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See Okla.Sup.Ct.R. 1.200 before citing.

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

FILED
COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

JUN 26 2026

SELDEN JONES
CLERK

MATTHEW WALLACE and GENESIS WALLACE,

Plaintiffs/Appellees,

vs.

DAVID STANLEY DODGE, LLC,

Defendant/Appellant.

Case No. 122,673

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APPEAL FROM THE DISTRICT COURT OF
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE NATALIE MAI, DISTRICT JUDGE

AFFIRMED

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Jared R. Boyer
Rachel N. Jordan
HB LAW PARTNERS, PLLC
Norman, Oklahoma

For Plaintiffs/Appellees

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For Defendant/Appellant

OPINION BY GREGORY C. BLACKWELL, PRESIDING JUDGE:

David Stanley Dodge, LLC, asks this court to reverse the trial court's order denying its motion to disqualify attorney Rodney Hunsinger and HB Law Partners, PLLC, from representing the plaintiffs in this case, Matthew and

Genesis Wallace. Upon review, we affirm the court's order denying David Stanley's motion to disqualify.[1]

I.

The Wallaces discovered that David Stanley was running an advertisement for $18,000 in negative equity assistance. They contacted David Stanley about a particular truck and the negative equity assistance program. David Stanley confirmed that the particular truck the Wallaces wanted was available and that the program applied to that truck. The Wallaces traveled to Oklahoma from Nevada to purchase the truck; however, upon arrival, David Stanley had trouble locating the truck. Apparently, it had been sold sometime prior to their arrival. David Stanley showed the Wallaces other trucks and the Wallaces became interested in purchasing a red crew cab. They requested that David Stanley honor the deal that brought them to the dealership, which they alleged was a total price of $80,000 a up to $18,000 in negative equity assistance on a trade in. David Stanley agreed.

However, when the Wallaces proceeded to the finance department, David Stanley claimed it had not obtained lender approval and it would get back to the Wallaces the following Monday. On Monday, July 24, 2023, the Wallaces contacted David Stanley and were allegedly informed that Arvest Bank did not approve their loan. However, David Stanley later informed the Wallaces that Arvest had approved their loan with conditions. The Wallaces contacted Arvest

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[1] Such orders were made immediately appealable by the Supreme Court in *Miami Bus. Servs., LLC v. Davis*, 2013 OK 20, ¶ 17, 299 P.3d 477, 485.

themselves and the bank informed them that their loan was approved without conditions. The Wallaces then contacted David Stanley in an effort to resolve the conflicting information; however, David Stanley told the plaintiffs that they would have to part ways.

On August 17, 2023, Mr. Hunsinger and Mr. Jared Boyer, both with HB Law Partners, PLLC, filed a petition against David Stanley on behalf of the Wallaces. The petition alleged that David Stanley's advertisement of the truck and the program was false and misleading and that David Stanley's conduct constituted breach of contract, fraud, negligence and negligence per se, intentional infliction of emotional distress, and violation of the Oklahoma Consumer Protection Act and other statutes.

On October 2, 2023, David Stanley filed an offer of judgment for $10,000 and also filed a motion to disqualify Mr. Hunsinger and HB Law Partners as counsel for the Wallaces. In the motion to disqualify, David Stanley alleged that from 2012 to 2014 Mr. Hunsinger defended David Stanley in various actions brought by plaintiffs relating to David Stanley's advertising and sales practices. Thus, by representing and previously defending David Stanley, David Stanley contended that Mr. Hunsinger obtained confidential information regarding matters which bear a substantial similarity to the Wallaces' allegations in the present case. Accordingly, David Stanley asked the court to disqualify Mr. Hunsinger and his firm.

On November 3, 2023, the Wallaces responded, contending that the present case was not substantially related to any prior representation, that almost ten years had passed between Mr. Hunsinger's representation of David Stanley and his current representation of the Wallaces, and that David Stanley had waived any alleged conflict of interest because Mr. Hunsinger and his firm had already represented plaintiffs in a variety of other claims against David Stanley and David Stanley had not previously raised an issue regarding any potential conflict.

On February 6-7, 2024, the court held a hearing on the motion to disqualify. The court heard testimony from general counsel for David Stanley, Mr. Hunsinger, and an expert witness who testified regarding the rules of professional conduct. At the end of the second day of the hearing, the court stated that it wanted to see *in camera* a specific letter written by Mr. Hunsinger and that it would rule on the motion after it reviewed the letter.

The parties appeared before the court on March 5, 2024.[2] The court orally held that based on its review of Mr. Hunsinger's prior work, the advice letter that was submitted to David Stanley and reviewed by the court *in camera*, and the passage of time between the matters, the prior work was not substantially related to the current matter. Accordingly, the court held that disqualification was not proper under the circumstances and that the plaintiffs' right to retain their counsel prevailed. The court's order reflecting its holding was filed on July 26, 2024. It is from this order that David Stanley appeals.

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[2] At the hearing, the court asked if counsel for David Stanley wished to make the letter reviewed in camera a sealed exhibit and part of the record. David Stanley declined, stating that it wished for the letter to remain confidential.

II.

When reviewing an order denying a party's motion to disqualify, we review the trial court's findings of fact for clear error and carefully examine *de novo* the trial court's application of ethical standards. *Bd. of Cnty. Commissioners of Harmon Cnty. v. Ass'n of Cnty. Commissioners of Oklahoma Self-Insured Grp.*, 2021 OK 15, ¶ 9, 485 P.3d 234, 236–37. The standard for disqualifying counsel is whether real harm to the integrity of the judicial process is likely to result if counsel is not disqualified. *Id.* This is a high standard to meet. *Id.* The burden rests with the moving party to establish the likelihood of harm by a preponderance of the evidence. *Id.*

III.

The present case involves disqualification based upon an alleged conflict of interest. Oklahoma's rules for professional conduct provide that "[a] lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing." 5 O.S. Ch. 1, App. 3-A, Rule 1.9. The Oklahoma Supreme Court has recently held that the primary inquiry in disqualification cases based upon a conflict of interest is whether: (1) the former cause in which the attorney in question represented the movant and the current cause are substantially similar; and (2) the attorney obtained any confidential information from the movant by his or her representation of them in the former cause which would require disqualification.

Harmon Cnty., 2021 OK 15, ¶ 11. David Stanley contends that the claims raised by Mr. Hunsinger in the present case are substantially related to the claims he defended David Stanley against as its former counsel. Accordingly, David Stanley maintains that the trial court erred in denying its motion to disqualify Mr. Hunsinger and HB Law Partners from representing the Wallaces.

Our Supreme Court in *Harmon County* held that matters are substantially similar if they "involve the same transaction or legal dispute, or if otherwise, there is a substantial risk that confidential factual information which would normally have been obtained in the prior representation would materially advance the client's position in the subsequent matter." *Id.* ¶ 18. A review of Mr. Hunsinger's prior representation of David Stanley is therefore relevant to our analysis.

The record reflects that Mr. Hunsinger first represented David Stanley in 2014 when he was employed at McAfee & Taft. ROA, *Response to Defendant's Motion to Disqualify*, Exhibit 1. Mr. Hunsinger was first retained to negotiate a settlement for an action against David Stanley instituted by the Oklahoma Motor Vehicle Commission regarding a radio and television advertising campaign. In that case, the OMVC contended that David Stanley's advertisements, which offered to pay off buyers' credit cards up to $18,000, violated the OMVC's advertising regulations. *Id.* at Exhibit 2. The OMVC and David Stanley ultimately entered into a consent agreement and order in which David Stanley agreed to pay a fine of $350,000. *Id.* A couple of months later, Mr. Hunsinger entered an appearance as counsel for various David Stanley entities in a putative class action lawsuit filed in response to the OMVC Consent Agreement and Order. *Id.* at Exhibit 1. Pursuant to *Harmon County,* we must address whether this prior representation of David Stanley involved the "same transaction or legal dispute" or if there is a substantial risk that during the representation Mr. Hunsinger obtained confidential factual information that would advance the Wallaces' position in the present matter.

Regarding whether the matters involved the same transaction or dispute, Comment 2 to Rule 1.9 provides: "[A] lawyer who recurrently handled a type of problem for a former client is not precluded from later representing another client in a factually distinct problem of that type even though the subsequent representation involves a position adverse to the prior client." 5 O.S. Ch. 1, App. 3-A, Rule 1.9, cmt. 2. Here, the Wallaces' claims arise from unique factual circumstances involving a specific vehicle and representations made by David Stanley about that specific vehicle. Meanwhile, the prior representation of David Stanley pertained to a specific advertisement ran in 2014 where David Stanley would purportedly pay off consumers' credit cards when purchasing a vehicle. Factually, the matters are distinct. Although the claims being brought against David Stanley in the 2014 representation and the present case are similar, *i.e.* fraud, violations of OMVC advertising laws, and violations of the Oklahoma Consumer Protection Act, as comment two instructs, "a lawyer who recurrently handled a type of problem for a former client is not precluded from later representing another client in a *factually distinct* problem of that type even though the subsequent representation involves a position *adverse* to the prior client." 5 O.S. Ch. 1, App. 3-A, Rule 1.9., cmt. 2. (emphasis supplied).

Next, we will address whether the prior representation created a substantial risk that Mr. Hunsinger obtained confidential factual information which would materially advance the Wallaces' position in the present case. Comment 3 to Rule 1.9 states that information obtained in a prior representation may be rendered "obsolete by the passage of time." *Id.* at cmt. 3. We note, as the trial court did in denying David Stanley's motion, that the prior representation occurred in early 2014, and the petition in this case was filed in August 2023, almost ten years later.

Counsel for David Stanley testified that she was made aware of communication between Mr. Hunsinger and Mr. Toby Flowers, prior general counsel for David Stanley, that "contained confidential information" about advertising practices and strategies. Tr. (February 6, 2024), pg. 28. However, Mr. Hunsinger testified as follows, "I am not aware of any confidential information that Mr. Flowers communicated to me. I certainly have no recollection of any sitting here today." *Id.* at 94. Mr. Hunsinger was later asked if he possessed any information at all concerning David Stanley's advertising practices that he would have obtained during his prior representation, to which he answered that he did not. *Id.* at 120.

As stated above, we review the trial court's findings of fact for clear error. *Bd. of Cnty. Commissioners of Harmon Cnty. v. Ass'n of Cnty. Commissioners of Oklahoma Self-Insured Grp.*, 2021 OK 15, ¶ 9, 485 P.3d 234, 236–37. The court's order denying David Stanley's motion to disqualify specifically found that "Plaintiffs' counsel does not have knowledge of material and confidential information such that real harm to the integrity of the judicial process is likely to result ...." ROA 285, *Order*. Oklahoma courts have consistently held that "the credibility of witnesses and the weight and value to be given to conflicting or inconsistent testimony are matters primarily for determination by the trial court." *Catron v. First Nat. Bank & Trust Co. of Tulsa*, 1967 OK 107, ¶ 26, 434 P.2d 263. "A trial judge is able to judge the credibility of the witnesses and the weight of their testimony better than this Court on appeal from a trial court's judgment." *S.W. v. Duncan*, 2001 OK 39, ¶ 32, 24 P.3d 846. Accordingly, we find that the trial court was in a better position than this court to weigh the conflicting testimony of David Stanley's counsel, who maintained confidential information was obtained by Mr. Hunsinger, and Mr. Hunsinger himself, who represented that he was unaware of any confidential information obtained during the prior representation, in part due to the length of time that had passed. The trial court found that plaintiffs' counsel, Mr. Hunsinger, did not have knowledge of material confidential information obtained from his prior representation. We hold, in light of the testimony at trial and the documents contained in this record on appeal, that the court's factual finding was not clearly erroneous.

* * *

Upon careful review, we agree with the trial court that Mr. Hunsinger's representation of David Stanley in 2014 and his current representation of the Wallaces do not involve matters that are substantially related as contemplated by Oklahoma's rules of professional conduct and Oklahoma caselaw. In light of the foregoing, the court's order denying David Stanley's motion to disqualify counsel is affirmed.

AFFIRMED.

BARNES, J., and HUBER, J., concur.

June 26, 2026