 California in early December, days before we're  
10 going to -- two days before we're going to argue  
11 the motion. For the first time, I get a memo  
12 that's typical dog-bite defense. It's not my dog.  
13 We didn't do it. Okay. So I withdraw the motion  
14 without prejudice because I believe they did do  
15 it.

16 And then shortly thereafter, the sizzle  
17 reel is publicly released. So the video comes  
18 out. The video contains six different scenes.  
19 It's a part of the Rule to Show Cause in the  
20 record in the Beach case. You can see the still  
21 photographs of the mediation scene, the still  
22 photograph from the sizzle reel that was played.  
23 They were created by us. They were our private  
24 property. They were produced under the auspices  
25 of Rule 8, the confidentiality of the mediation.

1           In addition, the video depicted Mallory's  
2           dead body from Beaufort County Sheriff's  
3           Department photos.

4           At that point in time, I had evidence  
5           that, in fact, Miss Ward had these documents. And  
6           this lawsuit was fired as a result of Parker's  
7           releasing that information, or causing that  
8           information to Vicky Ward for purposes of harming  
9           the Beaches, to effect their resolve in continuing  
10          the litigation in the boat crash case.

11          I learned that Wes Donahue was the person  
12          that was hired, initially, by Greg Parker, now  
13          they claim D'Cruz or BakerHostetler. Mr. Parker,  
14          as I understand, was highly involved in the  
15          discussions with Wes Donahue. They continuously  
16          texted back and forth about what they were going  
17          to do, so I sent a subpoena to Wes Donahue.

18           THE COURT: Remind me who he is again.

19           MR. TINSLEY: Wes Donahue is the night  
20          fighter.

21           THE COURT: Okay.

22           MR. TINSLEY: And he owns a company  
23          called the Laurens Group and Push Digital.

24           THE COURT: All right.

25           MR. TINSLEY: And then I also served

1 subpoenas on two of the other employees,  
2 Christine Purvis, I believe, who is also highly  
3 involved because apparently Mr. Donahue and  
4 Mr. Parker couldn't get along.

5 When I served the subpoenas initially --  
6 now, the Rule to Show Cause and the motion to  
7 quash relate to the second subpoenas, and I'll get  
8 to that in a second.

9 When I initially served the subpoenas,  
10 Sandy Senn calls me and says, I've been hired to  
11 represent Wes Donahue, Push, and the  
12 Laurens Group. We've got the documents together.  
13 We don't mind producing it. I'm in the Senate.  
14 It's going to take a little bit of time, and have  
15 you served the other parties? I said, there are  
16 no parties. Greco, for instance, wouldn't come  
17 out of his office to be served. He was avoiding  
18 service in Georgia. Same with Mr. D'Cruz.  
19 Ultimately, we got everybody served. I did copy  
20 the opposing counsel. I did also -- I reissued  
21 the subpoenas, and immediately emailed them on  
22 contemporaneously to Susie McWilliams, who, by  
23 then, had said she's going to be representing all  
24 the Parker entities from Nexsen Pruet.

25 THE COURT: How soon a time was that?

1 Because how long was Mr. Griffith on the case?  
2 You said, just up until recently.

3 MR. TINSLEY: Yes, sir. He had been on  
4 the case almost three years.

5 THE COURT: And he just got fired? As  
6 far as you know.

7 MR. TINSLEY: He's no longer representing  
8 Parker's in the Beach -- in the boat crash case.

9 THE COURT: Got it.

10 MR. TINSLEY: So we had the discussions.  
11 And, at that point, Miss Senn tells me, the person  
12 I really want, the PI who was doing lots of this  
13 work -- because Mr. Parker wanted three things; he  
14 wanted video of Paul Murdaugh drinking, partying,  
15 and talking about killing that girl, and I assume  
16 that's Mallory Beach, and he wanted to prove that  
17 Buster Murdaugh was gay. And so they hired Sara  
18 Capelli.

19 Now, Sara Capelli has her own private  
20 investigation firm. It's called Inquiry. We have  
21 filed the Rule to Show Cause on those subpoenas.  
22 It was an error that it wasn't filed on both, but  
23 they have moved to quash both subpoenas to  
24 Wes Donahue and Sara Capelli. So we served Sara  
25 Capelli.

1           Almost immediately, Sara Capelli sends me  
2 a friend request on Facebook and calls me, and she  
3 has the most extreme case of diarrhea of the mouth  
4 of any person I've ever talked to. She begins to  
5 explain all the details of what Parker's was hired  
6 to do -- I mean, what Parker's hired her to do,  
7 what they hired the two PIs, Max and Henry, to do,  
8 and that their intent was to paint a picture that,  
9 because Buster Murdaugh was gay, he must have been  
10 involved in the murder of Steven Smith. And  
11 because they had this narrative that they were  
12 pushing out that the Murdaughs were terrible  
13 people, and they may very well be terrible people,  
14 but because they are terrible people, then a jury  
15 ought not find against him in the boat crash.  
16 That is what I'm told that Mr. Parker wanted the  
17 information related to Buster Murdaugh for, as  
18 well as the information related to Paul's  
19 drinking, partying, talking about killing that  
20 girl.

21           So we served subpoenas on the PI, Sara  
22 Capelli, as well as Wes Donahue. They are broad.  
23 Admittedly, they are broad. And specifically what  
24 I have asked for, among other things, is all of  
25 the video -- as I understand Sara Capelli was



1 videoing Paul Murdaugh in excess of a year. She  
2 video -- she was videoing Paul Murdaugh within  
3 three days of his murder, and I'm told that these  
4 videos have been turned over to SLED. So we've  
5 asked for all of the photographs and all of the  
6 surveillance.

7 In addition to her surveillance, they had  
8 also caused a camera to be placed at the driveway  
9 to Moselle, so there's video there. So we've  
10 asked for those.

11 We've asked for the time and the billing  
12 records, because those records will indicate when  
13 these activities started, parts of what they did,  
14 and, significantly, one of the things that Miss  
15 Capelli did was, she bought alcohol for some  
16 underaged people in Columbia in order to get  
17 information about Paul Murdaugh. And we believe  
18 that Parker's reimbursed her for those charges.  
19 There's a photograph. This happened in November  
20 of '20. This is Miss Capelli at a bar and I'm --  
21 I've got copies I'm willing to hand up.

22 THE COURT: Did anyone confirm that there  
23 was a camera placed at the entrance of the  
24 Moselle?

25 MR. TINSLEY: The AG's office has

1 confirmed that SLED has received some video that  
2 was taken by Miss Capelli.

3 THE COURT: All right.

4 MR. TINSLEY: Whether it was that camera  
5 or it was shot by a hand-held camera, I do not  
6 know.

7 THE COURT: All right.

8 MR. TINSLEY: So this photograph, and I  
9 apologize, I thought when I printed it -- this is  
10 Miss Capelli in the striped jumpsuit there with  
11 her mouth open. In the foreground, you see there  
12 is a camera with a selfie. This underage girl  
13 took this photograph because -- and this is a copy  
14 of Miss Capelli's card. She bought this girl  
15 alcohol. She then went and followed another girl  
16 to a gas station who is also underage and bought  
17 her alcohol. And so we've asked for the billing  
18 and the time records and the receipts for  
19 reimbursement because we think that Parker's  
20 reimbursed her for buying alcohol for minors to  
21 get information about Paul.

22 Now, Miss Capelli was never identified in  
23 the Beach crash case, the boat crash case as a  
24 witness. They've never disclosed that there was  
25 any video taking of Paul. All this was in secret.

1           And, in addition, the Wes Donahue, all  
2           that's in secret. Now, ultimately, Wes Donahue is  
3           quoted in, I believe the Post and Courier, that he  
4           had a difference of opinion of strategic decision  
5           with Greg Parker and they parted ways. And so we  
6           have asked for all of that information as well.

7           In her --

8           THE COURT: What does Miss Capelli allege  
9           that she does? Her card says she's in South  
10          Carolina, licensed and bonded for court-admissible  
11          evidence. She alleges that she is a --

12          MR. TINSLEY: She says that the scope of  
13          her job was very limited, that she was limited to  
14          videoing Paul and following Buster to establish  
15          that Buster was gay.

16          THE COURT: Got it.

17          MR. TINSLEY: Sandy Senn -- I apologize,  
18          Your Honor.

19          February 15, 2022, Sandy Senn wrote a  
20          letter to me. She copied Miss McWilliams on it  
21          and it documents that, as she has represented to  
22          me by phone, Push Digital employees quickly  
23          gathered the items that were responsive to my  
24          subpoena and that they have no objection to  
25          producing those items, the things I've asked for.

1 Among other things I've asked for, the phone  
2 information, text messages, I would offer this as  
3 the next court's exhibit. It's already in the  
4 record. I think they attached it in their motion  
5 to quash.

6 I am told as late as yesterday afternoon  
7 that Sara Capelli, likewise has collected  
8 everything. She has no objection to producing it.  
9 She wants to produce it. She wants an order that  
10 allows her to produce it.

11 Now, one of the things that's been  
12 asserted, and it was initially asserted by Miss  
13 McWilliams was that there was a confidentiality  
14 agreement in Mr. Parker's employment agreement  
15 with Push Digital and maybe Sara Capelli. I am  
16 told that Wes Donahue did not sign the agreement.  
17 I've yet to see a copy of any signed agreement by  
18 anybody that would claim to make these materials  
19 confidential.

20 But, Judge, the subject of this action is  
21 these actions. These attorneys' involvement. And  
22 what you get from the affidavit of Michael Bersie  
23 is, is that if the things that we allege are true,  
24 then these people are acting outside the scope of  
25 any legal representation in violation of the

1 rules.

2 And so there is no questions that we are  
3 entitled to, base on the allegations, this  
4 discovery. They've not made any particularized --  
5 or a showing of particularized arm.

6 And under the case of  
7 Hamm vs. South Carolina Public Service, which is  
8 312 SC 238, a party objecting to -- Rule 26 allows  
9 for broad pretrial discovery. The rules did not  
10 differentiate between information that is private  
11 or intimate and to which privacy interest attach.  
12 Thus the rules often allow extensive intrusion  
13 into affairs of both litigants and third parties.  
14 When discovery process threatens to become abusive  
15 or creates a particularized harm to a litigant or  
16 a third party, the rules allow the trial judge  
17 broad latitude in limiting the scope of discovery.  
18 The person requesting protection -- that's them --  
19 to squash the subpoena, even though the third  
20 parties served with the subpoenas have no  
21 objection to producing the materials. They've  
22 collected the materials.

23 So to the extent they argue, well, you  
24 only gave us eight days. I gave you eight days on  
25 the second subpoena because you already told me

1 you had the stuff ready to go. And the only  
2 reason I issued the second subpoena was because  
3 Cheryl Shoun, who claimed at the time -- who is  
4 also with Nexsen Pruet -- claimed to be  
5 representing Sara Capelli. That never was true,  
6 but she represented in an email that she was  
7 representing Sara Capelli. Sara Capelli said she  
8 was not. It was always Parker's and Parker's  
9 lawyer and Parker's objecting to the production of  
10 these documents.

11 But they have the burden of showing good  
12 cause that a particularized harm will result if  
13 the challenge in discovery is happening. The only  
14 thing that they've alleged is this generalized  
15 idea that, well, this is attorney work product, or  
16 this is attorney/client privilege because  
17 attorneys were involved. Attorneys wear multiple  
18 hats. The Moore case -- Moore vs. Weinberg makes  
19 it very clear. There's two cases in Moore.  
20 There's a Court of Appeals case and the Supreme  
21 Court opinion that affirmed the Court of Appeals.  
22 In Moore vs. Weinberg, Mr. Moore was owed a debt  
23 from Mr. Weinberg. Mr. Weinberg sent a letter of  
24 protection saying once I settle, we'll pay you the  
25 \$92,000 we owe you. He didn't pay. He forgot it.

1           And so Cam Lewis then sued Mr. Weinberg  
2           for, among other things, negligence, conversion,  
3           and civil conspiracy.

4           And in the Court of Appeals case, the  
5           Court noted that civil conspiracy may be inferred  
6           from the nature of the acts committed, the  
7           relationship of the parties, the interested of the  
8           alleged conspirators, and the other relevant  
9           circumstances because civil conspiracy is by its  
10          very nature covert, clandestine, and usually not  
11          provable by direct evidence. There's a whole lot  
12          of latitude allowed in the evidence that we are  
13          able to use to establish the civil conspiracy.  
14          Likewise, there has to be latitude in allowing us  
15          to be able to discover the civil conspiracy.

16          This evidence is critical to the  
17          discovery of that. This evidence will show that,  
18          among other things. They conspired to violate the  
19          rules, to violate the law, to harm the Beaches.  
20          That is their only job. They have not made any  
21          showing of any harm that will result as a result  
22          of the production of these documents, and I would  
23          ask the Court to enforce the subpoenas.

24          Now, I filed this as a Rule to Show  
25          Cause. In the matter of Carl Hendricks, which is

1 319 SC 465, it's a Supreme Court opinion. In that  
2 case the Court noted -- the Supreme Court issued a  
3 Rule to Show Cause -- I'm sorry. The Supreme  
4 Court found Mr. Hendricks in contempt for failing  
5 to respond to a subpoena. I believe that the only  
6 course of action, when a person fails to respond  
7 to the subpoena, is to file a Rule to Show Cause.  
8 I'm not necessarily asking for these people to be  
9 held in contempt or put in jail. I do think the  
10 Court has the power to do that. I just want the  
11 materials. And I'd like the Court to enforce the  
12 subpoena and allow me to get these materials so we  
13 can begin to move forward.

14 Thank you, Your Honor.

15 THE COURT: All right. Thank you very  
16 much.

17 MR. TUPPER: Your Honor, if I could just  
18 get -- this is Ned Tupper for the defendants in  
19 this case. One of the things that I find -- I was  
20 going to be in a position to argue the motion to  
21 dismiss. The motion to dismiss, I know we're not  
22 hearing, because yesterday, I think it is, maybe  
23 the day before, we received an affidavit he's  
24 referred in this motion purportedly telling the  
25 Court what the law is as far as this case is



1 concerned. So I'm not prepared today, nor is he,  
2 to argue that.

3 However, I would suggest that, perhaps,  
4 the best thing for judicial economy is to -- after  
5 you hear this motion, perhaps to hold off ruling  
6 on it, and then let us argue the motion to dismiss  
7 and we could hear both of them -- or you could  
8 decide both of them in one day, one proceeding.

9 THE COURT: All right.

10 MR. TUPPER: Miss Barbier is going to  
11 make the argument with respect to this particular  
12 motion.

13 THE COURT: All right. Yes, ma'am.

14 MS. BARBIER: Good morning, Your Honor. May  
15 it please the Court? I appreciate the opportunity to  
16 be here today to represent Mr. Greg Parker, Parker's  
17 Corporation, Mr. D'Cruz, who is Mr. Parker's personal  
18 counsel. He's with BakerHostetler. And Greg Greco  
19 who is general counsel for Parker's Corporation. I'm  
20 here to represent all three of them.

21 THE COURT: Will you spell your last name  
22 for us, please.

23 MS. BARBIER: It's B-a-r-b-i-e-r.

24 THE COURT: Thank you.

25 MS. BARBIER: Thank you.

1           Your Honor, we appreciate the opportunity  
2 to address the issuance by Mr. Tinsley of these  
3 defective and deficient subpoenas which seek to  
4 invade the attorney/client and work product  
5 privileges by seeking information which is  
6 completely not discoverable under our rules, and  
7 which is not owned by the people from which he has  
8 subpoenaed them. The owner of those materials and  
9 the owner of the privilege lies with Mr. Parker  
10 who was the client.

11           This is, Your Honor, essentially, a brand  
12 new case that was filed back on December 3rd of  
13 2021. We have -- it's an offshoot, Your Honor,  
14 from the Beach vs. Murdaugh case, and we have,  
15 suffice it to say, substantial concerns about the  
16 method by which the plaintiff's counsel has gone  
17 about bringing this case, how he's issued these  
18 subpoenas, the manner in which he apparently  
19 solicited privileged information that he just  
20 described for this Court from individuals who  
21 worked for my client, and the drastic sanction of  
22 contempt that he seeks in asking this Court to  
23 impose today for the witnesses who didn't respond  
24 for these subpoenas.

25           And I wanted to make it clear,

1 Your Honor, that, first of all, these objections  
2 go to the subpoenas. They are not meant in any  
3 way, shape, or form to be directed or cast any  
4 dispersions on the Beach family. We, along with  
5 the rest of world, grieve their daughter's tragic  
6 loss, and this is not about them. We do, however,  
7 believe that our clients have no responsibility  
8 for this loss. And we're here today to argue  
9 these subpoenas whether they're proper and whether  
10 they're appropriate. And the other issues will be  
11 for a jury to decide on a different day.

12 And, as I said, Your Honor, Mr. Tinsley  
13 filed this case against not just Parker's  
14 Corporation and Mr. Parker, but against their  
15 lawyers -- his lawyers, and the company's lawyers.  
16 And he essentially alleges that they conspired to  
17 give Vicky Ward, a reporter who is making a  
18 documentary about the Murdaugh murders a mediation  
19 video. And as I understand it, Your Honor, this  
20 is a mediation video that Mr. Tinsley created and  
21 it is quite defamatory against Mr. Parker. So the  
22 idea that he would disseminate it to the media is  
23 absurd. But that is, again, for a different day.  
24 We're not here to talk about the merits, but I  
25 just want to leave it at that.

1 He has made, again, a number of  
2 assertions today about the facts as he believes  
3 them to be. And those assertions that he made  
4 only reiterate to me that he's a witness in this  
5 case, if this case goes forward, and that he -- we  
6 will likely move to disqualify him as counsel for  
7 that reason. But, again, that's an issue for  
8 another day.

9 If the case goes forward in discovery,  
10 Your Honor, we will get to the bottom of how  
11 mediation video landed into the hands of somebody  
12 like Miss Ward. We have intended to do a great  
13 deal of discovery on that issue if this goes  
14 forward. We will be seeking to find out who had  
15 access to the video, who was shown the video, how  
16 many reporters were shown the video by the  
17 plaintiffs. You know, I don't read People  
18 magazine very often, Your Honor, but I picked it  
19 up not long ago and Mr. Tinsley gave an exclusive  
20 interview to People magazine about this case. So  
21 there's been a lot of interaction with the media  
22 on the part of the plaintiffs. But, again, we're  
23 not here to try this case today.

24 Mr. Tinsley first made these allegations,  
25 which we believe are baseless in the under case

1 and a Rule to Show Cause. He filed the Rule to  
2 Show Cause alleging the same exact allegations  
3 that we, somehow, leaked this video to Miss Ward.  
4 And then when the hearing was scheduled and he was  
5 going to be required to submit proof of that  
6 allegation, he withdrew the Rule to Show Cause.

7 If I had been their counsel at that time,  
8 the time he withdrew the Rule to Show Cause, I  
9 would have moved for costs. That wasn't done.  
10 But that's neither here nor there.

11 Now, he's decided to sue Mr. Parker and  
12 Mr. Parker's lawyers who are simply doing their  
13 jobs and defending the allegations made in the  
14 Beach lawsuit. And, Your Honor, I believe it's a  
15 transparent attempt to gain advantage in the  
16 Beach vs. Murdaugh case and to push some type of  
17 settlement, but I can assure you it has had the  
18 exact opposite effect on my clients.

19 But, Your Honor, needless to say,  
20 whenever someone sues lawyers, there are going to  
21 be objections based on the privilege, because at  
22 the heart of our system of justice is the  
23 attorney/client work product privileges. They're  
24 sacrosanct, and it is in every lawyer's best  
25 interest for those to be guarded very closely.

1           I want to make it perfectly clear to  
2 Your Honor that to the extent Mr. Tinsley has  
3 already come into possessions of privileged  
4 information, we are asking this Court today to  
5 immediately order him to return it to its rightful  
6 owner. Rule 1.6 of the Rules of Professional  
7 Conduct prohibits lawyers from soliciting  
8 privileged information. So, you know, I can't  
9 call up another lawyer's paralegal and ask them to  
10 provide me with privilege information that they  
11 have due to their work relationship with that  
12 lawyer. That's just not within our rules.

13           The subpoenas that he's issued, Your  
14 Honor, seek information from people that  
15 Mr. Parker hired in his personal capacity to do  
16 work for him, and they were hired under the  
17 attorney/client and work product privileges. They  
18 were hired pursuant to agreements that solidified  
19 that confidentiality of that agreement by having  
20 confidentiality provisions. And the information  
21 is clearly, clearly privileged.

22           Your Honor, we have submitted a brief in  
23 support of our motion to quash. And I don't know  
24 if Your Honor has had an opportunity to read it,  
25 but, just briefly, I'll hit a few of the high

1 points. The United States Supreme Court has  
2 recognized and has long since recognized that one  
3 of the realities is that attorneys often rely on  
4 the assistance of investigators and other agents  
5 and the compilation of materials in preparation of  
6 their defense. And I think that's fairly common,  
7 has been common since I've been practicing law for  
8 the last 30 years. We hire investigators. We  
9 hire consultants. We hire non-testifying expert  
10 witnesses. We hire paralegals. We hire law  
11 clerks. They are all covered under the privilege.

12 And so, Your Honor, the fact is that all  
13 of the information that he seeks, if not all 95  
14 percent of it, is seeking -- he's seeking work  
15 product information. And, as you know, work  
16 product is broken down into fact work product and  
17 opinion work product. Opinion work product  
18 encompasses and attorney's mental thoughts, an  
19 attorney's impressions. The very tasks that he  
20 asks these investigators to do consist of mental  
21 impressions. And, of course, that was done under  
22 the guise of his attorneys. And so, Your Honor,  
23 it's clearly not discoverable. The only time that  
24 opinion work product is discoverable at all is  
25 when it's a very rare and extraordinary

1 circumstance. There is no rare or extraordinary  
2 circumstance here. He hasn't named one.

3 As far as fact work product, he would  
4 have to show substantial need for it. He hasn't  
5 shown a substantial need at all for it. The only  
6 need that he has is that he's filed a lawsuit  
7 based on conjecture that he can't prove the  
8 allegations to, and that doesn't qualify, Your  
9 Honor, of substantial need.

10 The privilege, Your Honor, clearly,  
11 pursuant to the case law, extends to third  
12 parties. Third parties include investigators.  
13 The cases that we've cited in our brief, and there  
14 are a number of them, but I'll just cite to  
15 briefly AVX Corp vs. Horry Land Company, that's a  
16 Fourth Circuit case -- it's a district of South  
17 Carolina case, November of 2010. And then United  
18 States vs. Cobolt and that's a Second Circuit  
19 case.

20 But, Your Honor, these cases all hold and  
21 stand for the principle that the privilege extends  
22 to third-parties agents and the communications  
23 between those agents and the attorneys and the  
24 clients is privileged.

25 Mr. Tinsley makes a great deal of



1 argument regarding the fact that we can show no  
2 harm. There is no greater harm than invading the  
3 attorney/client work product privileges. That's a  
4 substantial harm. That is irreversible harm. And  
5 once, if Your Honor allows him to obtain these  
6 materials, that cannot be enough. That would  
7 taint the rest of this litigation and create an  
8 issue that could not be fixed.

9 And so, Your Honor, we rely, not only on  
10 the attorney/client work product privileges but we  
11 rely upon the confidentiality provisions in the  
12 agreements these investigators signed. We rely  
13 upon the fact that these subpoenas are overly  
14 broad and overly burdensome. If Your Honor was to  
15 require these people to produce these materials,  
16 we would have to have somebody go through every  
17 line and look to see whether they could be  
18 redacted or whatnot. It would cost tens of  
19 thousands of dollars for that process to occur. I  
20 don't know if Mr. Tinsley is willing to undertake  
21 that cost.

22 But the bottom line is, he is on a  
23 fishing expedition. He believes that he has, you  
24 know, this civil conspiracy that he needs to prove  
25 and he believes that it occurred but he has no

1 proof of it. And if he did have proof of it, he  
2 would have gone forward in his Rule to Show Cause  
3 hearing in the other case.

4           Instead he decided to file a lawsuit and  
5 then just throw out discovery requests to  
6 everybody that he could think of to find evidence  
7 to support that. And that, of course, Your Honor,  
8 is not appropriate. And we would -- we're going  
9 to be asking you to dismiss this case outright.  
10 It's a very, very slippery slope, and a very bad  
11 precedent to allow lawyers to sue other lawyers in  
12 a litigation because they don't like the fact that  
13 those lawyers weren't willing to settle with them  
14 and those lawyers weren't willing to write them  
15 the check that they wanted. That's a very, very  
16 bad precedent, and I hope that Your Honor, once we  
17 are able to argue the motion to dismiss in full,  
18 will throw out this case in total.

19           I'll be happy to answer any questions,  
20 Your Honor, and I would rely on the case law that  
21 we cited in our brief as well.

22           THE COURT: All right. Thank you very  
23 much.

24           Yes, sir.

25           MR. TINSLEY: Briefly, Your Honor,

1 Miss Barbier said the first time that Vicky Ward  
2 issue was raised was in the Rule to Show Cause.  
3 That's not true. If you look at page 2 of their  
4 motion to dismiss, they acknowledge that on  
5 November the 12th, 2020, Parker's filed a motion  
6 in the Beach case, the boat crash, seeking an  
7 order allowing it to use the video to support its  
8 pending motions on the ground that the plaintiffs  
9 had waived any right to confidentiality by  
10 disseminating the video to at least one third  
11 party.

12 By the time we get to the hear in  
13 Lexington in front of Judge Hall, they know that  
14 we know about Vicky Ward, and they withdraw that  
15 motion. They withdrew the motion asking the court  
16 to declare this material that they had released to  
17 be confidential.

18 And in Page 4 of Michael Bersie's  
19 affidavit, paragraph 7 he says that if Mr. D'Cruz  
20 and Mr. Greco believed that the confidentiality  
21 imposed by Rule 8 of the ADR rules and the  
22 mediation agreement had been entirely waived by  
23 the appearance in public media, assuming that I  
24 gave it to somebody -- which their argument is  
25 tantamount to, every article, every post of the

1 thousands or hundreds of thousands that have  
2 occurred that show a photograph of Mallory, that  
3 photograph is in this mediation video, then you  
4 waived it all. That's not what happened.

5 But nonetheless, Mr. Bersie gives the  
6 opinion, and it's filed in this case -- I can hand  
7 the Court up a copy of the affidavit well -- that  
8 under Rule 3.4(c), that the lawyers had to openly  
9 assert that waiver. They had to get a ruling on  
10 that waiver or they act outside the scope of any  
11 representation.

12 These cases -- Cory Fleming was indicted  
13 18 counts yesterday. I understand he's been  
14 arrested and that he will be arraigned this  
15 afternoon.

16 If there's one thing this case has shown  
17 us is that lawyers can do bad things. And just  
18 because you're a lawyer, you're not cloaked with  
19 immunity that they would like a lawyer to be  
20 cloaked with when they're violating the rules of  
21 professional conduct, violating the rights of  
22 third parties in violation of those rules, and  
23 violating the rules of the court. And under 4.4,  
24 if they use the abuse of process, they are not  
25 within the scope of their representation.

1 She boldly asserts that what I've asked  
2 for is all owned by Mr. Parker.

3 The subpoenas have an attachment, each  
4 are essentially the same. There are six parts.  
5 I've asked for all the surveillance video. I've  
6 asked for all of either Sara Capelli or Wes  
7 Donahue's time records and the billing statements,  
8 their billing statements. I've asked to produce  
9 any materials that they provided Greg Parker or  
10 Mr. D'Cruz or Mr. Greco, to produce all their text  
11 messages because I am told that there are  
12 extensive text messages with Mr. Parker that  
13 Wes Donahue has including saying, I'm not going  
14 down on this alone.

15 I've asked for the production of any  
16 non-disclosure agreements, which they've cited a  
17 portion of. I have yet to see any non-disclosure  
18 agreement that they have. And I've also asked for  
19 the receipts that they collected of itemized  
20 charges that they submitted for reimbursement. I  
21 haven't gotten any of that. I don't believe any  
22 of those materials are owned by Mr. Parker.  
23 Certainly the text messages are not owned by  
24 Mr. Parker.

25 I agree that the attorney/client

1 privilege is important, but our U.S. Supreme Court  
2 has recognized the crime fraud exception, which  
3 has been recognized in civil cases applying to  
4 torts. There's the Cobbs case, vs. Specialize  
5 Care, which is 437 F.Sup 2d 632, it's a 2005  
6 opinion, it cites the U.S. Supreme Court  
7 recognizing that the purpose of the crime fraud  
8 exception to the attorney/client privilege is to  
9 assure that the seal of secrecy between a lawyer  
10 and a client does not extend to communications  
11 made for the purpose of getting advice for the  
12 commission of a fraud or crime. The  
13 attorney/client privilege must necessarily protect  
14 the confidences of wrongdoers but the reason for  
15 the protection the centrality of the open client  
16 and attorney communication to proper functioning  
17 of our adversary system of justice ceases to  
18 operate at a certain point, namely where the  
19 desired advice refers to future wrongdoing.

20 If anything in these materials addresses  
21 attorney/client privilege or legal advice in any  
22 way, it relates to future wrongdoing, and that  
23 that would not be recovered by the attorney/client  
24 privilege or attorney work product, and that the  
25 Court should allow the production of those

1 documents. At a minimum, the Court would  
2 entertain an in-camera review of the documents.

3 But, again, they've not shown any  
4 particularized harm. They've not submitted a  
5 privilege log. They've not submitted anything  
6 that would indicate that any attorney/client  
7 relationship was being invaded, any advice had  
8 been sought, or anything else other than this  
9 generalized, hey, we're lawyers, we are cloaked  
10 with immunity, just take our word for it. We  
11 don't steal, we don't lie, we don't cheat, and we  
12 don't try to hurt other people, and that's just  
13 not the rules, Your Honor.

14 THE COURT: All right.

15 MR. TUPPER: Your Honor, could I just be  
16 hear one second? My thought at the beginning  
17 about holding off on ruling on this because a good  
18 portion of what Mr. Tinsley was arguing was coming  
19 from a document that he submitted, an affidavit,  
20 in regard to the motion to dismiss, which we're  
21 not discussing today.

22 THE COURT: I understand that.

23 MR. TUPPER: Thank you.

24 MS. BARBIER: Judge, I just briefly would  
25 like to reply to his comments regarding the crime

1 fraud exception. The crime fraud exception  
2 requires a prima facie showing that a crime has  
3 been committed. There is no prima facie showing  
4 that a crime has been committed.

5 The complaint consists of bare bone  
6 allegations that there's some conspiracy that  
7 existed to release this video. He has not even  
8 identified who in particular released the video on  
9 behalf of -- or who was directed to by Mr. Parker  
10 or Mr. Parker's attorneys. There is no -- it  
11 fails under Rule 9(b), I mean, you know, outright.  
12 But let alone proving or showing, a prima facie  
13 showing of crime or a fraud. There's no such  
14 showing, so that would be inapplicable.

15 Thank you.

16 THE COURT: All right. Thank you very  
17 much.

18 MR. TINSLEY: To Mr. Tupper's point about  
19 arguing the motion to dismiss, their motion to  
20 dismiss, if we're going to respond to my  
21 affidavit, they allege that the document had been  
22 produced to Mandy MacNee. They allege facts that  
23 are outside the complaint. It's not a motion to  
24 dismiss. They've turned it into a summary  
25 judgment motion.



1           There is no judicial economy in holding  
2 any ruling to argue this motion to dismiss,  
3 because, first and foremost, it's not a motion to  
4 dismiss.

5           In the Cobbs case, the court noted, its  
6 previous -- it's mentioned previously, plaintiff  
7 claims that the defendants conspired with their  
8 in-house counsel to deprive him of the full value  
9 of his stock by fabricating a story about his  
10 resignation. If true, the conduct in the instant  
11 case would fall within the expanded definition of  
12 the crime fraud exception that has been recognized  
13 by courts to apply to intentional torts.

14           Because of the things that are outlined  
15 in Mr. Bersie's affidavit, they are not within the  
16 course and scope of any endorsed legal  
17 representation when a lawyer counsels somebody or  
18 participates in a fraud, a crime, or an  
19 intentional tort.

20           And so I think we made it. I don't see  
21 any point in arguing a motion to dismiss. I'm  
22 happy to schedule it at the Court's -- I was at  
23 the burn center until late last night in a  
24 deposition in Augusta, otherwise I would have  
25 tried to be ready to hear the motion to dismiss on

1 two day's notice, or whatever it is I've had.

2 THE COURT: All right. Anything further?

3 MS. BARBIER: Beg the Court's indulgence,  
4 Your Honor.

5 Your Honor, one of the things we would  
6 ask the Court to do is order these parties that  
7 have been subpoenaed to produce all of the  
8 information to my clients, then my clients can  
9 review all of the information and make specific  
10 privilege assertions.

11 The only reason, Your Honor, that we did  
12 not demand the return of the information once this  
13 came to light is that a subpoena had been issued  
14 and we did not want it to appear as if we were  
15 trying to circumvent the legal process.

16 But we would ask the Court to require the  
17 individuals subpoenaed to produce that information  
18 to us, return it to us immediately because we are  
19 the privilege holder, and it does rightfully  
20 belong to Mr. Parker.

21 THE COURT: All right. Do you have any  
22 objection to that, Mr. Tinsley.

23 MR. TINSLEY: Judge, for the reasons that  
24 I argued, I don't believe that they will have any  
25 privilege. And so, I guess, generally, that is my

1 objection.

2 THE COURT: All right.

3 MS. BARBIER: I would also ask Your Honor  
4 to order Mr. Tinsley to the extent he has -- he's  
5 clearly already spoken to people who are not at  
6 liberty and not allowed to speak to him pursuant  
7 to the confidentiality and the work product  
8 privilege and attorney/client privilege. But to  
9 the extent he has materials, we would ask that  
10 those be returned immediately to us and that he  
11 not retain any copies.

12 THE COURT: Do you have anything?

13 MR. TINSLEY: I don't know what she's  
14 talking about. I've been interviewed extensively  
15 by the governing bodies of this state.

16 If you want to report me, I suggest you  
17 report me.

18 I don't know what she's talking about.  
19 If she wants to be specific, but, as late as  
20 yesterday afternoon, even when Sara Capelli and  
21 her lawyer called me on my cell phone, and he  
22 knows that she's calling and talking to me about  
23 the scheduling of this, so she can get an order  
24 that protects her to produce so she can get back  
25 to work, according to her, I don't think that that

1 violates any rules, especially given the fact that  
2 her lawyer knows that the communication is being  
3 had.

4 But report me.

5 THE COURT: All right. Anything further?

6 MS. BARBIER: Nothing further. Thank  
7 you, Your Honor.

8 THE COURT: I'll take it under advisement  
9 and I'll give you a ruling by Friday.

10 MS. BARBIER: Thank you, Your Honor.

11 MR. TINSLEY: Thank you, Your Honor.

12 (The hearing was concluded.)  
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CERTIFICATE OF REPORTER

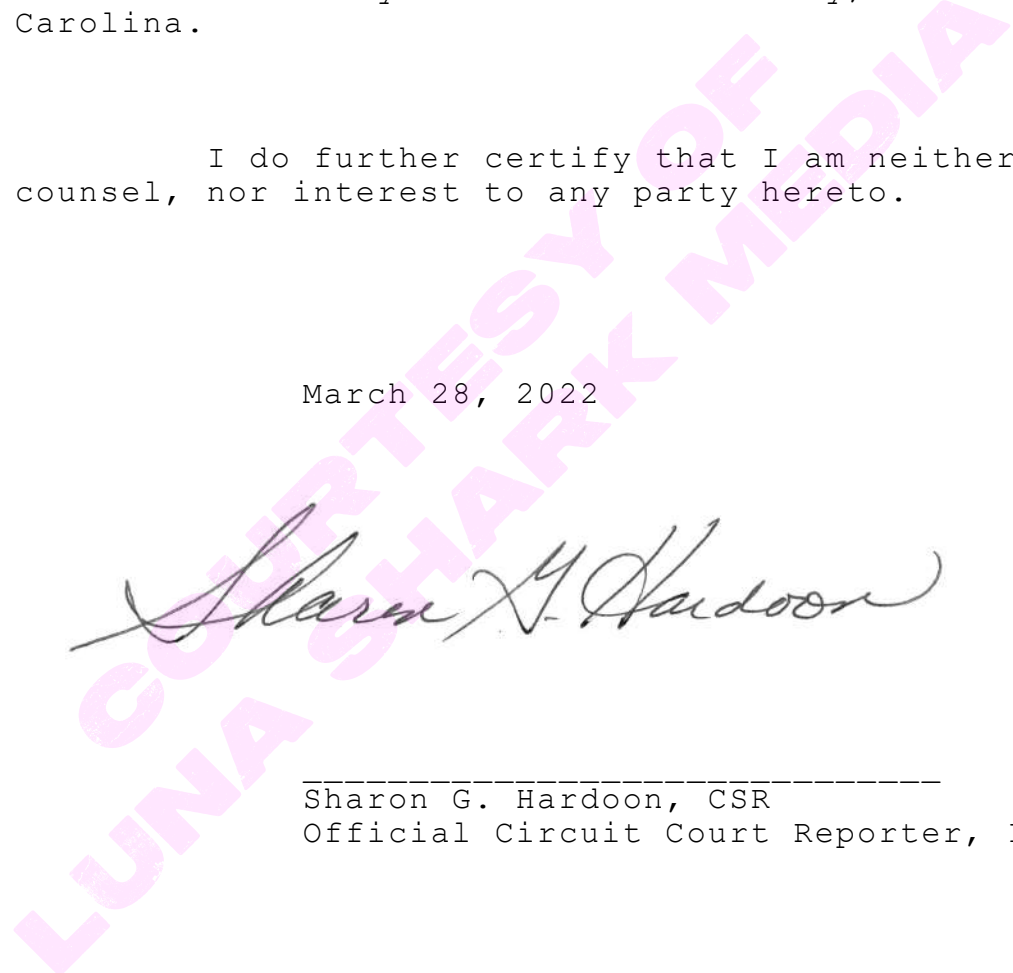
I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the \*\*\*hearing of the captioned case, relative to appeal,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

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

March 28, 2022



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



Renee S. Beach, et al. v. Gregory M. Parker, et al.  
Case No. 2021-CP-25-00392  
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

# EXHIBIT L

## FITSNEWS ARTICLES

COURTESY OF  
LUNA SHARK MEDIA

# Murdaugh Civil Case: Journalist Refutes Claim She Paid For Confidential Court Documents

[Will Folks](#) October 5, 2021

Over the weekend, I ran a story on the [latest developments](#) related to a high-profile civil case involving the now-notorious Murdaugh family of South Carolina – which is at the center of one of the nation's most gripping real life soap operas, the '[Murdaugh Murders](#)' true crime saga.

The case in question is a wrongful death action filed by the family of 19-year-old [Mallory Beach](#), who died in the early morning hours of February 24, 2019 following a [boat crash](#) in Beaufort county, S.C.

Allegedly driving the boat at the time of this fatal collision was [Paul Murdaugh](#), who has since been [brutally murdered](#) in a still-unsolved double homicide that also claimed the life of his mother, 52-year-old [Maggie Murdaugh](#).

Paul Murdaugh, who was nineteen years of age at the time of the crash, purchased alcoholic beverages at a Parker's [convenience store](#) in Ridgeland, S.C. using a driver's license belonging to his brother, **Buster Murdaugh**.

The owner of the boat – 53-year-old [Alex Murdaugh](#) – remains a "person of interest" in connection with the ongoing investigation into the double homicide. He is also the focus of an ongoing [obstruction of justice](#) investigation related to his alleged conduct following the boat crash. Additionally, Murdaugh is at the center of an investigation into

allegations that he stole millions of dollars from his [former law partners](#) at the once-prestigious Peters, Murdaugh, Parker, Eltzroth and Detrick ([PMPED](#)) firm.

*(SPONSORED CONTENT - STORY CONTINUES BELOW)*



Oh, and if all of that weren't sufficiently troubling ... Murdaugh was [recently charged](#) in connection with a bizarre roadside shooting incident on September 4, 2021 which appears to have been an attempted insurance scam.

Anyway, my update on the civil case focused on allegations that British-born author, reporter and commentator [Vicky Ward](#) – who is currently working on a Murdaugh documentary – purchased confidential court



files from one of the corporate defendants in the wrongful death case.

This allegation was made in open court last week by attorney [Mark Tinsley](#), who is suing Alex Murdaugh, Buster Murdaugh, [Parker's Kitchen](#) and its founder, [Greg Parker](#), on behalf of the Beach family.

Tinsley issued multiple subpoenas late last month in an effort to get to the bottom of these allegations – including one issued to Ward herself.

That subpoena sought her testimony at a deposition this week, as well as any materials in Ward's possession related to the Beach case, "including but not limited to the confidential mediation presentation video and anything else whether written, electronic or in any other form." More specifically, Tinsley's subpoena sought to ascertain whether Ward obtained confidential mediation information from "any individual, business, or entity, who were operating on behalf of, related to or in any way associated with Gregory M. Parker, Inc., Parker's Corporation, Gregory M. Parker, or their agents or employees."

*(Click to view)*





*(Pic: Askryan via Wikimedia Commons)*

According to a filing ([.pdf](#)) from Ward's attorney, the 52-year-old reporter (*above*) has invoked South Carolina's journalistic "shield law" in refusing to be deposed by Tinsley – and in refusing to comply with his demand for the production of documents.

Does the shield law apply to her, though? Not according to Tinsley.

The plaintiffs' attorney said Ward broke confidentiality – and thus

revoked any legal protection to which she may have been entitled – when she told him and another lawyer, [Tabor Vaux](#), the source of the information she received.

“She told us what she had and where she got it which is why the subpoena asks for what it asks for,” Tinsley told me last week, adding that “the reporter shield law only protects confidential information.”

Ward’s attorney, [Andrew Celli, Jr.](#), disputed that interpretation – issuing a statement to this news outlet last week referring to Ward as “a working investigative journalist entitled to the full protection of South Carolina’s reporter’s shield law.”

This week, Ward broke her silence on the issue – chalking the whole thing up to “crossed wires” in conversation.

\*\*\*\*\*

**DON'T MISS A STORY ...**



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\*\*\*\*\*

“The allegation that I bought anything is false,” Ward said in a statement provided to this news outlet. “I had a very pleasant meeting with Mark Tinsley but there were obviously some crossed wires in our

conversation which he may have misinterpreted. I never bought anything from anyone for journalistic purposes and I never would. I am deeply sorry he got that impression."

I put this quote to Tinsley, who told me another witness allegedly heard Ward make reference to purchasing confidential court files from someone connected to the corporate defendants in the Beach case.

Tinsley told me an affidavit from this witness would be forthcoming soon ...

The attorney also recalled Ward being crystal clear with him during her September 2021 visit to the Palmetto State as to where she received the confidential court files.

"I don't know how she thinks there were any wires crossed," Tinsley told me.

Stay tuned ... as I noted in my original treatment of this story, the drama involving Ward "underscores the ferocity of the competition for insider information related to the broader Murdaugh saga by those looking to capitalize on it in the media realm."

\*\*\*\*\*

**ABOUT THE AUTHOR ...**



(Via: FITSNews)

**Will Folks** is the founding editor of the news outlet you are currently reading. Prior to founding FITSNews, he served as press secretary to the governor of South Carolina. He lives in the Midlands region of the state with his wife and seven children. And yes, he has LOTS of hats (including that New York Knights' lid from ['The Natural'](#) pictured above).

\*\*\*\*\*

## WANNA SOUND OFF?

Got something you'd like to say in response to one of our articles? Or



*an issue you'd like to address proactively? We have an open microphone policy here at FITSNews! Submit your letter to the editor (or guest column) via email [HERE](#). Got a tip for a story? [CLICK HERE](#). Got a technical question or a glitch to report? [CLICK HERE](#).*

\*\*\*\*\*



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\*\*\*\*\*

COURTESY OF  
LUNA SHARK MEDIA

# Murdaugh latest: Mallory Beach family files suit alleging social media harassment, conspiracy

Lawsuit exhibit shows Mallory Beach memorial marker.

Exhibit from lawsuit Renee S. Beach, Phillip Beach, Robin Beach, Savannah Beach Tuten and Seth Tuten vs. 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 Investigations Services Group, LLC," was filed in Hampton County Court of Common Pleas on Friday, Dec. 3.

**Recently:** [SLED releases 911 call on fatal Gloria Satterfield fall at the Murdaugh residence](#)

**Related:** [Connor Cook files suit against Murdaugh family members, store clerk, for 2019 boat crash](#)

**Case so far:** [What we know about the murders, investigations, insurance fraud scheme](#)

The new suit, "Renee S. Beach, Phillip Beach, Robin Beach, Savannah Beach Tuten and Seth Tuten vs. 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 Investigations Services Group, LLC," was filed in Hampton County Court of Common Pleas on Friday, Dec. 3.

...

The suit alleges Civil Conspiracy and Outrage/Intentional Infliction of Emotional Distress and was filed by Allendale, S.C., attorney Mark Tinsley, of Gooding and Gooding PA, who is also representing the Beach estate in the wrongful death suit.

The new civil action alleges that Parker, owner and CEO of Parker's, and his attorneys Greco and D'Cruz, conspired with journalist Ward, as well as Fratoddi and Rosado of Private Investigations Services Group, to launch "...a social media campaign to inflict severe emotional distress upon the Plaintiffs to diminish their resolve to prosecute Parker's for contributing to causing the death of Mallory Beach in the Civil Action and arranged for or participated in the distribution of the confidential mediation and other private materials... "

The suit alleges that, prior to Sept. 14, 2021, Parker, Greco, and D'Cruz hired "social media knife fighters" and others to devise a plan to emotionally harm, harass and discourage the Beach family from prosecuting the wrongful death suit by creating fake social media posts.

The suit further claims that Parker, Greco and D'Cruz conspired with Fratoddi, Rosado and Private Investigations Services Group to "...misappropriate the private property of the Beach's, invade their privacy and misappropriate their images, all in an effort to inflict severe emotional distress upon the Plaintiffs..."

This conspiracy was allegedly done by Parker and his attorneys providing videos and photos, which were reportedly confidential images to be used in the wrongful death civil mediation process, to Ward, a New York-based journalist.



These confidential images included photographs of Mallory Beach's dead body as it was discovered on a mud flat in a Beaufort County river, a week after the fatal boat crash, the suit contends. These images also include other members of the Beach family, which they say were stolen for the profit of others as well as being an invasion of their privacy.

On Friday, Parker's attorneys released the following statement:

The logo of a charity founded in memory of Mallory Beach, who died in a 2019 boat crash.

Photo submitted.

"Parker's denies any allegation of providing crime scene photos, video footage or other confidential mediation information to Vicky Ward. Parker's is disappointed that anyone would leak or discuss information contained in these items with the media. In fact, when Parker's filed a motion in November of 2020 regarding mediation material, Parker's was careful not to disclose anything that could be considered confidential. We continue to send our condolences to the Beach family for their loss and will be filing a timely response to the Plaintiff's false, baseless allegations."

Ward is a journalist working on a documentary entitled "The Murdaugh Murders," which released an online trailer Nov. 24. The trailer video incorporates six different sections from a confidential mediation video belonging to the Beach family, the suit alleges.

The suit states that Ward and others aided and abetted the other defendants in their civil conspiracy "to inflict severe emotional distress upon the Plaintiffs and to harass them in a manner so unconscionable it

shocks the conscience."

The Beach family states in the civil complaint that at no time did they ever agree to participate in "Ward's tasteless and completely obscene production."

The suit further states: "In an attempt to get the Plaintiffs and their counsel to appear in her documentary, Vicky Ward acknowledged that Parker and his law firm, referencing Defendant D'Cruz's law firm Baker Hostetler, 'had an agenda' and that she had 'nothing to do with them other than having their stuff.'"

On Dec. 8, Ward released a statement:

"As I've already stated, I've never bought any materials for use in a proposed documentary about the Murdaughs. Nor have I ever met, or spoken to, Greg Parker or his lawyers. Nor did I publish, promote, or create the video, that was wrongly described as a 'trailer' and which contained very sensitive photographic images... The video at issue was created and intended for internal use by the production company I am partnered with. It was for internal development purposes only and supposed to have been seen by approximately ten people...

Unfortunately, an outside contractor at the production company inadvertently uploaded the internal video to an open (as opposed to private) Vimeo site. As soon as this was discovered immediate action was taken to remove access to the video... I am deeply upset for the Beach family. As with all of my investigative reporting activities, I am devoted to finding and telling the truth. Any suggestion that I would ever seek to exploit a tragedy is utterly false and disgusting."

According to her website, Ward is a New York Times bestselling author, a former journalist for CNN and HuffPost, and most recently the host and producer of "Chasing Ghislaine," a project based on the lives of Jeffrey Epstein and Ghislaine Maxwell, which has been published as Audible Original podcast and a Discovery Plus documentary.

In a prior related legal matter, on Nov. 30, Beach attorneys filed a "Rule to Show Cause" motion in regards to the wrongful death suit asking why Parker should not be sanctioned and held in contempt of court for violating Rule 8(a), SCADR mediation rules by releasing confidential materials. This motion will be heard on Friday, Dec. 10, at 10 a.m. at the Moss Justice Center in York, S.C.

The fatal boat crash involving former S.C. attorney Alex Murdaugh's boat, allegedly piloted by his late son, Paul, has sparked another civil law suit from the family of Mallory Beach, who lost her life in the crash.

Photo courtesy of the S.C. Attorney General's Office.

This motion states that on July 7, 2020, Beach's attorneys emailed to Parker's counsel the confidential mediation video to be used as a part of the confidential mediation process. The mediation conference was held on Sept. 20, 2020.

The motion also alleges that around Sept. 14, 2021, Ward contacted Beach's attorneys and stated that she had purchased portions of what she called "the Beach case file" from "Parker and his law firm of Baker Hostetler" and that Ward further confirmed that she had a copy of the the mediation presentation video among other materials related to the case which had never been made public by law enforcement or legal counsel.

The most recent Beach family' conspiracy suit contends that the defendants "exceeded all bounds of decency and were atrocious and utterly intolerable in a civilized society" and as a result, they have suffered "extreme emotional distress, nervousness, worry, anxiety, hysteria, physical sickness, loss of sleep, loss of enjoyment of life, depression and other damages." They are demanding a jury trial and seeking actual and punitive damages.

Parker's, headquartered in Savannah, Ga., operates retail stores throughout southeast Georgia and South Carolina.

Paul Murdaugh, who was allegedly driving the boat occupied by five other minors when it crashed into a bridge on Archer's Creek, allegedly purchased alcohol from a Parker's store near Okatie, S.C., on the evening before the fatal boat crash that killed Beach.

Murdaugh had pleaded not guilty to three felony boating under the influence charges and was waiting trial when he, along with his mother, Maggie, were shot and killed at their Colleton County, S.C. home in June 2021.

His father, Alex Murdaugh, who owned the boat, is also named as a party in the wrongful death suit. This defendant, who is also the target of several other civil suits, is currently detained in the Richland County, S.C. detention center on financial crimes charges.

Renee S. Beach, et al. v. Gregory M. Parker, et al.  
Case No. 2021-CP-25-00392  
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

# EXHIBIT M

**TEXT MESSAGES**  
**BETWEEN MR.**  
**TINSLEY AND**  
**MS. CAPELLI**

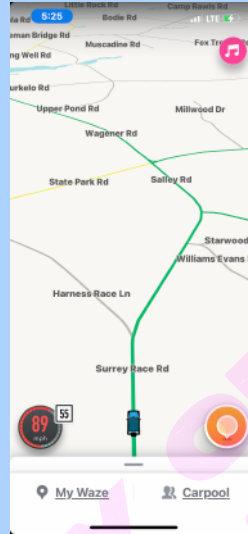
COURT REPORTER  
LUNA SHARPE MEDIA

**Conversation with Mark Tinsely**

Contains 145 Messages

You - Mar 18, 2022 at 5:27 PM - iMessage

Cops bad for speeding in these necks



You - Mar 18, 2022 at 3:53 PM - iMessage

Driving 3 hours to a case now in the area of

You - Mar 18, 2022 at 3:50 PM - iMessage

My concealed carry expired. Need to log hours.

Mark Tinsely - Mar 18, 2022 at 3:50 PM - iMessage

MT Definitely

You - Mar 18, 2022 at 3:49 PM - iMessage

Yea! 30 days!! Will you take me shooting to celebrate eventually!


Mar 3, 2022

You - Mar 3, 2022 at 8:33 AM - iMessage

This is not an interview of a bad, corrupt PI willing to cover up illegal activity. She is happy working in the field...

You - Mar 3, 2022 at 2:34 AM - iMessage

Listen to this on your way into work.

 **AUDIO\_7902.m4a**

You - Mar 3, 2022 at 1:34 AM - iMessage

GN

You - Mar 3, 2022 at 1:34 AM - iMessage

Give this to you team and figure it please.

You - Mar 3, 2022 at 1:34 AM - iMessage

<https://www.justice.gov/eoir/eoir-policy-manual/IV/5/8>

You - Mar 3, 2022 at 1:34 AM - iMessage

Enjoy your night of sleep. While I write my article for PI Magazine probably my last.

You - Mar 3, 2022 at 1:33 AM - iMessage

But don't worry that is already happening. So what's the point.

You - Mar 3, 2022 at 1:33 AM - iMessage

I shouldn't be texting you this late. I am so angry and I hate being backed into corners. Just make it stop. I can't just hand over evidence. I would be ruined as a PI.

You - Mar 3, 2022 at 1:30 AM - iMessage

Those stupid college girls. OMG I couldn't find Paul so I flushed put by running my mouth at private his family frat Super Bowl

You - Mar 3, 2022 at 1:29 AM - iMessage

That were hired three years ago. I didnt know about the idea of other PIs until I was three weeks into my 1 month job.

You - Mar 3, 2022 at 1:28 AM - iMessage

I have nothing. Literally all I did was locate Paul.

You - Mar 3, 2022 at 1:27 AM - iMessage

NO lie I discovered there were two PIs 3 years ago. I requested to see evidence hell their names and I was denied.

You - Mar 3, 2022 at 1:27 AM - iMessage

And at the hearing they are going to say since not party to the lawsuit. You have to compel me

Mark Tinsely - Mar 3, 2022 at 1:26 AM - iMessage

I definitely am not forcing you to do anything. Technically the subpoena is an order of the court that you are required to comply with and it gives you the cover you desire. Parker's lawyers have now filed a motion to stop that, albeit to late and that hearing is happening March 14.

MT

You - Mar 3, 2022 at 1:23 AM - iMessage

Oh and this gets even better. I am a contributing member to SCALI and NCISS (both of which have placed my being on the board on hold) and I write for PI Magazine. They are all in jeopardy. You are forcing me to not work and have to move back to my home state.

You - Mar 3, 2022 at 1:18 AM - iMessage

Please file a motion to compel before the 15th on my ass and define the discovery evidence or that is rumored to be thrown out if too broad. I need this to stop. I can't take new cases, I have no income, literally I did not sign up for this. I never even knew where Hampton was and I sure as hell did not know the Murdaugh name. On top of all this I didn't even know the corrupt PI's names until your subpoena. I was hired to ID Locate and Document Paul. I am not in this 3 year ago crap. I did not even live here yet.

Mar 2, 2022

You - Mar 2, 2022 at 11:13 AM - iMessage

Oh I agree 100%. I'm ready.

You - Mar 2, 2022 at 11:12 AM - iMessage

Now you should be impressed with my investigating skills.

Mark Tinsely - Mar 2, 2022 at 11:12 AM - iMessage

MT

There is no "release" when you have subpoena power

You - Mar 2, 2022 at 11:12 AM - iMessage

Oh I gave everything that could help in the murders to SLED. But they can't release during an ongoing investigation

Mark Tinsely - Mar 2, 2022 at 11:11 AM - iMessage

MT

Well you apparently videoed something cause Parker doesn't want me to see it and you have it to SLED or Wes gave it them

You - Mar 2, 2022 at 11:10 AM - iMessage

Oh and that \$1.00 always makes me feel better when "talking" to attys

You - Mar 2, 2022 at 11:09 AM - iMessage

Again I was disappointed.

You - Mar 2, 2022 at 11:09 AM - iMessage

Exactly what did I video

Mark Tinsely - Mar 2, 2022 at 11:09 AM - iMessage

MT

Dissatisfied about what? What you videoed?

You - Mar 2, 2022 at 11:07 AM - iMessage

I cannot wait for this to come out. You're going to be so dissatisfied. I was.

Mark Tinsely - Mar 2, 2022 at 11:06 AM - iMessage

MT

I understand. But you know who hired you. And you know Parker hired the other PIs and I agree with you they should have their licenses yanked

You - Mar 2, 2022 at 11:05 AM - iMessage

You'll know. My role was so tiny.



You - Mar 2, 2022 at 11:04 AM - iMessage

Yea, never investigated a Subject who is then murdered!

Mark Tinsely - Mar 2, 2022 at 11:04 AM - iMessage

MT Certainly not fighting to keep information from Victim families

Mark Tinsely - Mar 2, 2022 at 11:03 AM - iMessage

MT And people don't want to be associated with it

Mark Tinsely - Mar 2, 2022 at 11:03 AM - iMessage

MT This is some nasty stuff

Mark Tinsely - Mar 2, 2022 at 11:03 AM - iMessage

MT I see it constantly

You - Mar 2, 2022 at 11:03 AM - iMessage

In fact I couldn't find counsel!!

Mark Tinsely - Mar 2, 2022 at 11:03 AM - iMessage

MT Lots of people decline to be involved in this mess. Not because of me or you, but because of what it is

You - Mar 2, 2022 at 11:02 AM - iMessage

I didn't sign yet and then an email etc he declined me the next day. Lol. You kept boxing me in!! Grrrr.

Mark Tinsely - Mar 2, 2022 at 11:01 AM - iMessage

MT So I asked him

Mark Tinsely - Mar 2, 2022 at 11:01 AM - iMessage

MT I assumed it was him

Mark Tinsely - Mar 2, 2022 at 11:00 AM - iMessage

MT I guess on Brian because you said Duffy

You - Mar 2, 2022 at 11:00 AM - iMessage

Ohhh. That's no fun. Dang it.

Mark Tinsely - Mar 2, 2022 at 11:00 AM - iMessage

MT Paid

Mark Tinsely - Mar 2, 2022 at 11:00 AM - iMessage

MT Not much. I didn't investigate you. I just pod attention when you were talking

You - Mar 2, 2022 at 10:58 AM - iMessage

After all this, I really want to see what you have "I know all about you" I haven't been investigated since VA when I got doxxed and stalked by drones!!!

Mark Tinsely - Mar 2, 2022 at 10:53 AM - iMessage

MT

I'm happy to talk to him

HA  
HA

You - Mar 2, 2022 at 10:40 AM - iMessage

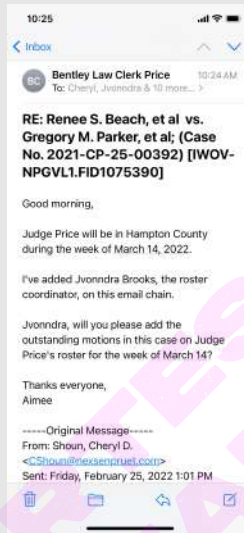
No emails to him like Duffy Imao

You - Mar 2, 2022 at 10:40 AM - iMessage

So play nice I have to have some counsel. So when I sign it will be a family law atty.

Mark Tinsely - Mar 2, 2022 at 10:26 AM - iMessage

Your motion



Feb 28, 2022

Mark Tinsely - Feb 28, 2022 at 7:32 PM - iMessage

MT

Good night

You - Feb 28, 2022 at 7:29 PM - iMessage

For real this time. Gn

You - Feb 28, 2022 at 7:29 PM - iMessage

Ok...

You - Feb 28, 2022 at 7:28 PM - iMessage

I can't work. I haven't excepted any cases. Would not expose there legal cases

Mark Tinsely - Feb 28, 2022 at 7:28 PM - iMessage

MT

There's no investigation to call off

You - Feb 28, 2022 at 7:27 PM - iMessage

Yes. We will discuss that much later. Call off the investigating me. Please!

Mark Tinsely - Feb 28, 2022 at 7:26 PM - iMessage

MT

That it is

Mark Tinsely - Feb 28, 2022 at 7:26 PM - iMessage

MT

I know a lot

You - Feb 28, 2022 at 7:26 PM - iMessage

And. This state is good ole boy insanity.

Mark Tinsely - Feb 28, 2022 at 7:26 PM - iMessage

MT

I did know it

You - Feb 28, 2022 at 7:26 PM - iMessage

Had a female PI not from this state.

You - Feb 28, 2022 at 7:25 PM - iMessage

Did you even know that. Single mom 3 school aged boys. Running small PI shop.

You - Feb 28, 2022 at 7:24 PM - iMessage

Time to do the mom and cook dinner for my 3 sons. Gn

You - Feb 28, 2022 at 7:23 PM - iMessage

Still that legal thing we are both "bound by"

Mark Tinsely - Feb 28, 2022 at 7:22 PM - iMessage

MT

Ha. Trust me I'm not worried about my communications

You - Feb 28, 2022 at 7:22 PM - iMessage

I think we have reached a truce!

You - Feb 28, 2022 at 7:21 PM - iMessage

Plus, you did communicate to me while still with counsel 🎯❤️

Mark Tinsely - Feb 28, 2022 at 7:21 PM - iMessage

MT

I know he's the devil

You - Feb 28, 2022 at 7:20 PM - iMessage

This is all off the record!

You - Feb 28, 2022 at 7:20 PM - iMessage

I know!! And Parker's is the devil. I wished I had never ever been involved for approx 30 days in this case.

Mark Tinsely - Feb 28, 2022 at 7:19 PM - iMessage

MT

I try to be crafty but I'm not after you

You - Feb 28, 2022 at 7:18 PM - iMessage

I'm not the fall girl. I hope...lol. Your pretty crafty though.

Mark Tinsely - Feb 28, 2022 at 7:16 PM - iMessage

MT



You - Feb 28, 2022 at 7:16 PM - iMessage

I already have all evidence you want ready. Cell carrier still getting all the communication per your request.

You - Feb 28, 2022 at 7:14 PM - iMessage

Honestly. Thank you. Proper channels per court and we are both happy-trust that.

You - Feb 28, 2022 at 7:12 PM - iMessage

Order first. You have to see why I have been so upset. I'm not blocking you personally. It's the PI client holy grail! Not disseminating evidence until court ordered!!!

Mark Tinsely - Feb 28, 2022 at 7:10 PM - iMessage

MT

Great. I will get you an order and I'm happy to speak to you at your pleasure

You - Feb 28, 2022 at 7:08 PM - iMessage

FYI No longer repped by Parker's.

You - Feb 28, 2022 at 7:08 PM - iMessage

Re: article

You - Feb 28, 2022 at 7:07 PM - iMessage

Thank you! Court order me and we are both happy. I protected work product so PI Sara is good in atty eyes. I can breath fur tonight!

You - Feb 28, 2022 at 12:07 PM - iMessage

Clearly these are uncharted waters. Who has the Subject murdered. Only me.

You - Feb 28, 2022 at 12:05 PM - iMessage

Confidence etc. my future is the most important in above all!!

You - Feb 28, 2022 at 12:04 PM - iMessage

I am going to state the obvious. Why would a lawyer hire me as a PI in the future if I break

You - Feb 28, 2022 at 11:46 AM - iMessage

I'll reach out once I'm yours to quiz.

You - Feb 28, 2022 at 11:45 AM - iMessage

Need to do everything by the book. This is my livelihood abd I love what I do. You can understand that, right?

Mark Tinsely - Feb 28, 2022 at 11:45 AM - iMessage

MT

Ok. I assume that means you have not fired them, so I won't contact you further.

You - Feb 28, 2022 at 11:43 AM - iMessage

:( not today. Soon we shall meet!

MT

Mark Tinsely - Feb 28, 2022 at 11:42 AM - iMessage

Ok well I need to leave if you want to meet. What should I do?

Mark Tinsely - Feb 28, 2022 at 11:08 AM - iMessage

Ok. My guess is she won't respond. All you really needed to say was they are no longer representing you, if they ever actually were. I need to leave my office around 12 to get there by 2, so let me know. You can forward the email to me at mark@goodingandgooding.com

MT

You - Feb 28, 2022 at 11:02 AM - iMessage

I have sent the email. And I am waiting for response.

MT

Mark Tinsely - Feb 28, 2022 at 10:57 AM - iMessage

Have you changed your mind?

MT

Mark Tinsely - Feb 28, 2022 at 8:09 AM - iMessage

I'm set to come. I just need the email

Feb 27, 2022

MT

Mark Tinsely - Feb 27, 2022 at 5:38 PM - iMessage

Ok

You - Feb 27, 2022 at 5:37 PM - iMessage

Provided I don't get shot or hit by Bambi tonight. Let's say 2pm. Location TBD

MT

Mark Tinsely - Feb 27, 2022 at 5:37 PM - iMessage

Let's meet. If you think you need counsel after then fine. I honestly don't think you do

You - Feb 27, 2022 at 5:36 PM - iMessage

You locked me down good.

You - Feb 27, 2022 at 5:36 PM - iMessage

As I feverishly continue to find independent counsel...

MT

Mark Tinsely - Feb 27, 2022 at 5:35 PM - iMessage

I think you know enough. Maybe more than you realize.

MT

Mark Tinsely - Feb 27, 2022 at 5:34 PM - iMessage

I can make tomorrow work

MT

Mark Tinsely - Feb 27, 2022 at 5:33 PM - iMessage

Sure I'll meet you. Send me a copy of the email firing Cheryl and tell me where.

You - Feb 27, 2022 at 5:32 PM - iMessage

Are we meeting face to face or?

You - Feb 27, 2022 at 5:31 PM - iMessage

I'm not.

You - Feb 27, 2022 at 5:31 PM - iMessage

You think I am the window inside

You - Feb 27, 2022 at 5:29 PM - iMessage

I know.

Mark Tinsely - Feb 27, 2022 at 5:27 PM - iMessage

MT

After I served him

Mark Tinsely - Feb 27, 2022 at 5:26 PM - iMessage

MT

Gave

Mark Tinsely - Feb 27, 2022 at 5:26 PM - iMessage

MT

I'm after Parker. Wes Donahue have you up to me

Mark Tinsely - Feb 27, 2022 at 5:26 PM - iMessage

MT

But I have no interest in causing you any problems

Mark Tinsely - Feb 27, 2022 at 5:25 PM - iMessage

MT

Trying get you to see the light.

You - Feb 27, 2022 at 5:25 PM - iMessage

Because I've never been a paranoid PI until you.

You - Feb 27, 2022 at 5:24 PM - iMessage

baiting me

You - Feb 27, 2022 at 5:24 PM - iMessage

Are you bloodying the waters.

Mark Tinsely - Feb 27, 2022 at 5:24 PM - iMessage

MT

Good

You - Feb 27, 2022 at 5:24 PM - iMessage

It's called texting. Not grammatically correct and never held liable for.

Mark Tinsely - Feb 27, 2022 at 5:23 PM - iMessage

MT

Dang phone

You - Feb 27, 2022 at 5:23 PM - iMessage

I got it.

Mark Tinsely - Feb 27, 2022 at 5:23 PM - iMessage

MT

Quote

Mark Tinsely - Feb 27, 2022 at 5:23 PM - iMessage

MT

I tend to be direct. So I'd quite Trump and just sat "sorry you're fired"

You - Feb 27, 2022 at 5:22 PM - iMessage

Grrr. I have been a Licensed Investigator for over 8 years. 3 here. And drafted legislation in my other legal life.

Mark Tinsely - Feb 27, 2022 at 5:22 PM - iMessage

MT

They tend to not know when to get out of the way

You - Feb 27, 2022 at 5:19 PM - iMessage

I would desire you to hunt Bambi's family that hit my vehicle

You - Feb 27, 2022 at 5:18 PM - iMessage

Meet me...in CHS

Mark Tinsely - Feb 27, 2022 at 5:13 PM - iMessage

MT

It's doesn't have to be fancy. An email to her will suffice.

Mark Tinsely - Feb 27, 2022 at 5:12 PM - iMessage

MT

As soon as to tell Cheryl she's not representing you I am happy to come meet you. Or talk on the phone if you prefer

Feb 26, 2022

You - Feb 26, 2022 at 6:23 PM - iMessage

Understood.

Mark Tinsely - Feb 26, 2022 at 5:32 PM - iMessage

MT

I can't talk to you while you're represented

Mark Tinsely - Feb 26, 2022 at 5:32 PM - iMessage

MT

As soon as you fire the Parkers lawyers

You - Feb 26, 2022 at 1:42 PM - iMessage

I am not afraid of P.G. I am afraid of how attorneys will know me and define me.

You - Feb 26, 2022 at 1:25 PM - iMessage

Monday it is. What time works best for us to talk?

You - Feb 26, 2022 at 1:24 PM - iMessage

I had independent counsel and then over night they had to back out. So I had to have some type of counsel. But this is just too much for this PI.

Mark Tinsely - Feb 26, 2022 at 1:22 PM - iMessage

MT

Come Monday we definitely can. I won't let Parker do anything to you.

You - Feb 26, 2022 at 1:08 PM - iMessage

Well come Monday I'll be pro se.

You - Feb 26, 2022 at 1:06 PM - iMessage

Can we talk off the record?

Jan 21, 2022

You - Jan 21, 2022 at 10:10 AM - iMessage

Just reading and learning is all. It's paramount for me.

Mark Tinsely - Jan 21, 2022 at 10:08 AM - iMessage

MT

Looks like you're leaning towards the wrong side now

You - Jan 21, 2022 at 10:07 AM - iMessage

Some light reading on plane.

 **Discoverability of Private Investigator Surveillance in South Car.pdf**

Mark Tinsely - Jan 21, 2022 at 10:00 AM - iMessage

MT

Sounds good

You - Jan 21, 2022 at 9:58 AM - iMessage

About board plane. Talk soon.

Mark Tinsely - Jan 21, 2022 at 9:57 AM - iMessage

MT

You certainly can be

You - Jan 21, 2022 at 9:54 AM - iMessage

Well, I am certainly on the side of truth!

Mark Tinsely - Jan 21, 2022 at 9:53 AM - iMessage

MT

Mark Tinsley

You - Jan 21, 2022 at 9:53 AM - iMessage

May I ask who this is?

Mark Tinsely - Jan 21, 2022 at 9:47 AM - iMessage

MT

I hope the fact that we are Facebook friends means you're gonna help me



Renee S. Beach, et al. v. Gregory M. Parker, et al.  
Case No. 2021-CP-25-00392  
THE PARKER'S DEFENDANTS' MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL

# EXHIBIT N

**PROFESSOR CRYSTAL**  
**AFFIDAVIT**

COURTESY OF  
LUNA SHARK MEDIA

STATE OF SOUTH CAROLINA  
COUNTY OF HAMPTON

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

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

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

Plaintiffs,

**Expert Affidavit in Support of  
Defendants' Motion to Compel**

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.

The undersigned, Nathan M. Crystal, provides the following expert affidavit under oath:

**I. Material Reviewed and Factual Basis of Opinion**

I reviewed the production by Sara Capelli, a private investigator, of material, mainly text messages, between Mark Tinsley, attorney for the plaintiffs in this matter, and Ms. Capelli. I also reviewed the defendants' Supplemental Brief in Support of their Motion to compel the production of subpoenaed material and the material attached as Exhibit A to the defendants' supplemental brief.

I understand that Mr. Tinsley initially subpoenaed Ms. Capelli, a third party, as part of his effort to obtain information to support a civil action that he had brought on behalf of the Estate of Mallory Beach because of the death of Mallory Beach in boating accident in 2019. Paul Murdaugh was the driver of the boat and a defendant in that action. Parker's Corporation, which is a defendant in that action as well as in the current proceeding, hired Ms. Capelli to investigate the conduct of Paul Murdaugh in connection with its defense in the action arising from the boat accident.

I also understand that for the majority of the time period covered by this produced material and pertinent to this opinion, Ms. Capelli was represented by counsel, Cheryl D. Shoun, of the Nexsen Pruet firm.

*NMC*



## II. Opinion and Basis Thereof

In my opinion, which I hold to a reasonable degree of professional certainty, Mr. Tinsley intentionally violated the Rules of Professional Conduct in the following ways.

**1. Mr. Tinsley communicated with a person who he knew was represented by counsel without the consent of that counsel in violation of SCRPC 4.2.**

Rule 4.2 of the South Carolina Rules of Professional Conduct imposes an absolute prohibition against a lawyer having any form of communication with a person who the lawyer knows is represented by counsel in the matter unless authorized by law or court order.

In this matter Mr. Tinsley initiated and engaged in communications by text trying to arrange a personal meeting with Ms. Capelli even though Mr. Tinsley knew that Ms. Capelli was represented by Ms. Shoun and there was no law or court order authorizing such contacts. Mr. Tinsley texted Ms. Capelli as follows:

Mark Tinsley - Feb 27, 2022 at 5:33 PM - iMessage  
Sure I'll meet you. Send me a copy of the email firing Cheryl and tell me where.  
(Capelli Bates #001071).

Rule 4.2 is not a technical requirement but a fundamental aspect of the functioning of the legal system and the protection of the rights of persons who are represented by counsel. Comment 1 to that rule states:

This Rule contributes to the proper functioning of the legal system by protecting a person who has chosen to be represented by a lawyer in a matter against possible overreaching by other lawyers who are participating in the matter, interference by those lawyers with the client lawyer relationship and the uncounseled disclosure of information relating to the representation.

**2. Mr. Tinsley gave Ms. Capelli legal advice that he did not think she needed counsel in violation of either Rule 4.2 or 4.3.**

Mr. Tinsley texted Ms. Capelli as follows:

Mark Tinsley - Feb 27, 2022 at 5:37 PM - iMessage  
Let's meet. If you think you need counsel after then fine. I honestly don't think you do. (Capelli Bates #001071).

As stated above, this text violated the anti-communication rule 4.2. In addition, even if Mr. Tinsley thought that Ms. Capelli would be firing Ms. Shoun and thought that she therefore would become unrepresented, he still could not ethically give legal advice to her because Rule 4.3 prohibits a lawyer from giving legal advice to an unrepresented person other than the advice to obtain counsel.

*nmc*



3. **Mr. Tinsley demanded that Ms. Capelli fire her counsel and provide written documentation of that fact, in violation of Rule 4.4, which provides as follows:**

Rule 4.4 Respect for the Rights of Third Persons

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person. (emphasis added).

Ms. Capelli has the right to the counsel of her choice, and the right to have advice of that counsel with regard to her legal situation. This was not a trivial right because, as shown in the text, Ms. Capelli was very concerned about her license and reputation as a private investigator:

You<sup>1</sup> - Mar 3, 2022 at 1:33 AM - iMessage

I shouldn't be texting you this late. I am so angry and I hate being backed into corners. Just make it stop. I can't just hand over evidence. I would be ruined as a PI. (emphasis added). (Capelli Bates #1065).

You - Mar 3, 2022 at 1:23 AM - iMessage

Oh and this gets even better. I am a contributing member to SCALI and NCISS (both of which have placed my being on the board on hold) and I write for PI Magazine [sic]. They are all in jeopardy. You are forcing me to not work and have to move back to my home state. (emphasis added). (Capelli Bates #1065).

While Mr. Tinsley denied that he was forcing Ms. Capelli to do anything, rather than recognizing and supporting her right to legal representation, he pressured her to fire her counsel and prevent Ms. Capelli from obtaining legal advice:

Mark Tinsley - Feb 28, 2022 at 11:08 AM - iMessage

Ok. My guess is she won't respond. All you really needed to say was they are no longer representing you, if they ever actually were. I need to leave my office around 12 to get there by 2, so let me know. You can forward the email to me at mark@goodingandgooding.com (Capelli Bates #001071).

4. **Mr. Tinsley engaged in misrepresentation to Ms. Capelli in violation of Rule 4.1 and 8.4(c).**

Tinsley told Ms. Capelli that he would protect her from Parker's:

Mark Tinsley - Feb 26, 2022 at 1:22 PM - iMessage

Come Monday we definitely can. I won't let Parker do anything to you. (Capelli Bates #001073 emphasis added).

<sup>1</sup> I understand from the context of the materials in Exhibit A, texts by "You" are Ms. Capelli's texts.



Mr. Tinsley had no reasonable basis for making this representation. He could not represent Ms. Capelli in defending or bringing any action against Parker's because of multiple conflicts of interest, and even if he could represent Ms. Capelli, he has no ability to protect Ms. Capelli from actions taken by Parker's, particularly in the event Ms. Capelli had breached any fiduciary duty or engaged in other wrongful conduct.<sup>3</sup>

**5. Mr. Tinsley's communications with Ms. Capelli show a blatant and intentional disregard for the ethics rules:**

You - Feb 28, 2022 at 7:21 PM - iMessage  
Plus, you did communicate to me while still with counsel ☺❤

...

Mark Tinsley - Feb 28, 2022 at 7:22 PM - iMessage  
Ha. Trust me I'm not worried about my communications. (emphasis added).

As such, Mr. Tinsley's actions amount to misconduct under SCACR 8.4(a) (violation of the Rules of Professional Conduct) and 8.4(e) (conduct prejudicial to the administration of justice).

Further the affiant sayeth not.

*Nathan M. Crystal*  
\_\_\_\_\_  
Nathan M. Crystal

Notarization District of Columbia

District of Columbia

Signed and sworn to (or affirmed) before me on

09/27/22

by

*Nathan Crystal*  
\_\_\_\_\_  
*Eric Jones Jr.*  
\_\_\_\_\_  
Signature of notarial officer

Eric Jones Jr.  
Notary Public in and for the  
District of Columbia  
My Commission Expires: August 14, 2026



<sup>3</sup> Based on Ms. Capelli's texts, she maintains she did not engage in any wrongful conduct with respect to the Parker's defendants.

STATE OF SOUTH CAROLINA  
COUNTY OF HAMPTON

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

Plaintiffs,

vs.

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  
THE FOURTEENTH JUDICIAL CIRCUIT  
CASE NO.: 2021-CP-25-00392

**PLAINTIFFS' MOTION TO  
RECONSIDER AND TO ALTER OR  
AMEND PART OF THE COURT'S  
ORDER OF MAY 24, 2023, AND  
MEMORANDUM IN OPPOSITION OF  
DEFENDANTS' MOTION TO ALTER  
OR AMEND THE SAME ORDER**

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, by and through their undersigned counsel, hereby move the Court pursuant to Rule 59(e), SCRPC, to reconsider and alter or amend that part of its Order of May 24, 2023, in which the Court ruled certain documents are protected by the attorney-client privilege or work product doctrine. Plaintiffs incorporate herein their Memorandum in Support and respond to the Defendants' motion.

**BACKGROUND**

A media campaign is not a litigation strategy. These cloak and dagger attacks from the weaponization of our legal system find no authority in the Rules of Civil Procedure, even when they are designed for some honest purpose. It is clear under the law that even a legitimate media campaign is not a valid litigation strategy worthy of being, or remaining, privileged. It is equally clear, even in those instances where there is some actual disclosure of information to a public relations firm, the disclosure waives any privilege that could attach to the information. Disclosures

to public relations firms and social media “knifefighters” are not deemed, and in fact are not being made, for the purpose of obtaining legal advice from a lawyer. Moreover, any such disclosure is not being made for the purpose of assisting with interpretation and analysis of facts by the lawyer in order to provide legal advice.

In fact, one lawyer Defendant in this case, Jason D’Cruz, is not even an attorney of record in the Boat Crash cases and has not appeared in those matters. Instead, he is a part of a surreptitious plan to launch a smear campaign through media and social media attacks that are hoped to affect public sentiment about the Murdaughs and influence the Boat Crash cases. The documents at issue show that Greg Parker, himself, was actually coordinating and intimately involved in the Defendants’ plans to wage their behind the scenes faceless and nameless attacks in order to gain some public relations advantage. This is apparent from the documents at issue here, and the fact that Greg Parker’s name was only removed and replaced by D’Cruz’s name or his firm to intentionally create a fiction of some attorney/client privileged or work product. This was done to hide what they were really doing or planning, should their despicable conduct be discovered – a discovery that was made prior to any subpoenas issued in this matter by the Plaintiffs.

After suit was filed in this matter, Plaintiffs’ counsel served valid subpoenas for the production of documents possessed by two different third parties: (1) the Laurens Group/Push Digital, LLC/Wesley Donehue, and (2) Inquiry Agency, LLC/ Sara Capelli. This Court ordered that all the documents from both third parties be produced to Plaintiffs’ counsel. In response to that order only the documents from the Laurens Group/Push Digital/Donehue were so produced. To date, no documents from Inquiry Agency/Capelli have ever been produced to Plaintiffs’ counsel, from either the third party (Inquiry Agency/Capelli) or its counsel. This is not to say that some of the Inquiry Agency/Capelli documents are not included in the documents that were sent

to the Plaintiffs, they could have been. However, since the Plaintiffs have not received a production of documents from Inquiry Agency/Capelli, they do not know what is in those documents. The only documents received pursuant to the valid subpoenas were produced by Wesley Donehue after he received direction from his counsel that the Court had ruled the documents should be produced in 15 days.

Previously, Plaintiffs objected to the *ex parte* communications and the *ex parte* hearing related to the matters at issue in this motion, but remained hopeful the obligations of candor to this Court would keep the Defendants honest in terms of what the documents are and who prepared them, as well as, for the reason they were prepared. Obviously, that hope was in vain. The vociferous objections and complaints by the Defendants are nothing more than a charade. They are designed to construct yet another false narrative of what is actually going on in hopes of making an argument to have Plaintiffs' counsel removed from this case in order try to hide what the Defendants did. Their current motion to Reconsider specifically admits this. It states in the opening paragraph, in pertinent part: "[I]f 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." In other words, if the Court removes Plaintiffs' counsel from the case, then the existence of any privileged documents in the Plaintiffs' possession no longer matters to them.

Any suggestion by Defendants' counsel that there is something nefarious about what documents Plaintiffs' counsel received is a false construct of their own making. It is not Plaintiffs' fault that Defendants' counsel created its own set of documents, over Plaintiffs' objection, from which it chose to secretly work, rather than requesting a copy of what was produced by Donehue to the plaintiffs. Nor is it Plaintiffs' fault that the defendants cannot manage to keep track of what



documents they have or that exist. Further, despite Defendants' claims, it is disingenuous to suggest that there could be some issue of waiver if the documents produced to the Plaintiffs are actually identified or discussed with the Court and Plaintiffs' counsel for purposes of examining the documents and determining whether they are protected by some privilege.

The mere fact that there are discussions and arguments occurring between the parties in the context of this motion would not constitute a waiver; especially considering Plaintiffs' repeated statements that no such argument of waiver would be made and no such position would be taken. There cannot be a waiver without a voluntary intent to do so, and an open and honest discussion about the specific documents, and the Defendants' assertions of different privileges to those documents, would not constitute a voluntary waiver. Discussions and arguments about the documents with Plaintiffs and the Court would, however, keep the Defendants honest and prevent them from hiding the truth about the documents from the Court.

For example, the Court's Order indicates the Murdaugh Report was prepared by Sara Capelli and that it contains D'Cruz's impressions or comments. None of that is true. The Murdaugh Report is an undated, unauthored document that was prepared by a public relations firm in Washington, D.C. The Murdaugh Report was intended to be used and released to investigative journalists, media and other online presences to create a click-bait campaign about the Murdaughs.

As previously argued to this Court by Plaintiffs, it is clear the Murdaugh Report was given to others, including Gregg Roman who used it and published the contents of the report online on July 27, 2021, in the **Death and Justice: Murdaugh Family Murders**. Also, as previously argued to this Court, in the summer of 2022, Greg Parker and his lawyers in this case admitted to the Wall Street Journal that "[a] spokeswoman for Mr. Parker said an investigative firm digging into the Murdaughs on Mr. Parker's behalf hired journalist Gregg Roman and two private investigators,

Max Fratoddi and Henry Rosado.” Wall Street Journal, **A Convenience-Store Magnate, Teen Drinking and a Fatal Boat Crash: The Legal Case Shaking South Carolina**, August 13, 2022.

The article went on to quote Greg Parker, himself, saying:

Mr. Parker said he hired people he described as investigative journalists because he was shocked at the incestuousness of the South Carolina legal system, including the scope of the Murdaugh family’s influence.

“When I look back on this [investigation], do I think ‘Oh, gosh, I wish I hadn’t have done that?’” Mr. Parker said. “Absolutely not. I’m proud of the work we did.”

When asked whether he conducted a stealth investigation and what specifically it entailed, Mr. Parker paused. “Here’s a better question,” he said. “So what? Of course I did. Anybody in my situation would have done exactly the same thing.”

*Id.*, attached hereto and incorporated by reference as Exhibit 1.

Further, to the extent Defendants contend the documents provided by the plaintiffs to the Court to aid in its ruling include “just the documents the Plaintiffs wanted to use,” that is false. The group of documents presented to the Court by Plaintiffs’ counsel includes all documents that reference the Defendants in any way and includes any reference to any work being, or to be, performed by the Laurens Group/Push Digital/Donehue, on behalf of Parker. The grouping provided by the plaintiffs simply attempted to aid in judicial economy and sought to exclude the multiple iterations of the same documents over and over. It is Plaintiffs’ belief that the group of documents it presented to the Court did not include “just the documents the Plaintiffs wanted to use,” but instead, were grouped in a way that was intended to weed out some of the multiple copies of chain emails, which were addressed to multiple recipients and containing the same content/documents in multiple places. The intent was not to exclude any documents but rather, to make the examination more manageable. For example, when one employee of Laurens Group/Push Digital would print his emails, it would print in such a way that each email he received

would turn into many pages more than it was originally, in part due to the fact that towards the end of the email chain only one word would be printed per line instead of how it was actually written. Clearly, a finding of privilege as applied to the content related to any iteration of a document would apply to all versions of the document. Plaintiffs have never taken the ridiculous position, advanced by the Defendants, that some loophole could be created by the failure of the court to address every single copy of the same document over and over. Any suggestion that the Court has not reviewed and considered all the content is ridiculous.

### **STANDARD OF REVIEW**

Generally, “there are three grounds for amending an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” *Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co.*, 148 F.3d 396, 403 (4<sup>th</sup> Cir. 1998); *see also Tetrev v. Pride Int’l, Inc.*, 243 F.R.D. 246, 248 (D.S.C. 2007). The Court’s Order that finds any privilege exists, is based on a misunderstanding or misrepresentation of the facts, which amounts to a clear error of law, and therefore, reconsideration is necessary to prevent manifest injustice.

### **ARGUMENT**

The Court’s Order is based on a clear error of law and reconsideration is necessary to prevent manifest injustice. In its Order, the Court sets forth the legal standard that applies to the two grounds upon which Defendants’ claim privilege: (1) the attorney-client privilege; and (2) the work product doctrine. As set forth below, due in part to Defendants’ representations to the Court, its Order contains errors of law in its formulation of the law surrounding the attorney-client privilege; as such, the Court’s application of an incorrect legal standard to the specific documents at issue resulted in errors of law. Further, as described above, the Court has a fundamental

misunderstanding of the nature of the documents at issue, either because of a misunderstanding or misrepresentation by the Defendants or their counsel about these documents, which resulted in errors of law in the Court's application of the work product doctrine.

**I. The Court erred in its formulation of the applicable legal standard to support a finding of attorney-client privilege.**

As the Court correctly sets forth in its Order, the attorney-client privilege can be summarized 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 when the protection be waived. *State v. Doster*, 276 S.C. 647, 651, 284 S.E.2d 218 (1981). Here, the Court's blanket reliance on *United States v. Schwimmer*, 892 F.2d 237 (2d Cir. 1989), *cert. denied*, 502 U.S. 810 (1991), and *State v. Kovel*, 296 F.2d 918 (2d Cir. 1961), to support a finding that any of the documents in question here are protected by the attorney-client privilege is in error. While it is true that "[t]he privilege also is held to cover communications made to **certain** agents of an attorney . . . hired to assist in the rendition of legal advice services," this extension of the privilege is a narrow one and does not apply generally to all agents hired or consulted by a client or even by the attorney. The key factor that the Court's Order ignores is that both *Schwimmer* and *Kovel* involved criminal prosecutions in which a defense attorney hired an accountant to evaluate the strength of the criminal charges against the respective defendants. A closer look at each of these cases is necessary.

In the case of *State v. Kovel*, Kovel was a former IRS accountant who was employed by a law firm that specialized in tax law. A client of the law firm was under investigation for income tax violations, and Kovel was subpoenaed to testify against the client in front of the grand jury as part of the criminal investigation. Kovel refused to answer questions invoking the attorney-client

privilege arguing that, as an employee of the defense lawyer, the client confided information in him for the purpose of obtaining legal advice from the attorney. In recognizing a limited exception to the rule that communications shared with a third party are not protected by the attorney-client privilege, the Court explained:

By the same token, if the lawyer has directed the client, either in the specific case or generally, to tell his story in the first instance to an accountant engaged by the lawyer, who is then to interpret it so that the lawyer may better give legal advice, communications by the client reasonably related to that purpose ought fall within the privilege; there can be no more virtue in requiring the lawyer to sit by while the client pursues these possibly tedious preliminary conversations with the accountant than in insisting on the lawyer's physical presence while the client dictates a statement to the lawyer's secretary or in interviewed by a clerk not yet admitted to practice. What is vital to the privilege is that the communication be made in confidence **for the purpose of obtaining legal advice from the lawyer.** If what is sought is not legal advice but only accounting service, as in *Olender v. United States*, 210 F.2d 795, 805-806 (9 Cir. 1954), see *Reisman v. Caplin*, 61-2 U.S.T.C. P9673 (1961), or if the advice sought is the accountant's rather than the lawyer's, no privilege exists.

*United States v. Kovel*, 296 F.2d 918, 922 (2d Cir. 1961). Further, “[n]othing in the policy of the privilege suggests that attorneys, simply by placing accountants, scientists or investigators on their payrolls and maintaining them in their offices, should be able to invest all communications by clients to such persons with a privilege the law has not seen fit to extend when the latter are operating under their own steam.” *Id.* At 921.

Likewise, *Schwimmer* involved a criminal prosecution of a defendant who was convicted of multiple financial crimes. On appeal, the Court held that information provided to an accountant hired by a co-defendant's attorney for the purpose of obtaining legal advice from the lawyer was, in fact, protected by the attorney-client privilege. Relying on *Kovel*, the Court explained:

The attorney-client privilege generally forbids an attorney from disclosing confidential communications that pass in the course of professional employment from client to lawyer. *See generally* 81 Am.Jur. 2d *Witnesses* § 172 (1976). The 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. *Re Grand Jury Subpoena Duces Tecum*, 731 F.2d 1032 (2d Cir.1984). The privilege also is held to cover communications made to **certain** agents of an attorney, including accountants hired to assist in the rendition of legal services. *United States v. Kovel*, 296 F.2d 918 (2d Cir.1961). **As to such agents, “[w]hat is vital to the privilege is that the communication be made in confidence for the purpose of obtaining legal advice from the lawyer.”** *Id.* at 922 (emphasis in original). **Information provided to an accountant 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. *Id.* *See generally* Annotation, *Applicability of Attorney-Client Privilege to Communications Made in Presence of or Solely to or by Third Person*, 14 A.L.R.4th 594, 635(1982).

United States v. Schwimmer, 892 F.2d 237, 243 (2d Cir. 1989)(emphasis added).

It is undisputed that “the extension of the privilege to non-lawyer’s communication is to be narrowly construed.” *NXIVM Corp. v. O’Hara*, 241 F.R.D. 109 (S.D.N.Y.2007). The only time this protection may arguably be extended to non-lawyers under what is called the “*Kovel* doctrine,” is in the “**narrow circumstances in which the non-lawyer’s services are absolutely necessary to effectuate the lawyer’s legal services.**”<sup>1</sup> *In re New York Renu*, 2008 WL 2338552 (D.S.C. May 8, 2008) (emphasis added). Contrary to the Defendants’ arguments and the Court’s Order, communications shared with third party, non-lawyer **public relations professionals** are not protected by the attorney-client privilege or work product doctrine. Especially, in the context presented here where any expression or statement was not for any legal advice, but rather in an

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<sup>1</sup> For example, the attorney-client privilege extends to a lawyer’s office personnel, such as paralegals and law clerks.

effort to wage a covert media/social media campaign to spread false or confidential information to sway public sentiment. More importantly, by choosing to include their public relations firm on the communications at issue, Defendants waived any claims of privilege or protection. *Calvin Klein Trademark Trust v. Wachner*, 198 F.R.D. 53, 54–55 (S.D.N.Y. 2000); *In re New York Renu with Moistureloc Prod. Liab. Litig.*, No. CA 2:06-MN-77777-DCN, 2008 WL 2338552 (D.S.C. May 8, 2008); *Alabama Aircraft Indus., Inc. v. Boeing Co.*, No. 2:11-CV-03577-RDP, 2016 WL 9781826, at \*5 (N.D. Ala. Mar. 24, 2016); *N.Y. Times Co. v. U.S. Dep't of Defense*, 499 F.Supp.2d 501, 517 (S.D.N.Y.2007); *LifeVantage Corp. v. Domingo*, No. 2:13-CV-01037-DB-PMW, 2015 WL 5714426, at \*2–3 (D. Utah Sept. 29, 2015); *Haugh v. Schroder Inv. Mgmt. North Am. Inc.*, 2003 WL 21998674, at \*8 (S.D.N.Y.2003). The case of *In re New York Renu*, involving communications with a public relations firm concerning a proposed public statement, is instructive here. The Court explained:

Communications to non-lawyers can be brought within the privilege under the *Kovel* doctrine—the court in *United States v. Kovel*, 296 F.2d 918, 921 (2d Cir.1961) held that confidential communications to non-lawyers could be protected by the privilege if the non-lawyer's services are necessary to the legal representation.<sup>2</sup> But the *Kovel* protection is applicable only if the services performed by the non-lawyer are necessary to promote the lawyer's effectiveness; it is not enough that the services are beneficial to the client in some way unrelated to the legal services of the lawyer. *Id.* at 922 (the “communication must be made in confidence for the purpose of obtaining legal advice from the lawyer.... If what is sought is not legal advice but only accounting services ... or if the advice sought is the accountant's rather than the lawyer's, no privilege exists.”). *See generally NXIVM Corp. v. O'Hara*, 241 F.R.D. 109 (S.D.N.Y.2007) (“the extension of the privilege to non-lawyer's communication is to be narrowly construed. If the purpose of the third party's participation is to improve the comprehension of the communication between attorney and client, then the privilege will

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<sup>2</sup> It is worth noting again that D’Cruz has never made any appearance in the Boat Crash Case, nor is he counsel of record in that matter. Further, he has not been admitted to practice law in this state, nor in this case or in the Boat Crash Case.



prevail.”). *See also United States v. Ackert*, 169 F.3d 136, 139 (2d Cir.1999) (ruling that the communication “between an attorney and a third party does not become shielded by the attorney-client privilege solely because the communication proves important to the attorney's ability to represent the client”).

Courts are in some dispute on whether public relations firms are “necessary to the representation” so as to fall within the *Kovel* protection. Most courts agree, however, that basic public relations advice, from a consultant hired by the corporate client, is **not** within the privilege. The court in *NXIVM, supra* at 141, surveys this basic case law:

This legal notion that even a public relations firm must serve as some sort of “translator,” much like the accountant in *Kovel*, was visited in *Calvin Klein Trademark Trust v. Wachner*, 198 F.R.D. 53 (S.D.N.Y.2000). Much like the services being rendered here, the public relations firm in *Calvin Klein* was found to have simply provided ordinary public relations advice and assisted counsel in “assessing the probable public reaction to various strategic alternatives, as opposed to enabling counsel to understand aspects of the client's own communications that could otherwise be appreciated in the rendering of legal advice.” 198 F.R.D. at 54–55 (citing *United States v. Ackert*, 169 F.3d at 139). Thus, no attorney client privilege was extended to its communications with either the client or the firm. *Id.* at 53–55. A similar result occurred in *Haugh v. Schroder Inv. Mgmt. North Am. Inc.*, 2003 U.S. Dist. LEXIS 14586, 2003 WL 21998674 (S.D.N.Y. Aug. 25, 2003), wherein the court found that the record did not show the public relations specialist performed anything other than standard public relations services for the plaintiff, and noting that a media campaign is not a legal strategy. *See also De Beers LV Trademark Ltd. v. De Beers Diamond Syndicate Inc.*, 2006 U.S. Dist. LEXIS 6091, 2006 WL 357825 (S.D.N.Y. Feb.15, 2006).

Judge Cote in *Haugh v. Schroder Inv. Mgmt. North Am. Inc.*, 2003 U.S. Dist. LEXIS 14586, 2003 WL 21998674, at \*8 (S.D.N.Y.2003) summed up the basic law, and held that disclosure to a public relations firm lost the privilege, in the following passage:



**Plaintiff has not shown that Murray [the p.r. consultant] performed anything other than standard public relations services for Haugh, and more importantly, she has not shown that her communications with Murray or Murray's with Arkin [the lawyer] were necessary so that Arkin could provide Haugh with legal advice.** The conclusory descriptions of Murray's role supplied by plaintiff fail to bring the sixteen documents within the ambit of the attorney-client privilege. The documents transmitted from plaintiff to Murray and the one document from Murray to Arkin are consistent with the design of a public relations campaign. Plaintiff has not shown that Murray was “performing functions materially different from those that any ordinary public relations” advisor would perform. *Calvin Klein Trademark Trust v. Wachner et al.*, 198 F.R.D. 53, 55 (S.D.N.Y.2000). As such, Haugh's transmission of documents to Murray, even simultaneously with disclosure to former counsel, and Murray's transmission of a meeting agenda to Arkin, vitiates the application of the attorney-client privilege to these documents.

Judge Cote relied on the compelling point that “[a] media campaign is not a litigation strategy. Some attorneys may feel it is desirable at times to conduct a media campaign, but that decision does not transform their coordination of a campaign into legal advice.”

In re New York Renu with Moistureloc Prod. Liab. Litig., No. CA 2:06-MN-77777-DCN, 2008 WL 2338552, at \*7–8 (D.S.C. May 8, 2008) (emphasis added)

In a case cited favorably by many federal judges, *Calvin Klein Trademark Trust v. Wachner*, the court explained why public relations communications like those at issue here are not protected:

**[The] disclosure to [public relations firm] waives the privilege, since . . . [the public relations firm], far from serving the kind of “translator” function served by the accountant in [Kovel], is, at most, simply providing ordinary public relations advice so far as the documents here in question are concerned.** The possibility that such activity may also have been helpful to [law firm] in

formulating legal strategy is neither here nor there if [public relations firm]’s work and advice simply serves to assist counsel in assessing the probable public reaction to various strategic alternatives, as opposed to enabling counsel to understand aspects of the client’s own communications that could not otherwise be appreciated in the rendering of legal advice.

[I]t must not be forgotten that the attorney-client privilege, like all evidentiary privileges, stands in derogation of the search for truth so essential to the effective operation of any system of justice: therefore, the privilege must be narrowly construed. Yet plaintiffs’ approach would, instead, broaden the privilege well beyond prevailing parameters. . . . Nothing in the policy of the privilege suggests that attorneys, simply by placing accountants, scientists, or investigators [or, here, a public relations firm] on their payrolls . . . should be able to invest all communications by clients to such persons with a privilege the law has not seen fit to extend when the latter are operating under their own steam. **It may be that the modern client comes to court as prepared to massage the media as to persuade the judge; but nothing in the client’s communications for the former purpose constitutes the obtaining of legal advice or justifies a privileged status.**

198 F.R.D. 53, 54–55 (S.D.N.Y. 2000) (emphasis added).

In short, the Court’s summary description of the standard that applies to a finding of protection from production under the attorney-client privilege ignores that the extension of the privilege to communications with third-party agents is a narrow extension that simply does not apply to public relations professionals hired either by the client or the client’s attorney to provide basic public relations advice. As such, each of the Court’s findings of attorney-client privilege is in error as demonstrated below.

**II. The Court erred in finding that either the attorney-client privilege or work product doctrine protects the following documents from production.**

As previously argued to the Court, Plaintiffs are unable to discern all the documents addressed in the Court’s Order due to the *ex parte* nature of the argument made by Defendants and the Order. However, Plaintiffs believe they can identify some of the documents cited in

the Order. As such, the Plaintiffs will address specifically the documents they can identify, but reserve the right to make additional arguments if, and when, they are provided with the bates numbers for the documents.

**A. Master Service Agreement with Statement of Work (SOW paragraph on 004433)**

The Scope of Work, and the specific paragraph found to be privileged in the Order, is based on misrepresentations to the Court. The Court's finding that the specific paragraph contains D'Cruz's instructions about fruitful areas of investigation is false. D'Cruz was only included to hide what Greg Parker was doing, as he conceded to the Wall Street Journal. Further, and more importantly, the SOW is a proposal by the Laurens Group/Push Digital of what it would do for Greg Parker and ultimately, a part of the contract to do that work. The same language is outlined in its pitch to land the contract for the work from Parker. Specifically, memos in bates labeled documents 841 and 842 demonstrate that the SOW is what Laurens Group was pitching and had nothing to do with any instruction from D'Cruz. The SOW is not made for legal advice, is not actually generated by D'Cruz, and is not privileged.

**B. Ms. Purves Text Messages (LAURENSGROUP\_002583-002585  
And LAURENSGROUP\_002586-002588)**

The Court's Order says these texts messages include texts between D'Cruz and Parker, but the messages include others (Donehue and/or Purves), such that there is no privilege as outlined above.

**C. Page 10 of the Court's Order addressing Assorted E-mails, Memoranda, and Investigatory Reports ( LAURENSGROUP\_002490, 2586-2588)**

On Page 10 of the Order, the Court finds that messages in this exchange are privileged as they reveal mental impressions and strategy concerning the litigation in the Boat Crash case.

Purves saying she looked at the Murdaugh Report and that they need to start pitching is not litigation strategy nor is it protected for the reasons stated above. Further, D’Cruz telling the Laurens Group not to give “backstory” information to FitsNews is, likewise, not privileged for the reasons outlined above.

### CONCLUSION

The attorney-client privilege “stands in derogation of the search for truth” and must be narrowly construed. This is especially true here, when one party is seeking to extend the privilege beyond its bounds to non-lawyers in an attempt, not only to conceal relevant information, but to conceal the Defendants’ real intentions: to create a smear campaign of the Murdaugh defendants in the related Boat Crash litigation and the concerted plan to leak that information to the media to negatively affect the case and the Beach family. The Laurens Group/Push Digital/Donehue public relations professionals, if they should be called that, were not serving in a “translator” role as envisioned by the *Kovel* exception, which applies in very narrow situations. See *In re New York Renu*, 2008 WL 2338552 (noting that to fall within the privilege, the “public relations firm must serve as some sort of ‘translator,’ much like the accountant in *Kovel*”); see also *N.Y. Times Co. v. U.S. Dep’t of Defense*, 499 F.Supp.2d 501, 517 (S.D.N.Y.2007) (public relations “talking points” document was not protected because it was “drafted for public relations purposes”). To allow this type of surreptitious, behind-the-scenes attack on litigants and secret attacks through application of the attorney-client privilege and work product doctrine is to allow the weaponization of the legal system in a way not recognized by the Rules or fundamental fairness. For the foregoing reasons, Plaintiffs respectfully request that the Court grant their Rule 59(e) Motion to Reconsider and deny Parkers’ Defendants’ Motion to Reconsider.

Respectfully submitted,

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<https://www.wsj.com/articles/alex-murdaugh-murders-south-carolina-parker-lawsuit-11660167263>

# A Convenience-Store Magnate, Teen Drinking and a Fatal Boat Crash: The Legal Case Shaking South Carolina

The sensational killing of two members of the Murdaugh family has become intertwined with a lawsuit aimed at the state's liability laws



By *Valerie Bauerlein* [Follow](#)

Aug. 13, 2022 12:00 am ET

HAMPTON, S.C.—The saga of disgraced South Carolina lawyer Alex Murdaugh includes five deaths, millions of dollars allegedly absconded from clients and, in July, indictments accusing him of murdering his wife and son, to which he pleaded not guilty.

It also spawned a pair of explosive and potentially groundbreaking lawsuits, with one tentatively set to go to trial this fall.

On one side sits the family of Mallory Beach, a 19-year-old killed in 2019 when a boat driven by Mr. Murdaugh's late son, Paul, crashed into a bridge to Parris Island. On the other sits

Greg Parker, a wealthy convenience store magnate whose company Ms. Beach's family sued for selling alcohol to an underage Paul before the boat crash.

Mr. Parker denies his company's culpability in the boat crash, saying the store clerk who sold the alcohol did nothing wrong because Paul Murdaugh presented a valid ID belonging to his older brother.

Mr. Parker, whose Savannah-based Parker's Kitchen chain has 71 stores in Georgia and South Carolina, is effectively the last defendant standing as others have settled and the Murdaugh family's assets are frozen. Under an unusual feature of South Carolina law, that means he could be held 100% financially responsible for the girl's death, with damages potentially running to tens of millions of dollars.

"I've spent 47 years trying to create a company that I'm really, really proud of," Mr. Parker said. He has declared repeatedly that he won't settle the case, because to settle would be "to have Parker's name besmirched."

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“That’s what’s wrong with America now,” he said. “People should stand up for what’s right. And I’m standing up for the truth.”

The wrongful-death suit led to a second lawsuit against Mr. Parker personally, accusing him of inflicting intentional emotional distress on the Beach family, which Mr. Parker denies, with an aggressive defense, including a covert investigation into the boat passengers.

The litigation so far hasn’t featured in the lurid headlines associated with the deaths of Maggie and Paul Murdaugh, which took place at the family’s hunting estate near Hampton, S.C., in June 2021. But it has become the poster child for tort reform in a lobbying campaign underwritten by Mr. Parker, who has staked much of his reputation and personal fortune on the case. His goal is to change the way financial damages in certain lawsuits in South Carolina are awarded.



The Beach litigation has also had its fantastical twists, with accusations that Mr. Parker's team improperly plied a boat passenger's underage friend with alcohol for information, an effort to have Beach family lawyer Mark Tinsley removed from both cases and an appeal to the state supreme court to claw back from Mr. Tinsley 5,600 pages of formerly private correspondence between Mr. Parker's team and a crisis communications firm.

Mr. Tinsley, a personal-injury lawyer in Allendale, S.C., said he wants to take Mr. Parker "for everything he's got" because the case has become personal. Mr. Tinsley said he is offended by the lengths to which Mr. Parker's team has gone in the continuing investigation, which has made an excruciating situation for the Beaches even worse.

"I can prove everything he did and I'm going to, and he's going to write me a big check," Mr. Tinsley said.

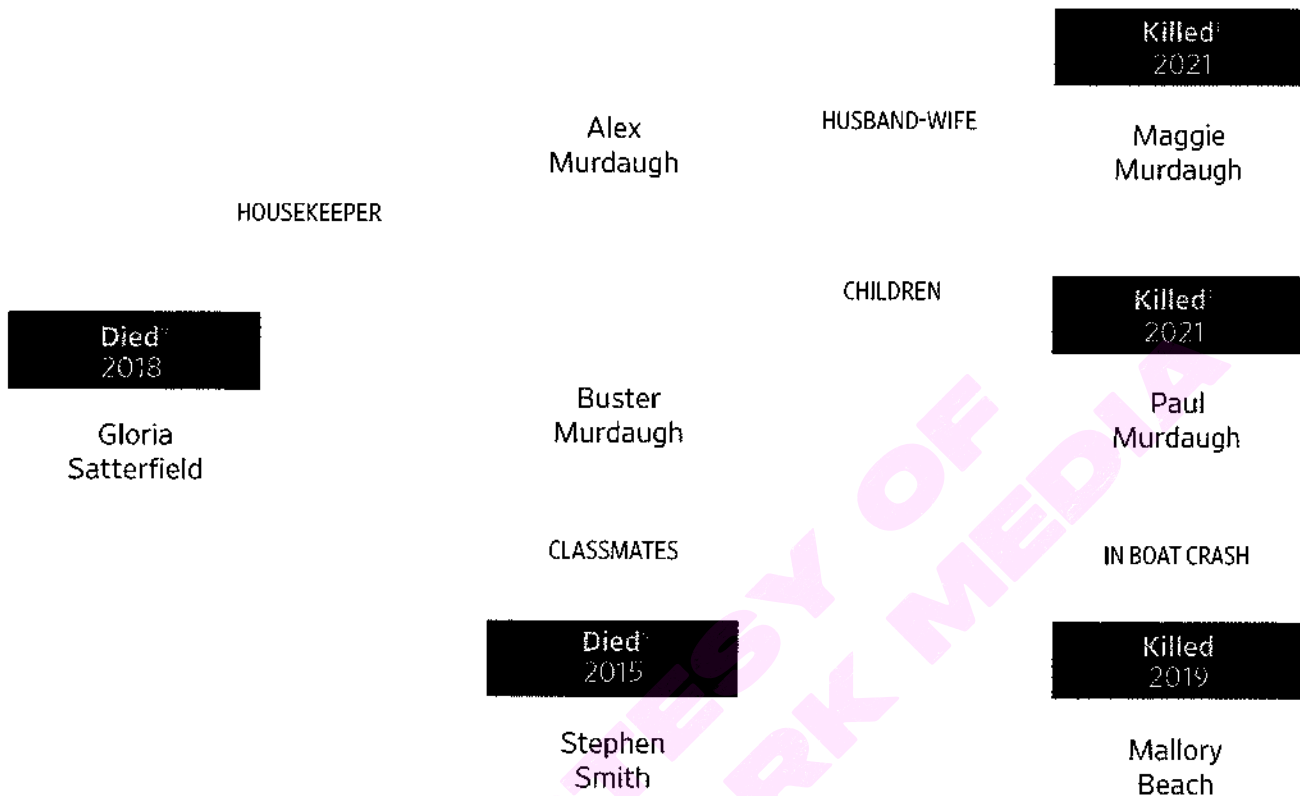


## Power in county

The boat crash in many ways began the unraveling of the Murdaugh empire. The wrongful-death suit began bringing out financial information that spiraled into an inquiry into Alex Murdaugh's alleged financial wrongdoing.

## Murdaugh Saga

The story of disgraced South Carolina lawyer Alex Murdaugh and his family includes five deaths: two that police have called homicides, two under criminal investigation and one the subject of lawsuits.



\*Death under investigation \*Alex Murdaugh has been charged with their murders  
Source: staff reports

Mr. Murdaugh was the fourth-generation scion of a family that ran the solicitor's, or district attorney's, office for the five-county 14th Judicial Circuit in southeastern South Carolina for nearly a century, while also running a dominant personal-injury firm.

The South Carolina Law Enforcement Division, known as SLED, has taken over Murdaugh-related investigations, given the family's close working relationship with local law enforcement.

Before he was accused in the double homicide of his wife and son last month, Mr. Murdaugh faced more than 80 felony counts in what prosecutors said was a decadelong scheme to defraud his personal-injury clients of \$8.5 million. He has been jailed since October, weeks after he was charged with insurance fraud in a failed assisted-suicide attempt in a roadside shooting last Labor Day weekend. He has pleaded not guilty to most of the fraud and other counts against him, in addition to the murder charges.

Based on information uncovered in the double-homicide investigation, SLED is looking into two other suspicious deaths: that of Stephen Smith, a 19-year-old classmate of Mr. Murdaugh's older son whose body was found on a country road in 2015; and Gloria Satterfield, the 57-year-old family housekeeper who died after falling down the front steps at the Murdaugh home in 2018.

In the days before the killing of his wife and son on June 7, 2021, Mr. Murdaugh was under immense pressure in the boat-crash wrongful-death case. A judge had scheduled a hearing for June 10 to consider a motion by Mr. Tinsley to compel Mr. Murdaugh to turn over his financial information, which had been requested eight months earlier and was part of the wrangling over Mr. Murdaugh's insurance coverage and ability to pay potential damages.



The state's chief prosecutor last month said the evidence collected while investigating the alleged financial crimes provides "the background and the motive" for the double homicide.

Mr. Parker said it is surreal to be wrapped up in the Murdaugh morass and offensive to be accused in the death of Mallory Beach. "It's an incredible tragedy," he said. "But we're not responsible."

Mr. Tinsley said in court filings that Mr. Parker's company shares responsibility for the crash because the clerk made an obvious mistake when checking the ID Paul Murdaugh handed her when buying the alcohol. The clerk should have noticed that Paul's slight build didn't match up with the height and weight listed on his big brother's ID, said Mr. Tinsley.

"When you stress the speed of the transaction such that the people don't even read the information on the ID, it's apparent what's going to happen," Mr. Tinsley said. He said Mr.

Parker knows that state law and store policy on alcohol sales aren't rigorously followed at Parker's Kitchen stores, a claim Mr. Parker denies.

## Night of drinking

The fatal boat crash happened in the foggy, early morning hours of Feb. 24, 2019.

Paul Murdaugh started the prior evening by buying alcohol at a Parker's Kitchen in Ridgeland, S.C., according to files released by state investigators. The store is a few miles from his grandfather Randolph Murdaugh III's fishing cabin, where Paul, his then-girlfriend Morgan Doughty and two other couples planned to spend the night, according to the files.

Video footage shows Paul circling the interior of the store, selecting his purchases and approaching the checkout counter. He was 19 at the time, but he hands clerk Tajeeha Cohen a driver's license belonging to his brother, Richard Alexander "Buster" Murdaugh Jr., who was then 22. Ms. Cohen appears to look at the license and at Paul and uses a scanner to verify the validity of the license before ringing up the sale of beer, hard seltzer, gum and cigarettes for \$49 on his mother's credit card.



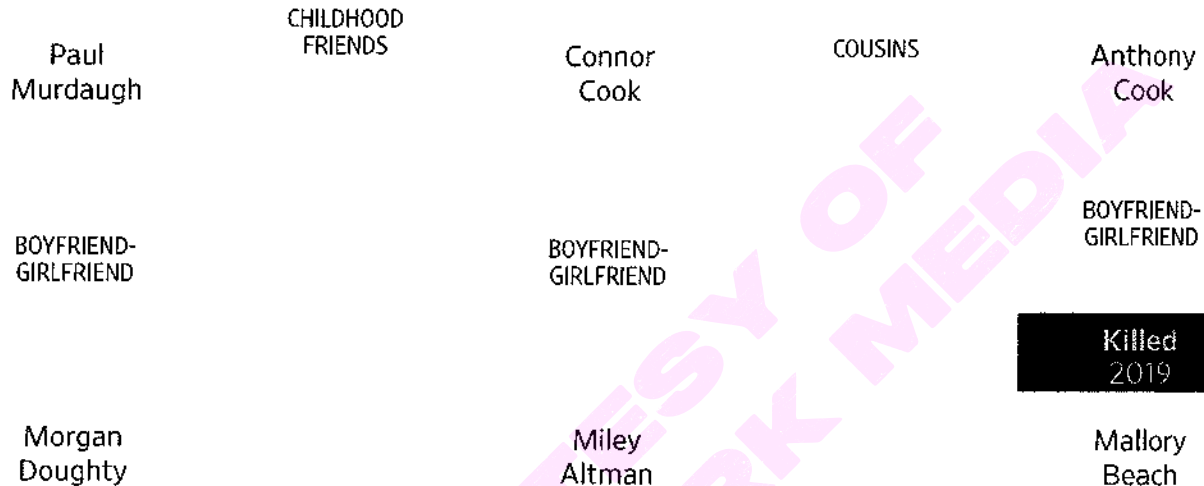
After Paul walks out of the store, he hoists his purchases over his head in a gesture to friends by his truck, according to the footage.

The six young people met at Paul's grandfather's Chechessee River house around 6:30 p.m., according to court documents. They took the boat to an oyster roast—a tradition in the South Carolina lowcountry—at another home on the water. They stayed at the party about four hours, and all were drinking while underage, according to depositions and investigative records.

On the ride home, passengers took turns holding a flashlight to maneuver the waterways because the boat didn't have running lights. Just before 1 a.m., Paul docked the boat in downtown Beaufort, where he and fellow boat passenger Connor Cook had two rounds of liquor shots.

### Crash on a Dark River

The young people spent the evening drinking including at a party and a bar along the water. GPS data show the boat accelerated rapidly and slammed into the pilings of a bridge at 2:20 a.m. Ms. Beach was thrown overboard; her body was recovered a week later.



Sources: police and court records, lawyers representing the passengers

Several passengers later testified that Paul drove the boat except for when Mr. Cook took the wheel while Paul went to the bow to confront Ms. Doughty. She told police he spit on her and slapped her, "screaming, cussing and saying horrible things," according to court documents.

At 2:20 a.m., GPS data show the boat accelerated rapidly and slammed into the pilings by the bridge to Parris Island, which was on the route back to the Murdaugh cabin, investigative reports said. Three of the passengers were thrown into the water, including Ms. Beach, who couldn't be found. Paul, Ms. Doughty and Mr. Cook were taken by ambulances to the hospital.

It took a week to find Ms. Beach's body, which was facedown in the marsh 5 miles north of the bridge.

Paul's blood drawn as part of his care at the hospital showed that his blood-alcohol level was .286, according to hospital records, three times the legal limit in South Carolina. Paul was criminally charged in April 2019, including boating under the influence causing death, but



the charges were dropped after his death last June, leaving the wrongful-death suit the key legal proceeding.

Mr. Tinsley filed suit on behalf of Mallory's mother, Renee Beach, on March 29, 2019. The defendants included Alex Murdaugh, who owned the boat; Buster Murdaugh; Randolph Murdaugh III; an elementary school assistant principal and her husband who hosted the oyster roast; the owner of the bar where Paul took shots; and Gregory M. Parker Inc., Mr. Parker's company.



The hosts of the oyster roast, the bar owner and Randolph Murdaugh III, who died of cancer in 2021, and their insurers settled with Ms. Beach within weeks of the suit being filed. Those settlements totaled \$1.7 million, according to court filings.

Alex and Buster Murdaugh remain defendants. They have both denied responsibility in Ms. Beach's death, and have argued their assets are inadequate to pay any potential damages.

That left the Parker company, as the defendant with assets, as the focus of the lawsuit.

The wrongful-death trial could start as soon as November in the Hampton County Courthouse, where Alex Murdaugh was long a regular presence and where the walls are lined with portraits of his father, grandfather and great-grandfather.

### **Quirk in liability law**

Mr. Parker, 68, built his company from one gas station in rural Georgia in 1976 to a popular chain that prides itself on hand-breaded chicken fingers, clean restrooms and "Chewy Ice," which Mr. Parker says is his own invention, born of a love of soft and crunchy ice pellets.

As Mr. Parker talked about Paul Murdaugh's transaction, he pulled a worn printout from a stack of papers. It was an image of Alex, Maggie, Buster and Paul Murdaugh courtside at a University of South Carolina basketball game, posted on Maggie Murdaugh's Facebook two weeks before the crash. Both brothers have red hair and fair skin.



Ms. Cohen "takes the driver's license," Mr. Parker said. "She looks at it. Well, guess what? They look alike." Passengers on the boat testified in depositions that Paul frequently used his brother's ID, including the night of the crash at the bar in Beaufort.

In court filings, Mr. Tinsley said Mr. Parker's company shares responsibility for Ms. Beach's death because of a companywide focus on the speed of transactions, which creates room for error in alcohol sales. Mr. Tinsley also said Ms. Cohen lacked training, failed to notice the differences in height and weight between Paul Murdaugh and the ID he used and didn't follow other company policies.

"They've got great written policies," Mr. Tinsley said. "If they did what they said they were going to do, I don't think this happens."

Mr. Parker said he has never reprimanded anyone over the speed they handle transactions and that Ms. Cohen was properly trained.



Ms. Cohen isn't named as a defendant in the Beach wrongful-death suit, though she is named as a defendant in two personal-injury suits brought by other passengers. Her lawyer declined a request for an interview on her behalf.

Alcohol-enforcement authorities haven't cited Ms. Cohen or the company in the sale, Mr. Parker said. An agent with SLED testified that she reviewed the video footage and found that Ms. Cohen "did her due diligence," by asking for the ID and scanning it to verify its validity, according to court records. State law doesn't require checking the height and weight on an ID in alcohol sales.

South Carolina law allows a plaintiff in an alcohol-related case to choose to collect 100% of the damages from a bar, store owner or host if a jury finds that entity the slightest amount at fault. The law, known as a joint-and-several liability law, differs from that in most other states, including Georgia, where a defendant pays a share of damages based on a percentage of fault assigned by a jury.

"You say 'Well, wait a minute. If I'm one-millionth of 1% responsible, I can be held 100% liable?'" said Mr. Parker, in a recent interview. "How does that work? That's not fair." He is lobbying the state legislature to change the law.

The law was designed to make sure a plaintiff could collect the full amount awarded by a jury, Mr. Tinsley said, adding it originated when bars commonly operated without liquor liability insurance.

In December 2021, Mr. Tinsley filed the second suit on behalf of the Beach family against Mr. Parker personally and some of the lawyers and investigators working on his defense team, alleging civil conspiracy and outrage, or the intentional infliction of emotional distress.



Mr. Tinsley alleges in the lawsuit Mr. Parker's team planted negative information online about Ms. Beach, which Mr. Parker denies.

Mr. Tinsley said in a March court hearing that Mr. Parker's team also hired private investigator Sara Capelli to follow Paul in the months before his death. He said at the hearing Ms. Capelli bought alcohol for a friend of one of the boat passengers when she was underage in an attempt to get information about Paul. Mr. Tinsley showed the judge a copy of a February photo taken of the young woman and Ms. Capelli at a Super Bowl party in a Columbia, S.C., bar.

### **Super Bowl party**

Rhett Klok, Ms. Capelli's lawyer, said Ms. Capelli had a contract to follow Paul in early 2021 with a law firm representing Mr. Parker. Mr. Klok said as part of her work, Ms. Capelli went to the private Super Bowl party, which was sponsored by Kappa Alpha Order, the college fraternity that has counted several Murdaughs as members, including Alex and Buster.

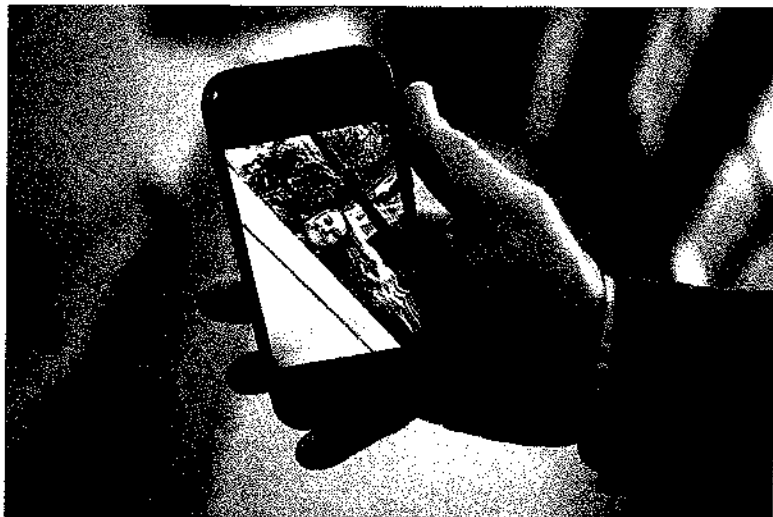
When asked whether Ms. Capelli bought alcohol for anyone underage, Mr. Klok said, "Not that she knows of." He added, "They had electronic carding at the door. She assumed everyone was an adult."

Mr. Parker said he can't comment on specific allegations because he is a defendant in the case. But he said "we sure as heck wouldn't have directed anybody to break the law," including by buying alcohol for someone underage.

Mr. Tinsley said many of the materials sought in Mr. Parker's investigation wouldn't be admissible in court because footage or photos of Paul drinking excessively or underage in other settings wasn't the cause of the boat crash. "There's only one conclusion," he said in an interview. Mr. Parker's side was "collecting it to make [others] look bad in the public arena."

A lawyer for Mr. Parker in the wrongful-death case said he expects the material to be admissible because it establishes a propensity for excessive drinking.

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The suit also alleges that Mr. Parker's team leaked law-enforcement photos of Ms. Beach's dead body and a confidential video that was part of shared materials in the lawsuit, meant to be used only in the court proceedings, to a documentary filmmaker.

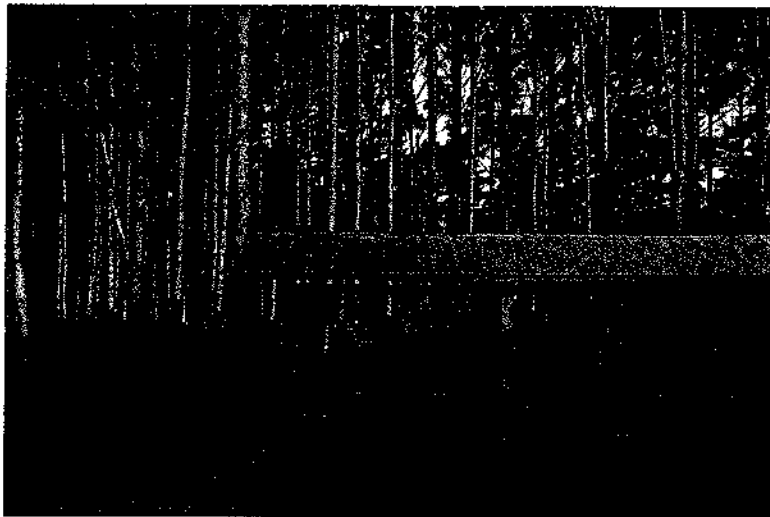
Mr. Tinsley said he created the video and shared it with Mr. Parker's lawyers to demonstrate how he might humanize Ms. Beach to a jury. It included home movies, still photographs and interviews with family members.

The suit alleges that six snippets from the confidential video appeared last November in an online trailer for "Murdaugh Murders: Deadly Dynasty," a documentary by Vicky Ward, who is also named as a defendant in the outrage suit.

Ms. Ward said in court filings that she came into possession of the video before contacting Mr. Tinsley to request an interview with the Beach family last September. She said in a court filing that Mr. Tinsley told her that "whoever provided the video to her violated the mediation rules" and that Mr. Tinsley gave her permission to use the video.

Mr. Tinsley denies that, and said Ms. Ward didn't seek the family's written approval to use their material, which he said was standard practice in documentary production.

In December, she said in a written statement to FITSNews.com, an online outlet covering the Murdaugh saga, that the trailer was for internal use at her production company and was posted in error.



Edward Fenno, Ms. Ward's media lawyer, declined a request to interview Ms. Ward. In May, a judge denied Ms. Ward's motion to be dismissed from the case. Mr. Fenno said she looks forward to asserting her journalistic rights to receive and publish information in further filings or at trial.

The completed "Murdaugh Murders" documentary began streaming in June on the Investigation Discovery network, a unit of Warner Bros. Discovery. The documentary didn't include the snippets from the confidential mediation video; it did include a blurred image of Ms. Beach's dead body and several Snapchat videos taken by the passengers on the boat that Mr. Tinsley said law enforcement provided to him and to the Parker's legal team but haven't made public.

Mr. Parker said a large team has been employed on his behalf by his lawyers. The team has included private investigators, investigative journalists, social-media strategists, opposition researchers and crisis managers. At least 18 lawyers have been listed in court filings as representing Mr. Parker or his company.

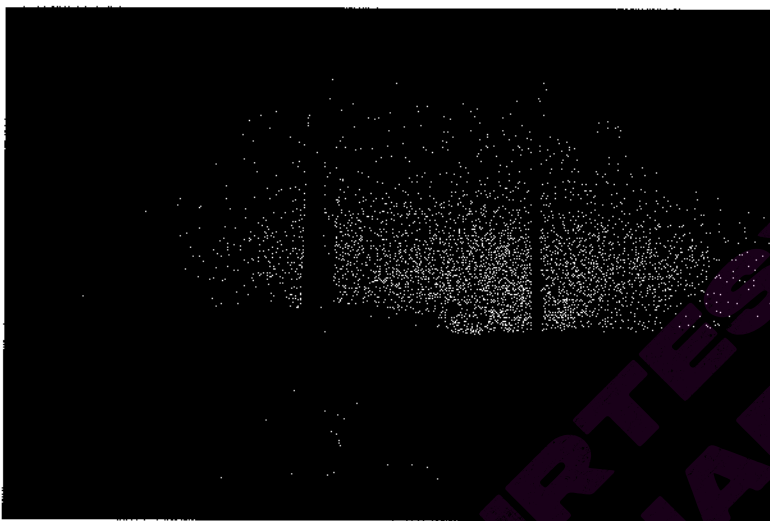
"We were trying to find out who and what we were up against," Mr. Parker said.

Mr. Parker said he didn't personally know or direct the actions of each person working on his behalf, but he didn't authorize anyone to leak photos of Ms. Beach's body or cause distress to the Beaches. He alleged Mr. Tinsley leaked the mediation video, which Mr. Tinsley denies.

A spokeswoman for Mr. Parker said an investigative firm digging into the Murdaughs on Mr. Parker's behalf hired investigative journalist Gregg Roman and two private investigators, Max Fratoddi and Henry Rosado.

Mr. Roman published a 7,000-word investigation on the Murdaughs on his blog last summer; he also appeared in and co-produced Ms. Ward's documentary. Mr. Parker's spokeswoman said Mr. Roman's contract ended well before the double homicide and no one affiliated with the Parker's team authorized his blog post or participation in the documentary. Mr. Roman said his written and documentary work were independent of the research he was paid to conduct.

Mr. Fratoddi and Mr. Rosado, who are defendants in the outrage case, said in court filings that they were "engaged to gather information for news purposes" and not part of a conspiracy.



Mr. Parker said his team pieced together details about Alex Murdaugh's family financial holdings, including allegations of questionable property exchanges and suspicions related to the deaths of Mr. Smith, the classmate of Buster Murdaugh, and Ms. Satterfield, the housekeeper, before last summer's double homicide.

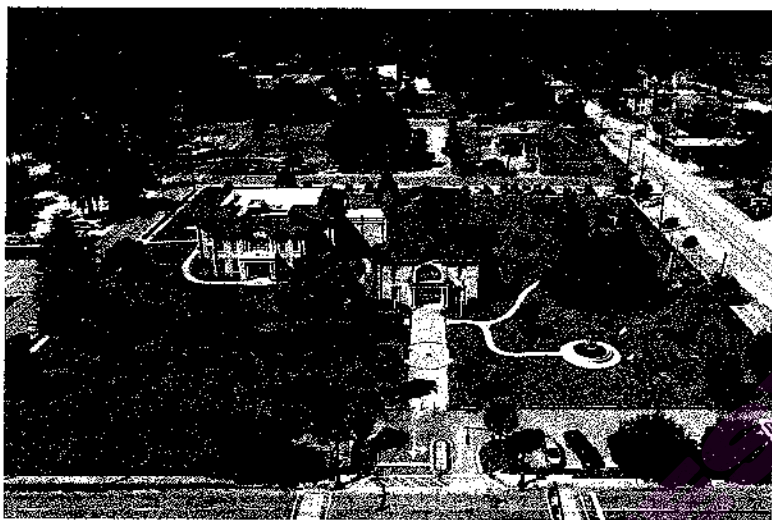
Mr. Parker said he hired people he described as investigative journalists because he was shocked at the incestuousness of the South Carolina legal system, including the scope of the Murdaugh family's influence.

"When I look back on this [investigation], do I think 'Oh, gosh, I wish I hadn't have done that?'" Mr. Parker said. "Absolutely not. I'm proud of the work we did."

When asked whether he conducted a stealth investigation and what specifically it entailed, Mr. Parker paused. "Here's a better question," he said. "'So what?' Of course I did. Anybody in my situation would have done exactly the same thing."

As to whether it was appropriate to surveil Paul Murdaugh, the son of a co-defendant in the wrongful-death case, Mr. Parker said he wanted to get pictures of Paul drinking, "which was pretty easy to do." He added: "This life of privilege is part of what should be examined here."

Mr. Parker said the outrage suit is a tactic to pressure him to settle. He recently rejected an offer to settle the wrongful-death case for \$25 million, according to a person familiar with the settlement talks.



The outrage suit is in limbo temporarily as the state supreme court considers a request by Mr. Parker's team to force Mr. Tinsley to return documents the team says are covered by attorney-client privilege. Mr. Parker's lawyers say some 5,600 documents were provided to Mr. Tinsley prematurely by Wesley Donehue, who runs the Push Digital strategy group, and the Laurens Group, a crisis-communications firm.

Mr. Donehue's lawyer, Sandy Senn, who is also a state senator, declined an interview request on behalf of her client, who stopped working with Parker's team in the spring of 2021. "Mr. Parker's lawyers are aggressive, threatening and litigious," Ms. Senn said in an email. "I hope you understand that what is best for my client is to stay away from this...case."

Mr. Parker's lawyers also filed a motion to force Mr. Tinsley to turn over any emails and texts exchanged with Ms. Capelli, the private investigator working for Mr. Parker. The lawyers submitted as evidence 145 text messages between Mr. Tinsley and Ms. Capelli, arguing that Mr. Tinsley violated the rules of professional conduct by engaging with Ms. Capelli.

Mr. Tinsley said he acted appropriately in his communications with members of Mr. Parker's team, including Ms. Capelli, who he said initiated contact by sending him a Facebook friend



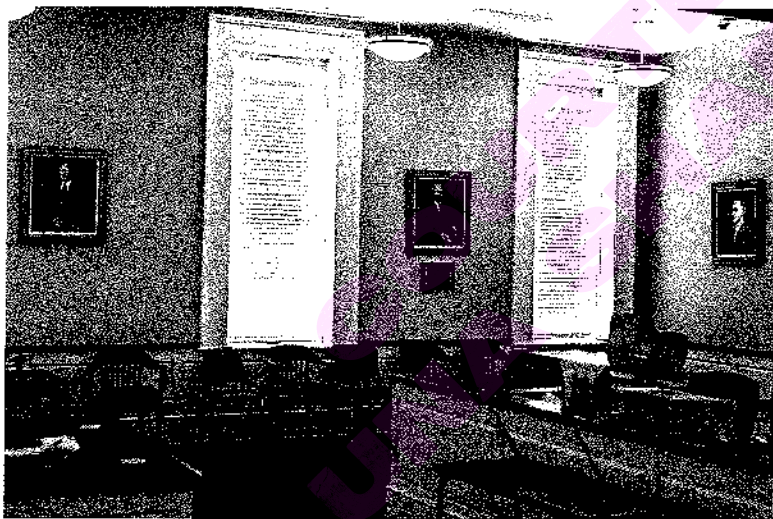
request earlier this year. Mr. Klok, Ms. Capelli's lawyer, said Mr. Tinsley was wrong to engage with Ms. Capelli when he knew she was represented by counsel.

### **Layers of connections**

Some of the players in the Murdaugh morass have intertwined relationships in South Carolina's close-knit legal community.

Mr. Tinsley, 51, is a partner at Gooding & Gooding, a three-lawyer practice in Allendale County, S.C., which is adjacent to Hampton County. He was co-counsel in a 2018 case that netted a \$10.5 million settlement against a methadone clinic, where the lead counsel was Dick Harpootlian, a state senator who is now Alex Murdaugh's lead criminal defense lawyer. Mr. Harpootlian is also a Democratic power broker; his wife, Jamie, is President Biden's ambassador to Slovenia.

Mr. Tinsley has frequently worked alongside the Murdaugh family firm, which changed its name last January to the Parker Law Group—unrelated to Mr. Parker—including with a lawyer from the firm in a record-setting \$30 million jury award against Ford Motor Co.



Mr. Parker's team includes some of the state's best-known lawyers, including Murrell Smith, the speaker of the state House of Representatives, and Deborah Barbier, a former federal prosecutor who briefly co-lead former President Donald Trump's defense team on his second impeachment. She was also a sorority sister of Maggie Murdaugh at the University of South Carolina and classmate of Alex Murdaugh at the University of South Carolina School of Law.

Mr. Parker's company is also separately being sued by the surviving boat passengers: Ms. Doughty, whose hand was injured; Mr. Cook, whose jaw was broken; Miley Altman, Mr.

Cook's girlfriend; and Anthony Cook, Ms. Beach's boyfriend and Mr. Cook's cousin. Each said they suffered physical and emotional harm as a result of the crash and the death of Ms. Beach.

In a preview of Mr. Parker's defense in the wrongful-death suit, his lead trial lawyer, Pankaj "P.K." Shere of Raleigh, N.C., said he anticipates asking jurors to apply common sense and consider whether a two-minute transaction at Parker's nine hours before the crash was the fundamental reason for Ms. Beach's death. He will also ask them to consider whether the six-pack of Michelob Ultra Lime light beer, 15-pack of Natural Light beer and 12-pack of White Claw hard seltzer Paul Murdaugh purchased was sufficient to make him so grossly intoxicated, even if he drank it all himself, which he didn't, according to depositions.

Mr. Parker said his defense will also assert that the young people on the boat could have done more than he or his employees to prevent the crash, including physically blocking Paul Murdaugh from driving.

Mr. Parker said he is particularly galled by Connor Cook's lawsuit. "He said I'm responsible for the accident? He was buying him glass-fulls of Jägermeister [at the bar] before the incident, and I'm responsible?"

Joe McCulloch, Mr. Cook's lawyer, said Mr. Cook and the other passengers said in witness statements and depositions that they tried to persuade Paul not to drive. But he said it is unrealistic to say Mr. Cook or any of the passengers should have wrestled the wheel from an erratic Paul Murdaugh, who had stripped down to his boxers and was gesticulating wildly, according to depositions. "Mutiny on the Bounty wouldn't have ended well for anybody," Mr. McCulloch said.



South Carolina law has strict liability for the sale of alcohol to someone underage, meaning a person is responsible even if they didn't know what they did was wrong, Mr. McCulloch said. "Very few defendants in tragedies of this type are willing to accept responsibility," Mr. McCulloch said. "His willingness to point the finger isn't surprising."

Mr. Parker said he has aggressive growth plans to double the number of Parker's Kitchen stores over the next four years, with much of that growth in South Carolina, which is part of the reason he is lobbying legislators to change the joint-and-several liability law in alcohol-related cases.

He said he was dropped by his longtime insurer after the boat crash and went 10 months without insurance before finding a carrier, which offered him less coverage and charged a higher price.

Tom Mullikin, a lawyer who is leading Mr. Parker's South Carolina Coalition for Lawsuit Reform, said he knows he faces an uphill climb. He said the South Carolina trade associations for restaurants and convenience stores have expressed support but not yet joined the effort to change the law.

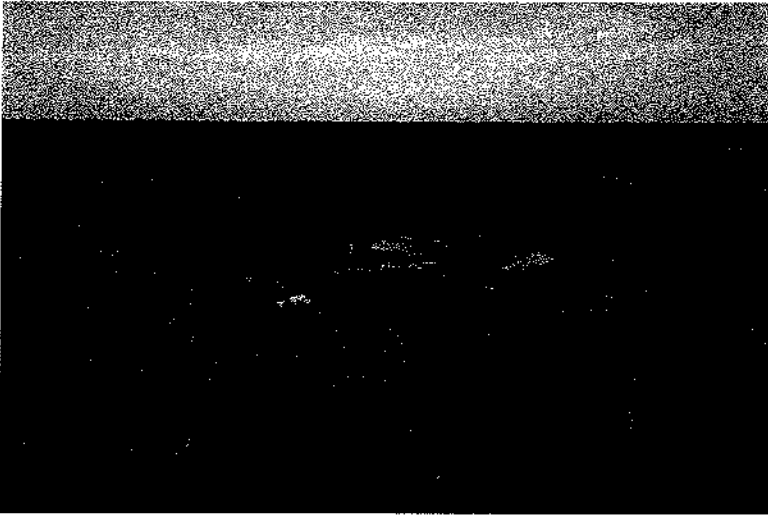
The president of the South Carolina Restaurant and Lodging Association said in an email the association generally supported changes to tort law and was "looking into how the association would fit in" with the coalition's work. The South Carolina Convenience and Petroleum Marketers Association didn't respond to requests for comment.

A bill Mr. Parker backed in the legislative session that ended in June didn't get a hearing at the judiciary subcommittee level. In the legislature, 54 of 170 members are lawyers, and a disproportionate number are trial lawyers who oppose changing the law, according to Mr. Mullikin.

State Sen. Luke Rankin, the chair of the judiciary committee and a personal-injury lawyer, said he doesn't anticipate significant movement on the bill, saying it doesn't benefit the public.

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Write to Valerie Bauerlein at [valerie.bauerlein@wsj.com](mailto:valerie.bauerlein@wsj.com)

*Appeared in the August 13, 2022, print edition as 'Teens, Alcohol and a Crash: Case Shakes South Carolina'.*

COURTESY OF  
LUNA SHARK MEDIA

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.<sup>1</sup> 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

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<sup>1</sup> 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.<sup>2</sup> On Friday, April 29, 2022, Mr. Tinsley forwarded the law clerk's

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<sup>2</sup> 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.<sup>3</sup> 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.

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<sup>3</sup> 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.<sup>4</sup> 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'

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<sup>4</sup> 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.<sup>5</sup>

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

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<sup>5</sup> 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,<sup>6</sup> 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.<sup>7</sup> 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

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<sup>6</sup> 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."

<sup>7</sup> 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]

[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.

| <b>Documents Within the <i>First</i> Set Held <i>Not</i> to Be Privileged</b> | <b>Documents Within the <i>Second</i> Set Held to Be Privileged</b> |
|-------------------------------------------------------------------------------|---------------------------------------------------------------------|
| 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] 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,<sup>8</sup> 002618, 002626, 002635 – 002639, 002641, 002652 – 2656, 002705, 0027110,<sup>9</sup> 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,<sup>10</sup> 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,**

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

<sup>9</sup> This number appears to be a typo, but the Parker's Defendants believe the Court meant to identify this document as **LAURENSGROUP\_002711**.

<sup>10</sup> 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 – 000851**<sup>11</sup> 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.

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<sup>11</sup> 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-rung<sup>12</sup> and the disclosure of privileged information irreparably taints the case

<sup>12</sup> 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.<sup>13</sup> Because Plaintiffs’ counsel have had access to privileged material for

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<sup>13</sup> 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.<sup>14</sup>

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

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<sup>14</sup> 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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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

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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



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

# 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


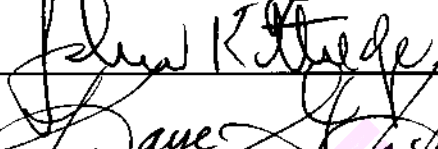
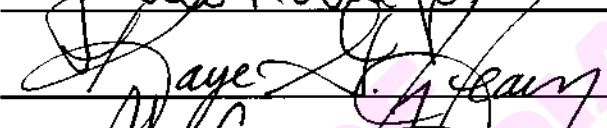
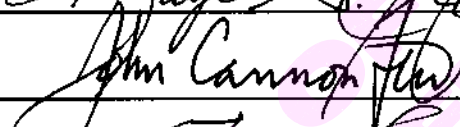

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## ORDER

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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), SCRPC; *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.

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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

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