

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

EXHIBIT G

SUPREME COURT ORDER AND RESPONSE

COURTESY OF
LUNA SHARK MEDIA

The Supreme Court of South Carolina

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

v.

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

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

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


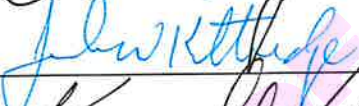

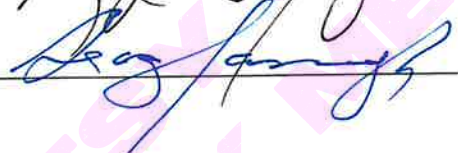
Appellate Case No. 2022-000691

ORDER

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

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:

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The Honorable Bentley Price



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

Bentley Price
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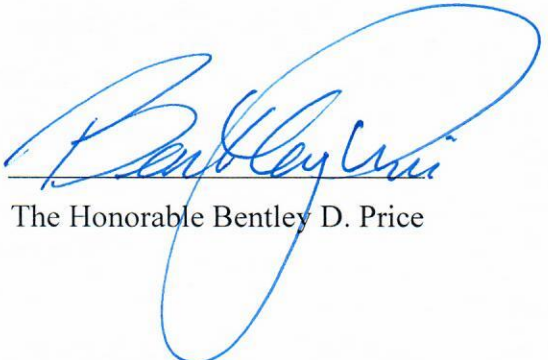
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Sep 20 2022
S.C. SUPREME COURT

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 20, 2022