

Oklahoma Department of Securities )  
*ex rel.* Melanie Hall, Administrator, )  
 )  
Plaintiff, )  
v. )  
 )  
Premier Global Corporation, *et al.*, )  
 )  
Defendants. )

RICK WARREN  
COURT CLERK  
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Case No. CJ-2022-5066  
Judge Don Andrews

**DEFENDANT RICHARD DALE DEAN'S RESPONSE IN  
OPPOSITION TO RECEIVER'S MOTION TO SETTLE JOURNAL ENTRY**

Defendant Richard Dale Dean ("Mr. Dean") files this Response in Objection to the Motion to Settle Journal Entry filed by the Receiver, Eric L. Johnson ("Receiver"), regarding the Court's ruling on Mr. Dean's Motion to Quash Subpoena of GableGotwals ("Motion") with arguments heard by the Court on March 14, 2024 (the "March 14 Hearing"). The Court ultimately denied the Motion and ordered GableGotwals to produce all documents requested in the Subpoena but found that if GableGotwals represented Mr. Dean individually, then GableGotwals was to prepare a privilege log relating to all documentation requested in the Subpoena relating to its representation of Mr. Dean, individually.

The Receiver concludes that GableGotwals did not represent Mr. Dean individually based on: (1) a lack of retainer agreement between GableGotwals and Mr. Dean, (2) GableGotwals not entering an appearance on behalf of Mr. Dean, and (3) GableGotwals never billing Mr. Dean for legal services. The Receiver's conclusion, however, fails to appreciate that the establishment of an attorney-client relationship is not based on a document or a bill or even an entry of appearance. **Attorney-client relationships and resulting privilege are based on the client's understanding.** "[A]lthough a lawyer who represents a partnership generally represents the entity, rather than the individual partners, whether a lawyer representing a partnership has an attorney-client relationship

with any individual partner depends on the facts and circumstances of the particular situation.” *State ex rel. Oklahoma Bar Ass’n v. Green*, 1997 OK 39, ¶ 19, 936 P.2d 947, 952. It was Mr. Dean’s understanding based on communications received from GableGotwals that he was a client of the firm. “In appropriate cases, an attorney may be found to have impliedly agreed to provide legal services when the person seeking them reasonably relies on the attorney to provide the services, and the attorney, aware of the reliance, does nothing to negate the belief.” *Id.*, ¶ 37, 936 P.2d at 956. If GableGotwals believes it did not represent Mr. Dean, it failed to make that clear to Mr. Dean, who interacted with the firm with the understanding that they were his attorneys. And GableGotwals has admitted that Mr. Dean may have believed an attorney-client relationship was formed based on the scope of correspondence between the firm and Mr. Dean. Ex. A, May 2, 2024, Email between GableGotwals, current Dean counsel, and the Receiver’s counsel. Pursuant to *Green*, Mr. Dean continues to assert the attorney-client privilege he holds over his communications with GableGotwals.

Additionally, because of the Receiver’s insistence that no attorney-client relationship existed between GableGotwals and Mr. Dean despite the above-reference admission by GableGotwals, Mr. Dean’s current counsel has requested GableGotwals provide email communications between the firm and Mr. Dean, but to date no production has been made. Mr. Dean is no longer in possession of most of the relevant emails as there was a ransomware attack on the company that stored his emails. The company, Rack Space, failed to pay the ransom, and much data was lost. The Receiver has been made aware of this. *See Ex. 6* to Receiver’s Motion to Settle Journal Entry. And contrary to the Receiver’s assertion that Mr. Dean’s counsel should already be in possession of all relevant email, such assertion is ignorant of the fact that GableGotwals has only provided Mr. Dean’s counsel with copies of documents it has already

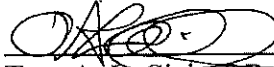
produced to the Plaintiff in this case. GableGotwals has not provided Mr. Dean or his current counsel with copies of email correspondence.

Further, if the Receiver claims that Mr. Dean was not a client of GableGotwals, then his presence as a third party in any meeting, call, or email would destroy all privilege as relates to Premier Global. While current counsel for Mr. Dean specifically raised this issue, the Receiver has failed to respond or otherwise address this issue. See Ex. 6 to Receiver's Motion to Settle Journal Entry.

GableGotwals evidently had a conflict that it should have identified to ensure the attorney-client relationship was clear but failed to do so. This demonstrates that GableGotwals did not truly understand how the various related entities were set up and who was engaged with which entity. Indeed, it appears that GableGotwals erroneously thought that Mr. Dean had some form of ownership interest in Premier Global, which he did not. This ignorance cannot be used to destroy the privilege to which Mr. Dean understood he was entitled in his communications with GableGotwals.

Therefore, Mr. Dean requests that the Court deny the Receiver's Motion to Settle Journal Entry as the determination as to attorney-client privilege between GableGotwals and Mr. Dean is a material issue. Mr. Dean further requests that the Court find that Mr. Dean had an attorney-client relationship with GableGotwals or, alternatively, order GableGotwals to produce all email communications between the firm and Mr. Dean to Mr. Dean's counsel immediately for further analysis of whether such a relationship existed.

Respectfully submitted,



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**ATTORNEYS FOR DEFENDANTS RICHARD  
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**CERTIFICATE OF SERVICE**

This certifies that on this 6th day of May, 2024, a true and correct copy of the above and foregoing was delivered to:

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For the Firm

Jo Kelley



**From:** David P. Limekiller <dlimeskiller@gablelaw.com>  
**Sent:** Thursday, May 2, 2024 11:00 AM  
**To:** hallen@spencerfane.com; Tara LaClair  
**Cc:** John D. Dale; Andrew J. Hofland  
**Subject:** Representation of Dickie Dean

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you trust dlimeskiller@gablelaw.com.

Hilary and Tara,

You both requested information about Gable's representation of Dickie Dean as an individual and not as employee, officer, or owner of Premier Global, DDIA, or any of their affiliates.

I have reviewed Gable's files and the emails of the attorneys who represented Premier Global and have found the following:

- In November 2020, the ODS sent a subpoena directly to Dickie Dean in his personal capacity. There are emails between Mr. Dean and John Russell about scheduling a time to discuss the Subpoena. We have no record of the content of any such communications.
- On December 3, 2020, John Russell and Andrew J. Hofland conferenced with the ODS. In Mr. Russell's summary to Premier on a variety of matters relating to Premier's subpoena compliance, John added a last point mentioning that the ODS was okay with allowing Mr. Dean to hold off on complying with his personal subpoena until after the production from Premier was completed.
- Gable never sent a notice of representation for Mr. Dean in his personal capacity, never served any response or objection to the Dickie Dean Subpoena, and never produced any documents on behalf of Mr. Dean individually.
- At the time Gable withdrew from representation, the Premier production was still not yet completed.

In summary, even though Gable's engagement letter with Premier expressly stated that it did "not for any purpose give rise to an attorney-client relationship with any...officers, managers, directors, employees or agents of [Premier] or its affiliates," Gable's discussion of the subpoena issued to Mr. Dean in his personal capacity and the courtesy discussion of an extension with the ODS may have created a subjective belief that an attorney-client relationship was formed. Regardless, any apparent representation was de minimis and the communications related to that apparent representation were very few. Except for those few communications, Gable's communications with Mr. Dean were with him in his position, alongside Mr. Parish, as operators of Premier, DDIA, and their affiliates.

Gable has no intention of delaying your action or otherwise ignoring its obligations. But considering the de minimis representation, if any, Gable engaged in with Mr. Dean in his personal capacity, Gable cannot be expected to

assume the risks that come with producing possibly privileged documents without a court order or an agreement between the parties sufficient to protect Gable's interests.

As a reminder, there are two classes of documents at issue. First are the documents that Gable has previously provided to Mr. Dean's counsel and second are the Gable's communications.

Please let me know if you want to discuss this matter further.




David



**David P. Limekiller | Attorney | GableGotwals**

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