

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

MAR - 7 2024

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

Case No. CJ-2022-5066  
Judge Don Andrews

**DEFENDANT RICHARD DEAN'S REPLY IN SUPPORT OF HIS OBJECTION AND  
MOTION TO QUASH SUBPOENA AND SUBPOENA DUCES TECUM TO NON-  
PARTY GABLE GOTWALS**

In his Response to the Motion to Quash Subpoena and Subpoena Duces Tecum to Non-Party Gable Gotwals filed by Defendant Richard Dean ("Mr. Dean"), the Receiver claims he is entitled by the Court's orders and applicable law to obtain privileged documents from Gable Gotwals. This is an overreach of the Receiver's discretion and authority and should not be permitted. Mr. Dean's Motion to Quash is limited to the requests by the Receiver that seek to invade the protections of the work product doctrine and/or attorney-client privilege. The Court's Orders, as directly quoted in the Receiver's Response, demonstrate that the Receiver's authority is related to control, management, and direction of business and affairs of the Receivership Estate and Receivership Defendants, which includes taking possession of documents related to **assets** and to **conduct discovery** on behalf of the Receivership Estate. Therefore, with the Receiver seeking discovery from Gable Gotwals, Mr. Dean merely requests in his Motion to Quash that the subpoena be modified and narrowed so as to avoid the attorney-client privilege which he asserts and does not waive pursuant to his ownership of the privilege under 12 O.S. § 2502(B).

The authority cited by the Receiver when read in its entirety demonstrates the validity of Mr. Dean's objection and need for narrowing of the subpoena. *See S.E.C. v. Ryan*, 747 Supp. 2d

355, 362 (N.D.N.Y. 2010).<sup>1</sup> The court in *Ryan* acknowledged that a receiver may stand in the shoes of an entity, not an individual. *Ryan*, 747 Supp. 2d at 367. Although the Receiver may have some authority over the documents and communications of entity defendants, he cannot waive the attorney-client privilege held by Mr. Dean, individually, with respect to his personal files and related communications held by his prior attorney. *Id.* Mr. Dean is not trying to assert privilege over the entire “Premier File” held by Gable Gotwals as the Receiver argues in his Response. Instead, Mr. Dean is asserting privilege over the documents and communications sought by the Receiver that invade the attorney-client privilege, and the subpoena in its current form needs to be tailored to maintain those privileged protections. A simple read of Mr. Dean’s Motion to Quash will see that Mr. Dean does not anticipate the Receiver receive nothing ever from Gable Gotwals; Mr. Dean wishes that his privilege, granted to him by law with the purpose of encouraging honest communications between attorneys and clients, be considered in narrowing the Receiver’s broad requests to Gable Gotwals.

Additionally, the authority claimed by the Receiver to waive attorney-client privilege should be scrutinized due to the conflict of interest it presents in the above-styled litigation. The Receiver has a Common Interest Agreement in effect with the Plaintiff which includes the agreement of the Receiver to share information otherwise protected by the attorney-client privilege with Plaintiff. This Common Interest Agreement creates a conflict that raises questions as to whether Mr. Dean’s due process and privilege rights in this litigation will be compromised based on the Receiver providing all documents and communications to the Plaintiff pursuant to their Common Interest Agreement.

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<sup>1</sup> Although this Court is not bound by the Northern District of New York’s decisions in *Ryan*, the Court may consider it as requested by the Receiver but should do so in its entirety.

The subpoena and claimed authority by the Receiver is being abused to further a fishing expedition. If the Receiver's argument is to be sustained to the extent that he argues his authority applies and he is permitted to stand in the Dean Defendants' shoes, then the Receiver should be responsible, too, for Mr. Dean's full defense and strategy—including costs. But that is not the case. The Dean Defendants have their own counsel, and the Court needs to provide the Receiver guidance that the Receiver's authority is not absolute and is limited to the business operations and assets under the Receivership Estate.

**The Dean Defendants do not waive the attorney-client privilege or approve of the release of work product as to the requested communications and documents.** The Receiver acknowledges in his Response several times that the privilege belongs to the client and not the attorney, and the Dean Defendants, as the clients, assert the privilege which prevents the attorney from producing any of the privileged documents and communications. Receiver's Response at ¶¶ 14 and 16. As a result, the Court should deny issuance of the Subpoena as written and remove any requests related to the Dean Defendants and/or related to privileged or protected communications and documents pursuant to 12 O.S. § 2004.1(C)(3)(a).

Dated this 7th day of March, 2024.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

This certifies that on this 7th day of March, 2024, a true and correct copy of the above and foregoing was delivered to:

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