

Vinson & Elkins

Bonehead Lawyer Moves 2023

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April 6, 2023

Bonehead Lawyer Moves 2023

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The Classic False Time Entry



Ex-[REDACTED] associate hit with ethics claim over
billing

ABAJOURNAL

Former BigLaw associate gets suspension for inflating time
spent on document review project

The Classic False Time Entry

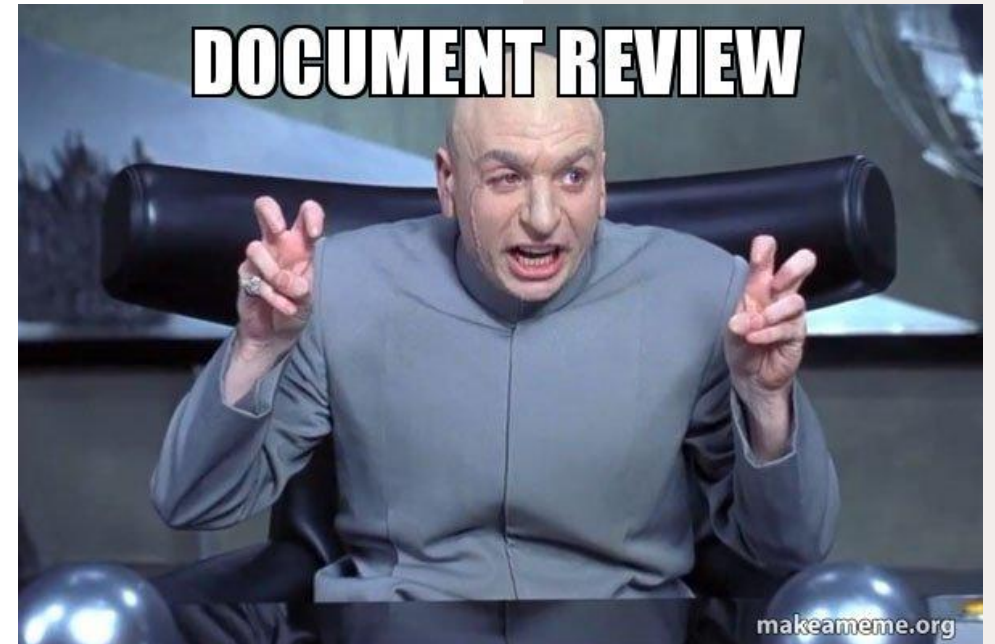
2022PR00077

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

4. In late 2020 and early 2021, Respondent was assigned to a document review project in which he was to review a substantial number of documents belonging to one of [REDACTED] clients to determine which documents should be produced by the client in response to discovery requests in a litigation matter.

Bonehead Lawyer Moves**The Classic False Time Entry**

5. Between December 2020 and March 2021, with regard to the document review project described in paragraph 4 above, Respondent marked a total of 425 documents as having been reviewed by him and recorded a total of approximately 277 hours of time related to the review of said documents. Respondent then submitted his billing entries to his supervisors at [REDACTED]

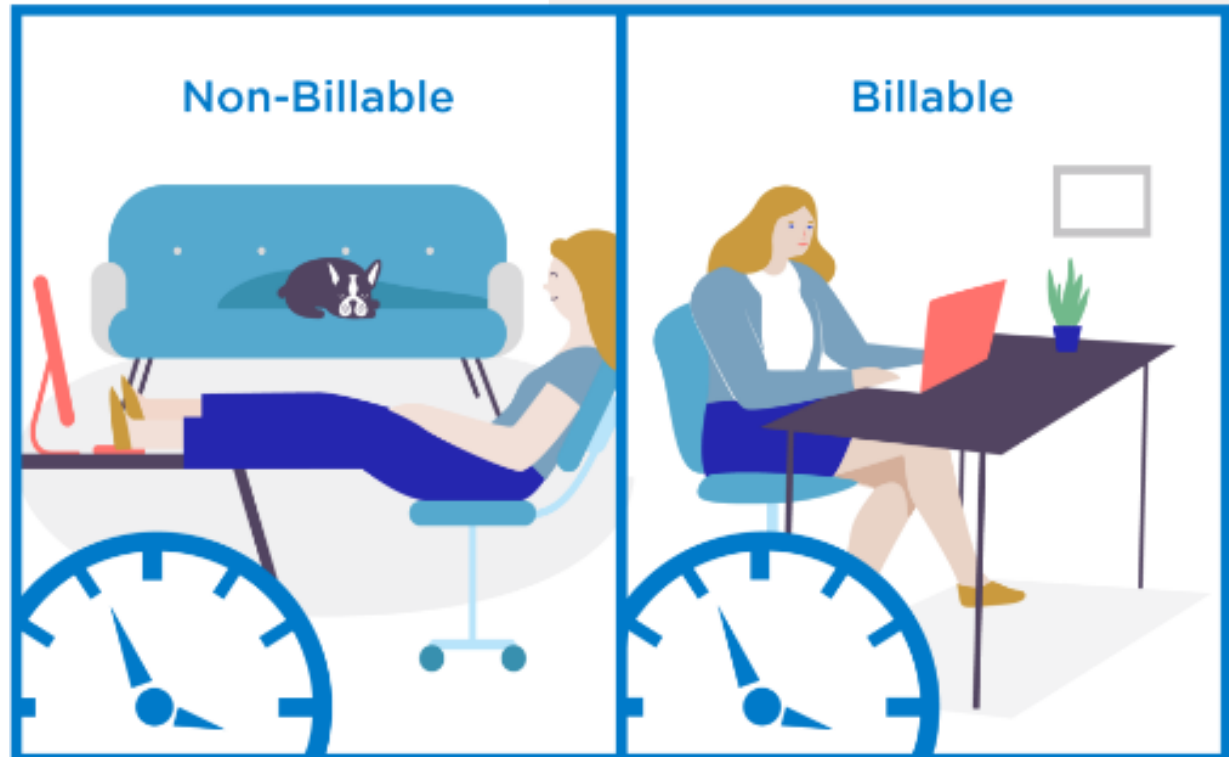


The Classic False Time Entry

2022PR00077

6. In or about March 2021, upon reviewing Respondent's work, Respondent's supervisors at [REDACTED] determined that Respondent had not opened or reviewed approximately 405 of the 425 documents that he claimed to have reviewed, and for which he submitted time records, as described in paragraph 5 above.

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION



The Classic False Time Entry

ABOVE THE LAW

Biglaw Associate Billed 277 Hours To Review 20 Documents, Earns 60-Day Suspension To Keep Not Reviewing Documents

Missing out on a whole 100 documents worth of time!

Bonehead Lawyer Moves

Dan Kamensky



**Institutional
Investor**

CULTURE

In Five Hours, Daniel Kamensky Destroyed His Career. Why?

The inside story of hedge fund
Marble Ridge's disastrous day.

By Amanda Cantrell September 16, 2020

Dan Kamensky

On July 31, Daniel Kamensky composed a six-word Bloomberg chat message that ruined his life.



DKAMENSKY2 (MARBLE RIDGE CAPITAL)

Tell Geller to stand DOWN

DKAMENSKY2 (MARBLE RIDGE CAPITAL)

DO NOT SEND IN A BID

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
HENRY G. HOBBS, JR.
ACTING UNITED STATES TRUSTEE
REGION 7, SOUTHERN and WESTERN DISTRICTS OF TEXAS
HECTOR DURAN
TRIAL ATTORNEY
515 Rusk, Suite 3516
Houston, Texas 77002
Telephone: (713) 718-4650 x 241
Fax: (713) 718-4670

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	CASE NO.
	§	
NEIMAN MARCUS GROUP LTD, LLC,	§	20-32519 (DRJ)
<i>et al.,</i>	§	(Chapter 11)
	§	Jointly Administered
DEBTORS ¹	§	

STATEMENT OF THE ACTING UNITED STATES TRUSTEE
PURSUANT TO COURT ORDER REGARDING THE CONDUCT
OF MARBLE RIDGE CAPITAL LP AND DAN KAMENSKY

TO THE HONORABLE DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE:

Thomas Girardi



"This isn't that difficult: You learned in law school, we all did, in Ethics 101, that when you get money that belongs to a client you put it in an escrow fund and you don't touch it," U.S. District Judge Thomas Durkin said during a telephonic hearing.

Thomas Girardi- Where did the money go?

Los Angeles Times

Suit alleges L.A. attorney stole to splurge on 'Real Housewives of Beverly Hills' star Erika Jayne



Los Angeles Times

A judge's affair with Tom Girardi, a beachfront condo and a \$300,000 wire from his firm



Bonehead Lawyer Moves

Keith Griffin & David Lira

AKA

The Girardi Keese Saga Continues

'Simply Inexcusable': Ex-Girardi Attys Ripped For Hiding Theft

Law360 (November 2, 2022, 4:37 PM EDT) -- Two former Girardi Keese attorneys covered for their boss as he stole money from their clients and lied about it, a Chicago federal judge wrote Wednesday in a scathing opinion that called their behavior "simply inexcusable" and laid out the details for prosecutors and bar regulators.



Bonehead Lawyer Moves

Keith Griffin & David Lira

AKA

The Girardi Keese Saga Continues

IN RE LION AIR
FLIGHT JT 610 CRASH

No. 18 C 7686

Judge Thomas M. Durkin

MEMORANDUM OPINION AND ORDER

“Lira did not repeat Girardi’s lies, but he already knew Girardi’s excuses were false and kept that information hidden from the Edelson firm. His failure to inform Edelson that Girardi was lying is a lie by omission.”

“This conduct is at best an effort to pass the buck and at worst a knowing cover-up. None of it demonstrates concern with the money owed to clients whose family members were victims of a tragic accident. All of it is simply inexcusable.”

Girardi Keese: The Cover Up



The State Bar *of California*

State Bar of California Releases Reports Detailing Past Unethical Conduct in Handling Girardi Complaints

Agency to Implement Additional Enhancements to Strengthen Oversight, Improve Discipline System, and Prevent Conflicts of Interest

Girardi Keese: The Cover Up

The findings

During a 16-month investigation, May and his team reviewed over 950,000 documents, issued 23 subpoenas, and interviewed, either voluntarily or under compulsion, 74 witnesses. The May report indicates that Girardi intentionally cultivated relationships at many levels in the State Bar to increase his influence in the agency. The report outlines several instances of past State Bar staff exercising poor judgment, ignoring or poorly handling conflicts of interest, and otherwise behaving unethically. None of the individuals identified as engaging in unethical conduct remain affiliated with or employed by the State Bar.

Keith Griffin & David Lira AKA

The Girardi Keese Saga Continues

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

(Including Amendments Effective January 31, 2022)

Rule 5.02. Responsibilities of a Supervised Lawyer

A lawyer is bound by these rules notwithstanding that the lawyer acted under the supervision of another person, except that a supervised lawyer does not violate these rules if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional conduct.

SEC: Lawyer Made \$4.35 Million in Insider Trading in Grand Met Takeover

The Securities and Exchange Commission accused James H. O'Hagan of engaging in the insider trading to repay \$1 million he allegedly diverted from client accounts.

But O'Hagan's lawyer, while admitting O'Hagan borrowed money from accounts, denied his client engaged in insider trading to pay it back.

James O'Hagan

642

OCTOBER TERM, 1996

Syllabus

UNITED STATES *v.* O'HAGAN

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

No. 96–842. Argued April 16, 1997—Decided June 25, 1997

JUSTICE GINSBURG delivered the opinion of the Court.

* * *

The judgment of the Court of Appeals for the Eighth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.



Bonehead Lawyer Moves
Matthew Smith



8/9/2019 9:46 PM
Marilyn Burgess - District Clerk Harris County
Envelope No. 35859670
By: bradley damell
Filed: 8/9/2019 9:46 PM

**DEFENDANTS' SECOND
AMENDED ANSWER AND
COUNTERCLAIM**

In February 2018, Matthew Smith filed a complaint against Microvast alleging that the company had fraudulently rescinded equity compensation offered when he joined the company as general counsel.

Microvast counterclaimed that Smith breached his fiduciary duties by “pretend[ing] to do work he was not actually doing,” “secretly tape record[ing] employees of his client...without telling them,” and “t[aking] property from his employer.”

**DEFENDANTS' FIFTH AMENDED ANSWER
AND FOURTH AMENDED COUNTERCLAIM**

When Mr. Smith clandestinely recorded his conversations with his client's employees, he violated the Texas Disciplinary Rules of Professional Conduct, and specifically DR 8.04(a)(3).

Smith violated the Rules of Professional Conduct applicable to him whether under Texas law, California law or the ABA Model Rules including, without limitation, violating Rules 1.01, 1.03, 1.04, 1.05, 1.06, and 1.08.

Jury Says Ex-GC Breached Fiduciary Duty to Client

The jury unanimously sided with Microvast.

Whether a finding that a lawyer breached his fiduciary duty could result in disciplinary action from the state bar depends on the specific facts of each case and whether any rules of professional conduct were violated, said Claire Reynolds, public affairs counsel for the Office of the Chief Disciplinary Counsel.

Ballard said it would “not be appropriate” for the Microvast trial team “to comment on any effect on [Smith’s] law license.”

“But certainly, a finding that you breached a fiduciary duty as a general counsel to a client, it cannot be good,” he said.



Portland lawyer used money stolen from clients for lavish trips to nudist resort, African safaris: DOJ



PRESS RELEASE

Former Portland Attorney Sentenced to More Than Eight Years in Federal Prison for Embezzling Client Funds

Deveny used the proceeds of her scheme to pay more than \$150,000 on foreign and domestic airline tickets, more than \$173,000 on African safari and big game hunting trips, \$35,000 on taxidermy expenses, \$125,000 on home renovations, \$195,000 in mortgage payments, more than \$220,000 in cigars and related expenses, \$58,000 on pet boarding and veterinary costs, \$41,000 on recreational vehicle expenses, \$50,000 for a Cadillac luxury vehicle, and \$60,000 on stays at a luxury nudist resort in Palm Springs, California.

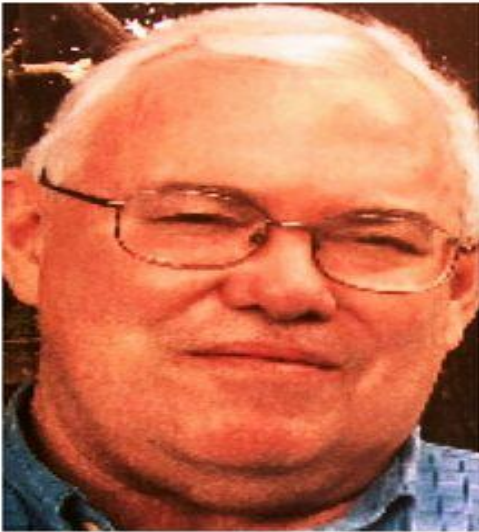


Lori Deveny

“The Oregon State Bar Client Security Fund (CSF), Wells Fargo Bank, and the IRS also suffered losses as a result of Deveny’s scheme. The CSF made partial restitution payments to some of Deveny’s clients, resulting in a loss of more than \$1.2 million. This is one of the largest losses in the Oregon State Bar’s history and resulted in the organization raising dues for all members for two years to cover the cost of the payments.”



Scott Wolas



ROBERT FRANCIS McDOWELL



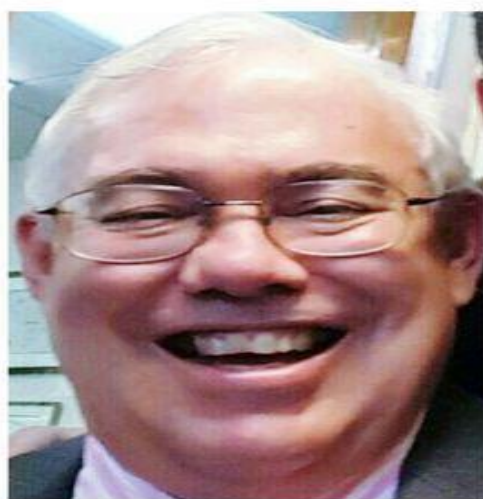
EUGENE GRATHWOHL



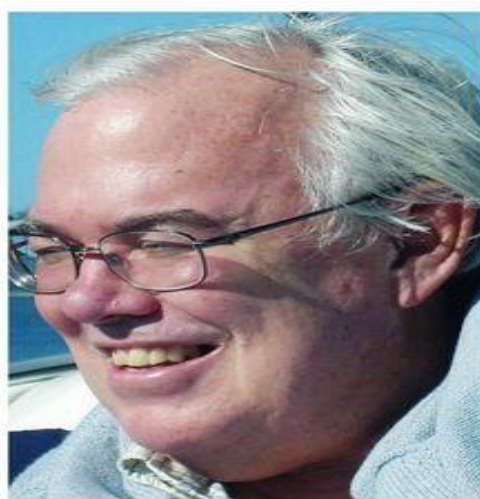
ALLEN LEE HENGST



DREW PRESCOTT



FRANK AMOLSCH



SCOTT WOLAS

- Former BigLaw partner Scott Wolas was involved in a 1995 overbilling scandal and was disbarred in 1997.
- He later swindled unrelated investors through a variety of schemes spanning several decades.

The METROWEST
DAILY NEWS

Scott Wolas

The Boston Globe

A former fugitive who was on the lam for more than 20 years was sentenced to prison and ordered to pay restitution in connection with a \$1.9 million real estate swindle in Quincy, federal prosecutors said.

Scott J. Wolas, 69, was sentenced in federal court in Boston to 81 months in prison and three years of supervised release, according to the US Attorney's Office. Wolas was also ordered to pay more than \$1.9 million in restitution to the victims of his fraud scheme, more than \$69,000 to Social Security and Medicare, and more than \$318,000 to the Internal Revenue Service, authorities said.

Case 1:17-cr-10198-FDS Document 3 Filed 04/04/17 Page 1 of 1

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Massachusetts

United States of America)

v.)

SCOTT J. WOLAS)

a/k/a Eugene J. Grathwohl, Allen L. Hengst,)

Drew Prescott, Frank Amolsch,)

Endicott Asquith, Cameron Sturge)

Defendant(s)

Case No. 17-MJ-2046-MBB

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of from early 2014 to at least 8/2/2016 in the county of Norfolk in the

Massachusetts District of Massachusetts, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. 1343
18 U.S.C. 1028A

Wire Fraud
Aggravated Identity Theft

FOR IMMEDIATE RELEASE

Thursday, February 3, 2022

United States Attorney Announces Over \$880,000 Recovery for Victims of Real Estate Fraud Scheme

After the Florida court allowed Sturge's petition, but before the account was transferred to her, the U.S. Attorney's Office restrained the retirement account and moved to forfeit it. Sturge opposed forfeiture, claiming ownership of the retirement account. In February 2021, Chief Judge Saylor issued a 39-page memorandum and order finding that the transfer of the retirement account to Sturge was a fraudulent transfer and granted the government's motion to deny her ownership claim. As a result, the retirement account was liquidated and \$884,755 was turned over to the United States. The United States Attorney's Office then sought permission to have the forfeited assets applied to victim restitution, which was granted by the Department of Justice's Money Laundering and Asset Recovery Section in January 2022.

Slidel attorney permanently disbarred after "Doc-in-a-Box" conviction

LOUISIANA RECORD



Joseph Pastorek

Slidel attorney Joseph George Pastorek II, also a physician in Covington, has been permanently disbarred following a Jan. 30 Louisiana Supreme Court disciplinary proceeding after his 2011 conviction following an investigation the U.S. Department of Justice dubbed "Doc-In-A-Box."

Pastorek was one of three defendants found guilty following a six-week trial in U.S. District Court in Pensacola, Florida, in late 2011, for their alleged roles in running "pain clinics" in Pensacola and New Orleans designed exclusively for distributing controlled prescription medication outside of normal medical practice, according to a DOJ news release at the time. The federal jury found Pastorek and the other two defendants, Dennis M. Caroni of Los Angeles and Gerard M. Dileo of Bradenton, Florida, guilty of conspiring to unlawfully distribute prescription pain killers, according to the release. Caroni and Dileo also were found guilty of conspiring to commit money laundering.

Joseph Pastorek

Regardless of the fact that respondent's misconduct may not definitively fit any of the specific permanent disbarment guidelines, his conduct demonstrates a clear lack of moral fitness.

Based on this reasoning, we find permanent disbarment is the appropriate sanction in this case.

2017-1473 (La. 1/30/18)
IN RE: Joseph G. PASTOREK, II

NO. 2017-B-1473

Supreme Court of Louisiana.

01/30/2018

Background: Attorney disciplinary proceeding was brought.

Lynne Stewart And the Blind Sheik

The New York Times

A former librarian and teacher, she had taken up the law in the cause of social justice after seeing the squalor in the area around the public school in Harlem where she taught. She built a reputation for representing the poor and the reviled, usually for modest, court-paid fees.

Believing that the American political and capitalist system needed “radical surgery,” as Ms. Stewart put it, she sympathized with clients who sought to fight that system, even with violence, although she did not always endorse their tactics, she said.



Lynne Stewart And the Blind Sheik

The New York Times

One such client was Sheikh Omar Abdel Rahman, the blind Egyptian cleric who was found guilty in 1995 of leading a plot to blow up New York City landmarks, including the United Nations, after some of his followers had driven a powerful bomb into a garage beneath the World Trade Center in 1993, killing six people.

Ms. Stewart was convicted in 2005 of helping to smuggle messages from the imprisoned sheikh to his violent followers in Egypt. Her prison sentence, initially set at 28 months, was later increased to 10 years after an appeals court ordered the trial judge to consider a longer term.



Ethics Lessons From The Alex Jones Discovery Debacle

- Alex Jones, who runs the InfoWars conspiracy website, was on trial to determine damages after having a default judgment entered against him in Texas. The case involved claims of defamation and intentional infliction of emotional distress for his repeated claim that the Sandy Hook massacre was a hoax.
- Jones **claimed** in discovery that he **searched** “sandy hook” in his **text messages** and **found no results**.
- 12 days before the trial, **Jones’s attorney Andino Reynal inadvertently sent the Defendants the entire contents of his phone**, including **all of his text messages** in a Box link which was only supposed to contain a small subset of the phone’s data.
- The Box link was sent by Reynal’s assistant, and Reynal simply sent a follow up email that said ‘please disregard’ but never sent the corrected link. Reynal also failed to take any action during the trial to object to the evidence being introduced.

Accidental Production—Alex Jones/Andino Reynal

- A self admitted Perry Mason moment.

"Mr. Jones, did you know that 12 days ago your attorneys messed up and sent me an entire digital copy of your entire cellphone with every text message you've sent for the past two years, and when informed did not take any steps to identify it as privileged or protected in any way and as of two days ago it fell free and clear into my possession and that is how I know you lied to me when you said you didn't have text messages about Sandy Hook," Bankston said. "Did you know that?"

"I told you the truth. This is your Perry Mason moment," Jones replied.

General Motors UCC Filing

ABOVE THE LAW

Mistakes happen. It's why pencils have erasers. But it's also why law firms install tier after tier of increasingly senior professionals to second-guess every ounce of work product. It's remarkably effective — and fairly lucrative on an hourly basis.

Unfortunately, the flip side of a tiered system is a tendency toward over-delegation. And that's how an unwary paralegal ends up costing a bank millions.



- Major law firm, acting as borrower's counsel, filed a UCC termination statement when closing a financing transaction as counsel for General Motors.
- The UCC termination was correct as to some loans, but incorrect as to others.
- Nobody caught the error at closing, despite many layers of review.
- When GM filed for bankruptcy the next year, the bankruptcy court treated the lenders as secured.
- But the Second Circuit reversed, ruling that the UCC filing had in fact been terminated, which made the lenders unperfected as to certain assets.



ABAJOURNAL

Douglas Irish The Accidental Lawyer

ABAJOURNAL

- Douglas Irish, acting as outside counsel for Motorola, failed to correct a former Motorola employee (Corley) who testified during a deposition that Irish was representing the witness.
- Corley later moved to disqualify Irish from deposing him or representing Motorola in a lawsuit against Corley, based on Irish's appearance at the deposition.
- The court denied Corley's motion for full disqualification, but imposed safeguards designed to protect Corley's interests, such as prohibiting the lawyer from deposing Corley in a future related case.

- Two lawyers, Scott Lindvall and Patricia Clarke, changed firms.
- They obtained conflicts waivers from the client who had actually hired them (one defendant in a lawsuit) relating to the change in firms.
- But then, the lawyers' new firm (a major law firm) wanted to represent the plaintiffs in the lawsuit.
- Other defendants in the lawsuit objected, arguing that a joint defense agreement in the case meant that Lindvall and Clarke needed to get conflicts waivers from all of the joint defense parties.

The Accidental Joint Defense Lawyer

- Issue: Was the conflicts waiver from the paying clients enough?

Not enough, said U.S. District Judge John J. Lifland in Newark, N.J. The joint defense agreement had created an implied attorney-client relationship between Lindvall and Clarke and all the other defendants in the gabapentin action, so conflict waivers should have been sought from those other defendants, too. Lifland barred ██████████ ██████████ from representing Pfizer. *In re Gabapentin Patent Litigation*, 407 F. Supp. 2d 607 (D.N.J. 2005).

ABAJOURNAL

Elizabeth Holmes – Understanding Joint Representation

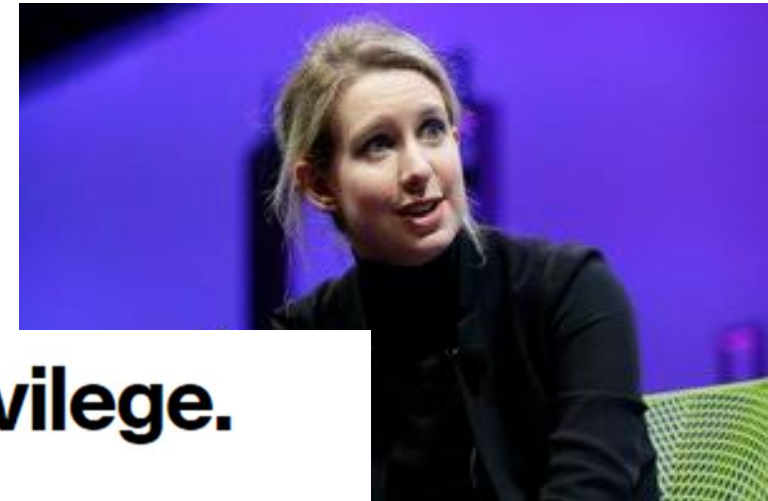


Elizabeth Holmes' Privilege Loss 'A Cautionary Tale,' Attys Say

Bloomberg **Opinion**

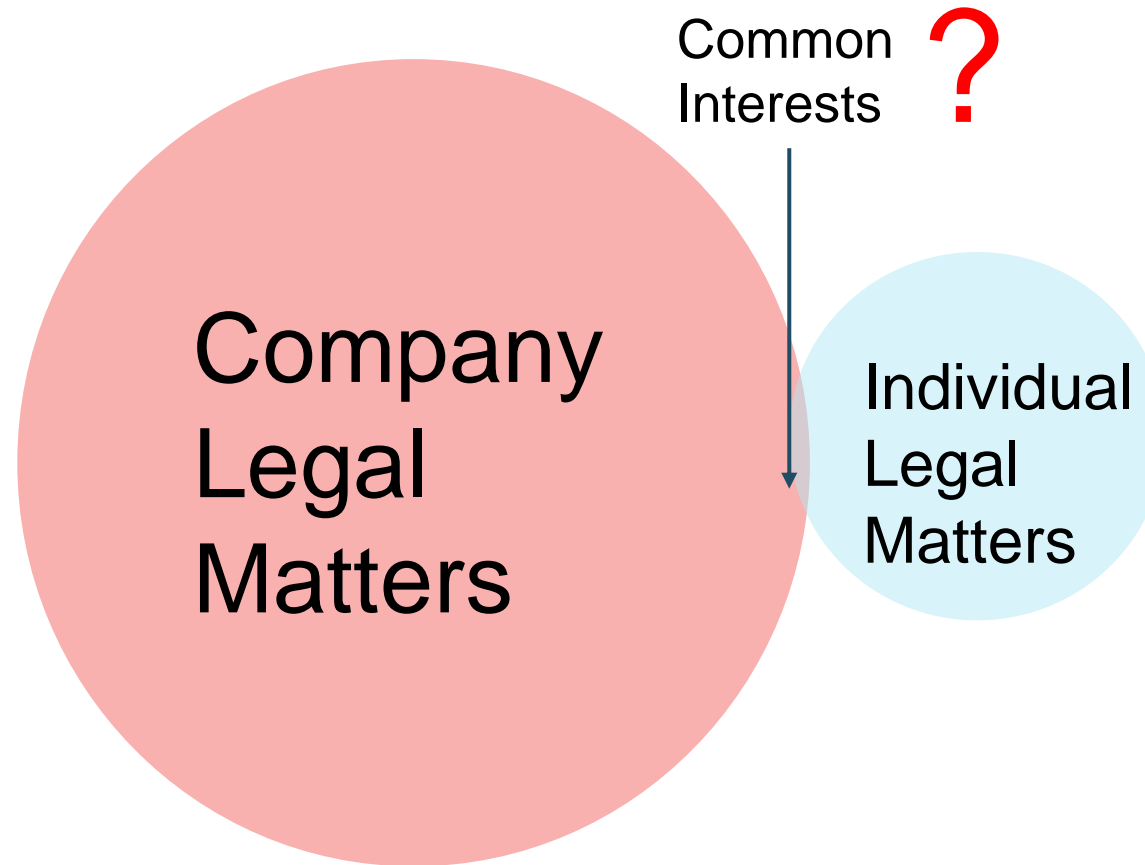
Elizabeth Holmes Lost Attorney-Client Privilege. Could You?

Elizabeth Holmes isn't a very sympathetic figure, but you shouldn't have to be a lawyer to understand which conversations stay confidential.



Elizabeth Holmes – Understanding Joint Representation

“To demonstrate: envision a Venn diagram with one circle for “company legal matters,” another circle for “individual legal matters,” and a small area of overlap for “common interests.”



Assisting Clients (or People) Who Stink



[REDACTED] Must Face Claim It Aided Fraud, Panel Says

Law360 (April 12, 2022, 4:59 PM EDT) -- A California appellate panel revived a claim Monday accusing [REDACTED] and one of its partners of aiding and abetting a fraudulent scheme against a Slovakian financial advisory company, holding that an exception to attorney immunity applies to the allegation.

Assisting Clients (or People) Who Stink

Case 1:20-cr-00198-JLT-BAM Document 1 Filed 10/29/20 Page 1 of 13

INDICTMENT

COUNT ONE: [18 U.S.C. § 1343 – Wire Fraud]

The Grand Jury charges:

RAYMOND HOLCOMB BREWER



Assisting Clients (or People) Who Stink

After the venture turned out to essentially be a Ponzi scheme, Dynastion sued Brewer's attorney and the attorney's firm for omitting that a very similar situation had occurred a few years prior.

DYNASTION ENERGY, S.R.O., Plaintiff and Appellant,
v.
John YUNG et al., Defendants and Respondents.

B311960
Filed 4/11/2022



Assisting Clients Who Stink

DYNASTION ENERGY, S.R.O., Plaintiff and Appellant,

v.

John YUNG et al., Defendants and Respondents.

B311960

Filed 4/11/2022

The California Court of Appeals rejected arguments about immunity and ruled that, given the facts of the case, the attorney could be held liable.

Assuming the truth of plaintiff's allegations, given Yung's level of involvement with Brewer, the prior joint venture and its demise, as well as the cancellation of the Wander Woude contract, Yung had a duty to disclose Brewer's misrepresentations concerning the status of his property interests in the intellectual property and the CDEs, and Brewer's malfeasance with respect to funds. In sum, although Yung did not represent Dynastion, given the facts of this case, Yung and [REDACTED] had an independent duty to Dynastion as the second investor in Brewer's "digester" enterprise, namely, the duty to "refrain from defrauding nonclients."

Assisting Clients (or People) Who Stink

Under ABA Model Rule of Professional Conduct 1.2(d), lawyers have a duty to avoid assisting clients in conduct known to be fraudulent. Lawyers also have a duty of truthfulness in statements to others (Rule 4.1), which can sometimes include an obligation to disclose material facts necessary to avoid assisting a fraudulent act by a client. In these extraordinary situations, lawyers should always consult with their loss prevention partner or general counsel because carrying out these duties can be difficult or even prohibited given Rule 1.6's demands of client confidentiality. ALAS therefore suggests an easier solution: Don't represent untrustworthy clients to begin with.

Bonehead Lawyer Moves

Alex Murdaugh

Former South Carolina attorney Alex Murdaugh sentenced to life after murder convictions



N'dea Yancey-Bragg

USA TODAY





'Cunning' Murdaugh Misused Firm Credit Card, Jury Told

Witness Mark Ball testified on the second day of the defense case in the state of South Carolina's trial against former [Peters Murdaugh Parker Eltzroth & Detrick](#) name partner Alex Murdaugh for the murders of his wife, Maggie, 52, and younger son Paul, 22, on the night of June 7, 2021.

"What he did was he gets that check, and instead of saying, 'This isn't 120-some-odd thousand dollars for me,' he actually goes to staff a couple of days later and says, 'I lost that check, cut me another one,' right?" a prosecutor asked Ball.

"Yes, sir," Ball replied, saying Murdaugh cashed the second check fairly quickly. He then waited until October of the following year and cashed the original check, too, Ball said.

"Steals the same money twice, right?" the prosecutor said. Ball agreed.

"What was the word you used before, cunning?" the prosecutor said.

"Very cunning," Ball replied.

'Cunning' Murdaugh Misused Firm Credit Card, Jury Told

Murdaugh Used Check From Name Partner In Fraud, Jury Told

Law360 (March 3, 2023, 10:15 AM EST) -- A South Carolina judge on Friday gave attorney Alex Murdaugh two consecutive life sentences, one day after he was found guilty of murdering his wife and son.

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MISTAKES

IT COULD BE THAT THE PURPOSE OF YOUR LIFE IS
ONLY TO SERVE AS A WARNING TO OTHERS.

THANK YOU



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*By appointment only

