STATE OF MAINE
CUMBERLAND, ss.

BUSINESS & CONSUMER DOCKET
LOCATION: PORTLAND
DOCKET NO. BCD-CV-18-27

FREDERICK J. POOR, et al.,	)	
Plaintiffs	)	
v.	)	ORDER DENYING DEFENDANT LINDELL'S MOTION TO DISQUALIFY
ROBERT K. LINDELL, JR., et al.,	)	
Defendants	)	

The background and context of this matter are largely set forth in the Court's many prior orders in this case, and will not be recapitulated here except to the extent necessary to decide Defendant Robert K. Lindell, Jr.'s Motion to Disqualify Christopher MacLean, Esq., Sarah Gilbert, Esq., and the firm of Camden Law LLP from serving as Plaintiffs' counsel. For the reasons discussed below, the Court finds that Lindell has demonstrated the existence of an imputed conflict of interest. However, because Lindell has not shown he is actually prejudiced by the imputed conflict, the Court DENIES the Motion to Disqualify,

PROCEDURAL BACKGROUND

On August 29, 2019, Defendant Robert K. Lindell, Jr. ("Lindell") moved to disqualify attorneys MacLean, Gilbert, and the firm of Camden Law (collectively "Plaintiffs' Counsel"). Lindell argued that Plaintiffs' Counsel should be disqualified because Gilbert and Camden Law had previously represented Janet Ekrote (Frederick

Poor's sister); and Lindell had previously appointed MacLean as Lindell's agent to act on his behalf as Trustee. Lindell argued these relationships created a conflict of interest. On September 13, 2019, Lindell supplemented his Motion, arguing that MacLean made misrepresentations during a telephonic discovery conference with the Court.[1] On September 18, 2019, Plaintiffs' Counsel filed a superficial, two page, Opposition. The Opposition was so brief, it failed to provide the Court with sufficient information with which to decide the Motion on the papers. Accordingly, the Court set the Motion for oral argument.

Prior to oral argument, on October 18, 2019, counsel for Defendant Bar Harbor Trust Services ("BHTS") filed a letter with the Court, drawing the Court's attention to a potential basis for disqualification that was not raised by Lindell. According to BHTS, attorney Lee Woodward, Esq., had joined Camden Law in early 2019, and because Woodward may have previously represented Lindell, Camden Law might have an imputed conflict of interest.

On October 29, 2019, the Court held oral argument in Rockland, Maine. Attorney MacLean addressed Lindell's arguments. As to the potential conflict involving Woodward, attorney MacLean indicated he did not anticipate the need to address the issue, since it was not raised in a formal motion. After discussion with the parties, the Court agreed to treat the BHTS letter as a supplement to Lindell's Motion. The Court then issued a briefing schedule, giving Plaintiffs an opportunity to file an Opposition addressing the issue, and giving all other parties an opportunity to

[1] The Court finds there is no merit to this allegation, and does not address it any further.

submit a Reply. The Court reserved on the question of holding an evidentiary hearing until all the briefs were filed.

On December 2, 2019, the Court held a second oral argument, this time focused on the issues created by attorney Woodward joining Camden Law. After listening to the arguments, the Court asked whether Lindell or Plaintiffs wanted an evidentiary hearing. Both Lindell and Plaintiffs stated they did not want an evidentiary hearing.[2] At oral argument, both Lindell and counsel for Plaintiffs made unsworn factual statements. The statements were not contradictory, but rather supported different aspects of their arguments. Counsel for Plaintiffs suggested that for purposes of deciding the Motion, the Court credit the assertions of both sides as truthful statements. Lindell did not object to counsel's suggestion.

FACTUAL BACKGROUND

The following facts are taken from the briefs, affidavits, and supporting documents submitted by the parties, along with representations made during the two oral arguments. For purposes of deciding this Motion, the Court accepts the representations made during oral argument as truthful proffers of what the evidence would establish at an evidentiary hearing. Based on this record, the facts are undisputed.

Janet Ekrote

[2] It is possible that conducting an evidentiary hearing would lead to difficult questions of attorney-client privilege and waiver, and neither Lindell nor Plaintiffs appeared interested in navigating those waters. No other party wanted an evidentiary hearing, either. Counsel for Defendant Barbara Gray suggested an evidentiary hearing might be helpful to the Court, but confirmed that Gray was not asking for an evidentiary hearing.

Prior to the start of the current litigation, Camden Law previously represented Janet Ekrote. Ms. Ekrote is one of the three children of the late Phyllis Poor (the other children being Frederick and Daniel Poor); she is, therefore, Frederick Poor's sister. Ms. Ekrote was not a beneficiary of the Estate or of the testamentary trusts. She initiated litigation not to challenge being left out of the will or the trusts, but to remove Lindell and Gray as co-personal representatives, and to remove Daniel Poor as Frederick's guardian. Her goal was to protect Frederick Poor's interests. Camden Law's prior representation of Ms. Ekrote was thus consistent with Camden Law's representation of Plaintiffs (Frederick Poor and the Frederick Poor Trust) in the current lawsuit, and adverse to Lindell. Camden Law did not represent Lindell in the prior litigation, and did not obtain any client confidences from Lindell.

Power of Attorney

In May 2018, shortly after this litigation was commenced, Lindell signed a Power of Attorney ("POA") appointing MacLean as his agent. Lindell was indicted at the time, and being held on a no-bail hold. Lindell was represented by criminal defense counsel, who had numerous conversations with MacLean about the POA. The effect of the POA was to authorize MacLean to act on Lindell's behalf as Trustee of the trusts. It is unclear with whom the idea originated, but one purpose of the POA (from Lindell's perspective), was to cast Lindell in a better light for an upcoming bail hearing.

Lindell signed the POA at the jail. His criminal defense attorney was present, and approved of the strategy. MacLean was also present, and after Lindell signed the POA, Lindell discussed with MacLean several aspects of Lindell's activities as Trustee.

Lindell's criminal defense attorney was present for that conversation. Thereafter, Lindell had several additional conversations with MacLean about the trusts. Lindell's criminal defense attorney was not present for those additional conversations, but was aware they were occurring, and authorized the conversations.

Ultimately, as the result of information Lindell provided to MacLean pursuant to the POA relationship, MacLean learned about the location and disposition of trust assets. Acting under the authority of the POA, MacLean took steps to seize and preserve trust assets, in particular real estate and items of tangible personal property located in Cloverdale, California. Some of the steps MacLean took were adverse to Lindell. MacLean also learned about certain actions taken by Lindell as Trustee, which actions now constitute some of the basis for Plaintiffs' claims against Lindell. In total, MacLean served as Lindell's POA from May 14, 2018 until October 2018, when Lindell resigned as the Trustee of the trusts.

Lee Woodward, Esq.

On July 10, 2012, Lindell filed an Application for Informal Probate of Will and Appointment of Personal Representative in the Waldo County Probate Court, in connection with the Estate of Phyllis J. Poor. The Application displays Lindell as the "Applicant," and displays attorney Woodward as the "Attorney for Applicant." The Application requests that Lindell (and Barbara Gray) be appointed as personal representatives. The Devisees listed on the Application include, among others, "R. Kenneth Lindell, Trustee."

As counsel to Lindell, Woodward conducted privileged and confidential communications with Lindell regarding Lindell's conduct as co-Personal

Representative of the Estate, Trustee of the trusts, and regarding allegations of misconduct concerning both of those roles.[3] Lindell communicated frequently with Woodward during the first six months of Woodward's engagement. Thereafter, Lindell formally communicated with Woodward on approximately one half dozen occasions through March 2014. On March 14, 2014, Lindell sent an email to Defendant Gray in which he refers to "consulting with my own attorney" to fight a subpoena. The attorney to whom Lindell referred is Woodward. After that, Lindell only spoke informally on occasion with Woodward at community events, such as Rotary meetings. Some of those informal conversations, however, involved a brief discussion of legal matters relating to the Estate and the Trusts. At some point between 2014 and 2018, Woodward ceased functioning as Lindell's legal counsel. In November 2018, Lindell sent Woodward a letter from Two Bridges Regional Jail, discussing two matters in the current litigation. Woodward did not respond. Based on his representation of Lindell, Woodward is in possession of privileged and confidential emails, letters, communications, and other material relevant to Plaintiffs' claims against Lindell.

At the beginning of 2019, attorney Woodward, who previously practiced as a solo practitioner in The Law Office of Lee Woodward, joined Camden Law, where he now practices as an associate attorney.[4] Woodward still practices in his office in Belfast, but that office now serves as a satellite office of Camden Law (which is located

[3] Camden Law initially took the position in its Opposition to the supplemental Motion that Woodward represented the Estate of Phyllis Poor, not Lindell. Camden Law ultimately dropped that position in the face of the weight of the evidence. Camden Law now concedes Woodward represented Lindell as Personal Representative, and that Woodward and Lindell had an attorney-client relationship.

[4] Technically, Woodward consolidated his then existing practice into Camden Law.

in Camden), with a separate computer system, and separate staff. He does not practice as a litigator.

Upon joining Camden Law in January 2019, Camden Law added Woodward to its letterhead as an "Affiliate Attorney." Other attorneys on the letterhead are designated as "Partners," "Associate Attorney," "Of Counsel," or "Retired." Camden Law sent Lindell correspondence in this case using the updated letterhead showing Woodward as an "Affiliate Attorney." However, neither Woodward nor Camden Law sent Lindell written notice pursuant to M.R. Prof. C. 1.10(a)(2)(ii) (the imputation rule). Camden Law did not describe the screening procedures employed; did not provide a statement of compliance; did not inform Lindell that review was available before a tribunal; and did not agree to respond promptly to any written inquiries or objections. Indeed, Camden Law took no active steps to screen Woodward from this litigation until sometime in November 2019, after briefing on the Motion to Disqualify got underway. At that point, the screening consisted of instructing staff that Woodward could have no access to or involvement in the litigation.

As it turns out, however, Woodward has not had any role in the litigation. He has not entered an appearance in the case. Moreover, Lindell has not offered any proof (or made a proffer) that Woodward has shared with Plaintiffs' counsel (MacLean and Gilbert) any privileged or confidential information regarding Lindell. Lindell has not even alleged that such a disclosure has occurred. Plaintiffs' counsel deny that they have obtained any information of any kind from Woodward regarding Lindell. The Court treats the denial as a proffer that no such disclosure has occurred. It is not contested by Lindell.

On October 15, 2019, counsel for BHTS served on Woodward a deposition and inspection subpoena, seeking Woodward's testimony and documents relating to the actions of Lindell in connection with the Estate and the trusts. In response, counsel for attorney Woodward objected,[5] on the following grounds:

> Any information Mr. Woodward has in relation to the subpoena would have been obtained as a result of him acting in his capacity as the attorney for the personal representative. He cannot release any of that information without the consent of the client or order of the court.
>
> I am mindful of the requirement of rule 45(d)(2) to give a description of the documents which are privileged. Because I believe everything in the file (or even a description of what is contained in the file) is confidential, I am not going to give a more detailed explanation. I believe what I have said is sufficient to put you on notice of why I am objecting and to enable you to contest my objection.
>
> For now, I am going to assume he should not appear at the deposition. If you are expecting him to attend, please let me know.

Lindell has not consented to Woodward releasing any information. Because of the objection lodged by Woodward's counsel, Woodward's deposition has not been taken.

DISCUSSION

Motions for disqualification are capable of being abused for tactical purposes.[6] *Morin v. Me. Educ. Ass'n*, 2010 ME 36, ¶ 8, 993 A.2d 1097. To guard against such abuse,

[5] Woodward is using counsel other than from Camden Law to represent him with regard to the subpoena.

[6] Camden Law argues that Lindell's Motion to Disqualify is being abused for tactical purposes. Lindell concedes that after he brought his Motion, he made statements to counsel for his ex-wife, Defendant Althea Latady, that Lindell would consider withdrawing the Motion if by doing so it would get Latady out of the litigation. Latady's counsel, not Lindell, then improperly used the Motion as a bargaining chip to attempt to get Latady dismissed. At oral argument, the Court strongly disapproved of the actions of all concerned. Nevertheless, Lindell's post hoc conduct does not undermine the good faith

a motion to disqualify may only be granted where the moving party shows that (1) "continued representation of the nonmoving party by that party's chosen attorney results in an affirmative violation of an ethical rule" and (2) "continued representation by the attorney would result in actual prejudice to the party seeking that attorney's disqualification." *Morin*, 2010 ME 36, ¶¶ 9-10. Courts will not assume the existence of prejudice to the moving party just by the mere fact that an ethical violation was committed, even when that ethical violation involves confidential information. 2010 ME 36, ¶ 10. A mere general allegation that the attorney has some confidential and relevant information she gathered in the previous relationship will not support disqualification. *Id.* Rather, the moving party must articulate "the specific, identifiable harm [they] will suffer in the litigation by opposing counsel's continued representation." *Id.* In sum, the moving party must produce evidence "of both an ethical violation and actual prejudice." *Id.* ¶ 11.

Ethical Violation

The Court starts by noting briefly that it finds no ethical violation in Camden Law's prior representation of Janet Ekrote, or in attorney MacLean's service as Lindell's POA. As to the latter situation, serving as POA for an individual, while at the same time representing clients who are suing that individual, is certainly unusual and fraught with risk. However, Lindell was separately represented by criminal defense counsel at the time, and defense counsel advised Lindell on the desirability of appointing MacLean as POA. Lindell's appointment of MacLean as POA was thus

with which he originally brought the Motion, nor does it detract from the very real merits of the Motion, which the Court explores at length in this Order.

knowing and voluntary, and had the effect of constituting written informed consent to the extent it was necessary. *See* M.R. Prof. Conduct 1.6-1.8. Moreover, if Lindell was unhappy with MacLean's actions as POA, Lindell could have revoked the POA at any time.

The real ethical question in this case is whether by joining Camden Law, Woodward created a conflict of interest that must be imputed to the attorneys at Camden Law (MacLean and Gilbert) who are conducting the litigation in this case. *See* M.R. Prof. Conduct 1.10 (Imputation of Conflicts-of-Interest: General Rule). The Court starts first by examining M.R. Prof. Conduct 1.9 (Duties to Former Clients), which Camden Law acknowledges is the starting point for the analysis. The analysis is conducted with regard to Woodward, and then the question of imputation is examined under M.R. Prof. Conduct 1.10.

Rule 1.9 has three prongs, each of which be addressed in turn. Under the first prong, "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." M.R. Prof. Conduct 1.9(a). In this case, Lindell did not give Woodward any such informed consent, and Plaintiffs' interests in the current matter are materially adverse to Lindell's interests in the former matter.

Matters are "substantially related" for purposes of this Rule "if they involve the same transaction or legal dispute or if there otherwise is a substantial risk that confidential factual information as would normally have been obtained in the prior

representation would materially advance the client's position in the subsequent matter." M.R. Prof. Conduct 1.9(d). In this case, Woodward not only advised Lindell with regard to probating the Will of Phyllis Poor, but over the course of at least two years Woodward advised Lindell regarding Lindell's conduct as co-Personal Representative of the Estate and Trustee of the trusts, and regarding allegations of misconduct concerning both of those roles.[7] The Second Amended Complaint in this case contains numerous allegations that Lindell engaged in wrongdoing as co-Personal Representative and Trustee of the trusts. *See* Second Amended Complaint ¶¶ 9, 11, 12, 13, 15, 16, 17, 24, 25-28, 62, 69, 78, 86, 89, 94, 98, 115. Indeed, Plaintiffs' case against Lindell is constructed around those allegations. Thus, Woodward's prior representation of Lindell and the current litigation involve the same transaction or legal dispute. Moreover, there is no question that Woodward obtained confidential factual information in his prior representation of Lindell that would materially advance Plaintiffs' position in this litigation. Accordingly, under the first prong of Rule 1.9, the matters are substantially related and Woodward is prohibited from representing Plaintiffs in the litigation.

Under the second prong, a lawyer is proscribed from knowingly representing "a person in the same or substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client" whose interests are materially adverse to that person, and about whom the lawyer had acquired confidences and secrets protected by Rules 1.6 and 1.9(c). M.R. Prof. Conduct 1.9(b).

[7] Indeed, the Application for Informal Probate of Will and Appointment of Personal Representative lists Lindell as a devisee in his capacity as Trustee, underscoring the extent to which issues involving the Estate and the trusts are interrelated, and have been from the start.

In this case, the Court can reasonably infer that Woodward is aware Camden Law is representing Plaintiffs in the litigation. As discussed above, Lindell has not provided informed consent; the litigation is materially adverse to Lindell; and the litigation is substantially related to Woodward's prior presentation of Lindell. Further, Woodward acquired privileged and confidential information from Lindell regarding his conduct as co-Personal Representative of the Estate and Trustee of the trusts, and allegations of misconduct concerning both of those roles. The information obtained by Woodward is protected by Rules 1.6 and 1.9, because the information includes confidences and secrets of a former client. Accordingly, under the second prong of Rule 1.9 Woodward is prohibited from representing Plaintiffs in the litigation.

Under the third prong, "[a] lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter" use or reveal confidences or secrets of the former client to his or her disadvantage, unless the information has become generally known. M.R. Prof. Conduct 1.9(c). In this case, Lindell has offered no proof or proffer that Woodward has used or revealed any of Lindell's confidences or secrets. Accordingly, the third prong of Rule 1.9 is not implicated.

However, since the first two prongs of Rule 1.9 prohibit Woodward from representing Lindell in this litigation, the Court needs to evaluate whether Woodward's conflict of interest must be imputed to the other attorneys of Camden Law. M.R. Prof. Conduct 1.10 provides that "[w]hile lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9," subject to certain

exceptions. The only exception that potentially applies to this case has to do with screening and notice. *See* M.R. Prof. Conduct 1.10(a)-(e). A prohibition based on Rule 1.9(a) or (b) is not imputed to other attorneys in the firm if (i) "the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom;" and (ii) "written notice is promptly given to any affected former client to enable the former client to ascertain compliance with the provisions of this Rule, which shall include a description of the screening procedures employed; a statement of the firm's and of the screened lawyer's compliance with these Rules; a statement that review may be available before a tribunal; and an agreement by the firm to respond promptly to any written inquiries or objections by the former client about the screening procedures." M.R. Prof. Conduct 1.10(a)(2)(i) & (ii).[8]

In this case, Woodward and Camden Law did not comply with the screening and notice requirements. First, Camden Law did not timely screen Woodward. Woodward joined Camden Law in January 2019. Camden Law did not screen Woodward until November 2019,[9] and then only after briefing on the Motion to Disqualify had gotten underway.[10] Second, neither Woodward nor Camden Law sent Lindell the required written notice. Woodward and Camden Law failed to provide

[8] There is also a requirement to send certifications of compliance with these Rules at reasonable intervals upon the former client's written request. M.R. Prof. Conduct 1.10(a)(2)(iii). Since Woodward and Camden Law failed to give Lindell notice of his right to request certifications of compliance, Lindell never asked for them.

[9] The screening that took place in November 2019—informing staff that Woodward could have no role in or access to the litigation—was too little, as well as being too late. Camden Law has still not formulated a comprehensive set of screening protocols sufficient to satisfy the requirements of M.R. Prof. Conduct 1.10(a)(2).

[10] As discussed in footnote 3, *supra*, in response to the supplemental Motion Camden Law originally took the position that Woodward represented the Estate, not Lindell. This may explain, but not excuse, Camden Law's failure to timely implement screening procedures and send Lindell the required written notice. The fact that Lindell was Woodward's client was verifiable from the outset from the public record.

Lindell with a description of the screening procedures employed, a statement of compliance, a statement about tribunal review, or an agreement to respond promptly.[11] Since Camden Law failed to comply with the applicable exception to imputation, Woodward's conflict of interest under the Rules must be imputed to all the attorneys of Camden Law, including those attorneys conducting this litigation for Plaintiffs.

Camden Law tries to escape this conclusion on several grounds, none of which are persuasive. First, Camden Law suggests that it did timely screen Woodward, because from the outset Woodward was located in a separate office, with a separate computer system, and separate staff. However, these features of Woodward's office set-up were not imposed as a result of any intentional effort to compartmentalize Woodward from this litigation. Rather, Woodward's office set-up was simply due to the fact that upon joining Camden Law, Woodward remained in his old office with his then-existing computer system and staff. As attorney Gilbert eventually conceded at the second oral argument, Camden Law did not actively impose any screening procedures until November 2019.[12]

Camden Law also argues that it satisfied the written notice requirement, because Camden Law began sending Lindell correspondence with Woodward's name displayed in the letterhead. This argument lacks any merit. First, simply including Woodward's name on the letterhead falls far short of conveying the detailed

[11] Camden Law has still not provided Lindell with the required written notice. Although Camden Law cannot at this point cure the untimeliness of its actions, it can and must otherwise attempt to come into compliance with M.R. Prof. Conduct 1.10(a)(2) moving forward.
[12] And the screening procedures were *de minimis*. See footnote 9, *supra*.

information required by M.R. Prof. Conduct 1.10(a)(2)(ii). Second, Camden Law's classification of Woodward on its letterhead as an "Affiliate Attorney" is ambiguous at best, and cannot reasonably be construed as sufficient to have put Lindell on notice that he needed to bring his Motion to Disqualify sooner.

Based on the above, Lindell has satisfied his burden of demonstrating that the attorneys of Camden Law have committed an ethics violation by imputation, and that Camden Law's continued representation of Plaintiffs in this matter results in an affirmative violation of Rules 1.9 and 1.10. The Court next examines whether Lindell has met his burden of showing that continued representation of Plaintiffs by Camden Law would result in actual prejudice to Lindell.

Actual Prejudice

Lindell argues that he is prejudiced in the litigation because Woodward "is in possession of confidential emails, letters and other communications that are directly relevant to the Plaintiffs' case against me." He does not, however, point to the specific, identifiable harm he will suffer in the litigation by Camden Law's continued representation of Plaintiffs. Moreover, Lindell does not allege that Woodward has disclosed or otherwise provided any confidential information to the other attorneys at Camden Law, especially the attorneys conducting the litigation. He certainly offers no proof or proffer of any such disclosure, and he has declined the opportunity for an evidentiary hearing. Accordingly, Lindell has failed to meet his burden of demonstrating actual prejudice.

Lindell resists this conclusion by arguing that under the applicable case law he has satisfied his burden of showing actual prejudice, by proving the ongoing ethical

violation by the attorneys at Camden Law. Lindell in particular relies on *Estate of Markheim v. Markheim*, 2008 ME 138, 957 A.2d 56, and *Hurley v. Hurley*, 2007 ME 65, 923 A.2d 908, neither of which, at least ostensibly, required a showing of actual prejudice. Lindell contends these two cases are more applicable on the facts than *Morin v. Me. Educ. Ass'n*, 2010 ME 36, 993 A.2d 1097, and thus support disqualification of Camden Law. As discussed below, however, both *Estate of Markheim* and *Hurley* are distinguishable in a key respect, and as the more recently decided case, *Morin* establishes the governing law in this area.

In *Estate of Markheim v. Markheim*, the Markheims "provided specific examples of what [the attorney] learned as a result of the prior representation." *Estate of Markheim*, 2008 ME 138, ¶ 20. Moreover, the attorney who was the subject of the Motion to Disqualify was the actual attorney conducting the litigation against the Markheims. *Id.* at ¶ 9. That is a significant difference from the facts of this litigation, where Woodward is not the actual attorney conducting the litigation against Lindell, and there is no evidence that Woodward has shared any confidential information with the Camden Law attorneys who are conducting the litigation. In *Estate of Markheim* there was no need for the Court to discuss actual prejudice. Because the attorney who had obtained the confidential information from his prior representation of the Markheims was the attorney who was then using the information to bring an action against the Markheims, actual prejudice was inherent in the proof of the ethical violation.

So to with *Hurley v. Hurley*. In a prior representation, the attorney who was the subject of the Motion to Disqualify had obtained details concerning the moving

party's "health, work history, injury history, and a workers' compensation claim." *Hurley v. Hurley*, 2007 ME 65, ¶ 2. In a subsequent divorce action, that same attorney was using the information to represent the moving party's husband against the moving party. *Id.* at ¶¶ 4, 13-15. Because the attorney who had obtained the confidential information from his prior representation of the moving party was the attorney who was then using the information to bring an action against the moving party, actual prejudice was inherent in the proof of the ethical violation.

Morin was decided after *Estate of Markheim* and *Hurley*, and expressly stated the need to show both an ethical violation and actual prejudice. *Morin* did not overrule or otherwise call into question *Estate of Markheim* and *Hurley*, because there was no need to do so. *Morin* is not inconsistent with *Estate of Markheim* and *Hurley*, where, on the facts of those cases, actual prejudice was inherent in the proof of the ethical violation. In any event, *Morin* is now the governing law which this Court is required to apply, and *Morin* requires proof of actual prejudice. Since Lindell has failed to demonstrate actual prejudice, his Motion to Disqualify Camden Law is DENIED.

So Ordered.

Pursuant to M.R. Civ. P. 79(a), the Clerk is instructed to incorporate this Order by reference on the docket for this case.

December 9, 2019.

/s
Michael A. Duddy
Judge, Business and Consumer Docket