

SUPREME JUDICIAL COURT OF MAINE

Hurley v. Hurley, 2007 ME 65

923 A.2d 908 (Me. 2007) · Decided May 22, 2007

SUMMARY

The Maine Supreme Judicial Court affirmed an order disqualifying an attorney from representing one spouse in a divorce because the attorney had previously represented the other spouse in a personal injury action. The court held that the prior and present matters were substantially related and that the prior representation involved confidential information potentially relevant to issues including parental rights, support, and property distribution. The court also rejected the due process argument.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Silver, J.; Clifford, J.; Alexander, J.; Calkins, J.; Levy, J.
JURISDICTION	Maine
DECIDED	May 22, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal from an order disqualifying the appellant's attorney in a divorce action.
STANDARD OF REVIEW	The order of disqualification is reviewed under a highly deferential standard. The determination whether matters are substantially related is a factual determination reviewed for clear error, and factual findings concerning whether the attorney actually acquired confidential information are also reviewed for clear error. Doubts are resolved in favor of disqualification.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	John P. Hurley Jr. v. Nadine G. Hurley

TOPICS

- family law procedure
- appellate procedure
- divorce
- standard of review
- final judgment rule

PRACTICE AREAS

- family law
- legal ethics
- appellate procedure

QUESTIONS PRESENTED

1. Whether Nadine's personal injury action and the parties' divorce action were substantially related under Maine Bar Rule 3.4(d)(1)(i).
2. Whether the divorce action may involve the use of confidential information Spurling obtained while representing Nadine in the personal injury action.
3. Whether the disqualification proceeding denied John due process.

HOLDINGS

1. The matters were substantially related, independently requiring Spurling's disqualification under Maine Bar Rule 3.4(d)(1)(i).
2. The confidential-information prong independently required disqualification because the divorce action may involve use of Nadine's confidential health, income, and litigation-related information.
3. John's due-process contention did not merit further discussion.

KEY QUOTATIONS

“The rule has two prongs, each of which provides an independent basis for disqualifying an attorney.” (923 A.2d at 910)

“An individual's medical history is not the type of information that is "generally known." Indeed, one expects it to be kept confidential.” (923 A.2d at 911)

“Both the substantially related and the use of confidential information prongs to the successive representation test are supported by competent evidence, and both independently justify the court's disqualification of Spurling.” (923 A.2d at 913)

FACTUAL BACKGROUND

Spurling represented Nadine Hurley for more than two years in a personal injury action arising from an automobile accident. During that representation, Nadine disclosed information concerning her health, injury history, work history, earning capacity, and workers' compensation claim, and Spurling observed how she handled litigation stress, testimony, adversaries, compromise, and the attorney-client relationship. After the personal injury action settled, Spurling later became counsel for Nadine's husband, John, in the parties' divorce action.

PROCEDURAL HISTORY

During the divorce proceedings, Nadine Hurley moved to remove John Hurley's counsel, C.H. Spurling, based on Spurling's prior representation of Nadine in a personal injury action. The District Court granted the motion. John appealed, and the Supreme Judicial Court of Maine accepted review of the otherwise interlocutory order because attorney disqualification presents a disadvantage and expense that cannot be remedied after final judgment.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The order of disqualification is affirmed, and the matter is remanded to the District Court for further proceedings consistent with the opinion.

CASES CITED

- Lewis v. Keegan, 2006 ME 93, ¶ 13, 903 A.2d 342, 346
- Casco N. Bank v. JBI Assocs. Ltd., 667 A.2d 856, 858-59 (Me. 1995)
- Adam v. MacDonald Page & Co., 644 A.2d 461, 461-64 (Me. 1994)
- Tungate v. MacLean-Stevens Studios, Inc., 1997 ME 113, ¶ 5, 695 A.2d 564, 565
- Advanced Constr. Corp. v. Pilecki, 2006 ME 84, ¶ 14, 901 A.2d 189, 195