

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Joseph L. Schwartz : CIVIL ACTION
 :
 v. :
 :
 Industrial Valley Title Insurance Co., :
 National Abstract Agency, Inc., :
 Richard B. Moore, :
 Joseph N. Reilly, and :
 Jerald Gardiner : No. 96-5677

MEMORANDUM AND ORDER

Norma L. Shapiro, J.

June 4, 1997

Joseph L. Schwartz ("Schwartz") filed this action in August, 1996, to collect from Richard B. Moore ("Moore") on a purchase money mortgage, or, in the alternative, to collect the value of the mortgage from National Abstract Agency, Inc. ("National Abstract") or Industrial Valley Title Insurance Co. ("IVT"). National Abstract, in moving to dismiss Schwartz's complaint, alleged in part that Schwartz had failed to implead his former partner, Joseph N. Reilly ("Reilly"), and Jerald Gardiner ("Gardiner"), a notary public. The court, granting National Abstract's motion to dismiss in part, gave Schwartz leave to amend the complaint and join Reilly and Gardiner. Schwartz joined Reilly and Gardiner as indispensable parties. Before the court now are Reilly's motions to disqualify Schwartz's counsel, William G. Blasdel, Jr., Esq. ("Blasdel"), and for sanctions under F.R.Civ.P. Rule 11 and 28 U.S.C. § 1297.

I. **FACTS**

In June, 1988, Moore and Nicholas Lorimer ("Lorimer") bought 1434-36 Kater Street ("Kater Street property") from Schwartz and Reilly. Moore and Lorimer agreed to borrow \$66,000 from Schwartz and Reilly, and to pay ten percent (10%) interest in monthly installments of \$550; the debt was recorded in a note and a purchase money mortgage. Moore and Lorimer paid the monthly interest through April, 1990, but not since then. Moore and Lorimer have paid none of the principal.

Schwartz and Reilly had borrowed money from Meridian Bank ("Meridian") in 1986. In early 1990, Schwartz authorized Reilly to give Meridian a security interest in the mortgaged Kater Street property or the mortgage interest payments due Schwartz and Reilly from Moore and Lorimer. Schwartz claims Reilly, acting outside the scope of Schwartz's authorization, had the Moore/Lorimer mortgage marked satisfied in exchange for a new mortgage executed by Lorimer in favor of both Schwartz and Reilly but assigned to Meridian. This transaction took place on February 12, 1990 without Schwartz's knowledge.

The February 12, 1990 closing was held at the National Abstract office. National Abstract prepared the closing documents, including: 1) a Mortgage Satisfaction for the Moore/Lorimer 1988 mortgage on the Kater Street property; 2) a new Mortgage, Bond and Warrant on the Kater Street property from Lorimer to Schwartz and Reilly; 3) an assignment of the new Lorimer Mortgage, Bond and Warrant from Schwartz and Reilly to Meridian; and 4) an IVT title insurance policy naming Meridian as

the insured. Both the Mortgage Satisfaction and the Assignment to Meridian required Schwartz's signature. Schwartz claims he never signed those documents. He did not attend the closing; National Abstract did not notify him of the closing, or communicate with him in any way. He did not receive money for satisfaction of the mortgage.

At the closing, Reilly told the notary public, Gardiner, that Schwartz had verbally authorized the Mortgage Satisfaction. Gardiner did not confirm this authorization with Schwartz. Instead, Gardiner witnessed and notarized all the documents prepared by National Abstract and attested to the identities of parties executing the documents, including Schwartz.

Schwartz retained Blasdel on July 16, 1993, to represent him in Meridian Bank v. Schwartz; the bank had confessed judgment against Schwartz on the 1986 joint loan signed by Schwartz and Reilly. A week later, Schwartz and Reilly met with Blasdel to discuss a possible counterclaim against Meridian. Based on that discussion, Reilly also retained Blasdel and signed a "Power of Attorney/Contingency Fee Agreement" which read, in part,

I . . . appoint William G. Blasdel, Jr., Esquire as my true and lawful attorney to act for me, and in my name in the matter of my claims arising from the loan documents signed on November 13, 1986, the litigation known as Meridian Bank v. Joseph L. Schwartz, and matters arising subsequently or ancillary thereto. **I acknowledge the potential conflict of interest with the representation**

of my interests and the interests of Joseph L. Schwartz, and I waive such conflict of interest.

Pl. Answer to Motion to Disqualify Counsel, Ex. C (emphasis added). The strategy Blasdel devised to defend Meridian Bank v. Schwartz included joining Reilly and "Reilly and Schwartz" as third-party defendants. Reilly authorized Blasdel to accept service and appear for him in Meridian Bank v. Schwartz; Reilly never paid any fees to Blasdel. The Meridian litigation settled May 3, 1994.

On February 14, 1996, as part of the settlement in Meridian Bank v. Schwartz, Meridian assigned Schwartz its interest in the Kater Street property, subject to the Lorimer mortgage. Meridian advised Schwartz that the bank never received any payments on the Kater Street mortgage.

Schwartz claims he did not learn of the Lorimer mortgage on the Kater Street property, and its assignment to Meridian on February 12, 1990, until he received a copy of the assignment in 1996, even though Lorimer listed Schwartz and Reilly as creditors when he filed for bankruptcy on August 22, 1990.¹ In August, 1996, Schwartz filed this action against Moore, IVT and National Abstract; he claims he is still owed the principal and interest on the original Moore/Lorimer mortgage because he did not authorize its satisfaction. At a January 6, 1997, hearing on all outstanding motions, the court granted in

1. Lorimer's debts were discharged on March 21, 1991.

part National Abstract's motion to dismiss Schwartz's complaint because Schwartz had failed to name two indispensable parties, Reilly and Gardiner. On January 20, 1997, Schwartz filed an amended complaint joining Reilly and Gardiner.

Reilly then moved to disqualify Blasdel as Schwartz's counsel because Reilly, a current or former client of Blasdel's, had not consented to Blasdel's representation of Schwartz in litigation adverse to his interests. Following an evidentiary hearing on Reilly's motion to disqualify Blasdel, Schwartz was permitted to file a supplemental brief on Blasdel's disqualification as a potential witness. On April 10, 1997, Reilly also moved for sanctions against Blasdel, under F.R.Civ.P. Rule 11 or 28 U.S.C. § 1927.

II. **DISCUSSION**

1. Disqualification of Plaintiff's Counsel

Reilly moves to disqualify Blasdel as counsel for Schwartz because Blasdel's representation violates Pennsylvania's Rules of Professional Conduct 1.7 and 1.9. An attorney's responsibility to a current client is governed by Rule 1.7:

(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

(2) each client consents after consultation.

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a

third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after full disclosure and consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

Blasdel argues that he never represented Reilly, but even if he did, Reilly is a former client who consented to Blasdel's adverse representation of Schwartz. An attorney's responsibility to a former client is governed by Rule 1.9:

A lawyer who has formerly represented a client in a matter shall not thereafter:

(a) 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 consents after full disclosure of the circumstances and consultation; or

(b) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 would permit with respect to a client or when the information has become generally known.

Blasdel argues that Reilly waived any conflict of interest when he signed the "Power of Attorney/Contingency Fee Agreement" in 1986 in connection with the Meridian litigation.

The evidentiary hearing on the motion to disqualify suggested Blasdel might be called as a witness because settlement of the 1993 Meridian action involved the Kater Street property. Rule 3.7(a) of the Rules of Professional Conduct provides:

A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness except where:

- (1) the testimony relates to an uncontested issue;
- (2) the testimony relates to the nature and value of legal services rendered in the case;
- or
- (3) disqualification of the lawyer would work substantial hardship on the client.

Reilly's motion to disqualify Blasdel raises four questions: a) Did or does Blasdel represent Reilly; b) Is this action substantially related to the Meridian litigation; c) Did Reilly consent to Blasdel's representation of Schwartz in this matter; and d) Is Blasdel likely to be a witness in this action.

a. Blasdel's representation of Reilly

An attorney-client relationship is formed when the client consents to an attorney's providing legal services. Committee on Prof. Ethics and Grievances of the Virgin Islands Bar Ass'n v. Johnson, 447 F.2d 169, 174 (3d Cir. 1971) (lawyer's suspension from the bar for professional misconduct reversed for procedural error). An attorney-client relationship can be inferred from conduct if the client requested legal services and the attorney accepted. Stainton v. Tarantino, 637 F. Supp. 1051, 1066 (E.D. Pa. 1986) (no attorney-client relationship where attorney performed legal services principally for his own benefit although his business partners benefitted from his legal work).

Absent an express contract, an implied attorney/client relationship will be found if 1) the purported client sought advice or assistance from the attorney; 2) the advice sought was within the attorney's professional competence; 3) the attorney expressly or

impliedly agreed to render such assistance;
and 4) it is reasonable for the putative
client to believe the attorney was
representing him.

Atkinson v. Haug, 622 A.2d 983, 986 (Pa.Super. 1993) (citing
Sheinkopf v. Stone, 927 F.2d 1259 (1st Cir. 1991) (attorney
acting as an investor had not formed an attorney/client
relationship with a fellow investor).

Blasdel represented Reilly in the Meridian action. He
met with Reilly to discuss strategy. He entered an appearance on
behalf of Reilly, and accepted service for Reilly. Reilly agreed
to and signed a Power of Attorney/Contingency Fee Agreement that
expressly stated Blasdel was his attorney. Within the last year,
and as recently as January, 1997, Reilly gave Blasdel information
pertaining to Reilly's business with Schwartz, including copies
of mortgages and the title report for the Kater Street property.
Reilly considered Blasdel his attorney until Schwartz joined
Reilly as a defendant in this action; Reilly then secured new
counsel.

It is not necessary to determine Reilly's status as a
former or current client if Blasdel's representation of Schwartz
would violate both Rules 1.7 and 1.9. See, e.g., Vanderveer
Group v. Petruny. In Vanderveer Group, TVG's counsel filed an
action against MMG. TELERx, MMG's 51% owned subsidiary, was not
a party to the action, but had been represented by TVG's counsel
until a month after the action was filed. When discovery in the
TVG-MMG action revealed that material TVG considered proprietary

was being used by TELERx, TVG then filed a related action against TELERx. TVG's counsel argued its prior representation of TELERx did not provide it with TELERx confidences material to the litigation. The court held that TVG's counsel had "gained a greater understanding of the general operating procedures of TELERx"; this caused a "serious potential for conflict of interest[.]" Id. at *6.

Moreover, even if there is little or no danger of a breach of client confidences which directly and specifically implicated the issues in this litigation, there is still a conflict of interest problem inherent in the continued representation of TVG in a matter in which the interests of TVG and TELERx are directly and materially adverse, and such conflict exists no matter whether the standards of Rule 1.7 or of Rule 1.9 are applied. Both Rule 1.7 and Rule 1.9 give effect to the overarching principle that an attorney owes a duty of loyalty to clients and should not be involved in litigation in which loyalties to two current clients or to a current and a former client are likely to be divided. Thus, an attorney should avoid situations in which the duty of loyalty to one client might be impaired by the equally important duty to vigorously represent the other client.

Vanderveer Group v. Petruny, 1994 WL 314257 at *7 (E.D. Pa. 1994) (counsel disqualified as a result of conflicts of interest violating both rules). Blasdel likewise owed Reilly a duty of loyalty, as a former or a current client; there is a conflict of interest under either Rule 1.7 or Rule 1.9.

b. Relationship to the Meridian litigation

Schwartz claims that the Meridian litigation is separate from, and unrelated to, this action. The existence of a

substantial relationship is determined by: 1) the scope of the prior representation; 2) the nature of the prior action; 3) and whether relevant confidential information might have been disclosed in the prior representation. Reading Anthracite Co. v. Lehigh Coal & Navigation Co., 771 F. Supp. 113, 115 (E.D. Pa. 1991); INA Underwriters Ins. Co. v. Nalibotsky, 594 F. Supp. 1199, 1206 (E.D. Pa. 1984); Tran v. Meyers, 1995 WL 584374 *2 (E.D. Pa. 1995); Rickards v. CertainTeed Corp., 1995 WL 120231 (E.D. Pa. 1995). There is a substantial relationship where "facts pertinent to the problems for which the original legal services were sought are relevant to subsequent litigation." United States Football League v. National Football League, 605 F. Supp. 1448, 1459 (S.D.N.Y. 1985); see also, Tran, 1995 WL 584374 at *2.

The Meridian litigation related to funds owed the bank by Reilly and Schwartz. That debt was originally unrelated to the Kater Street property. However, Schwartz authorized Reilly to pledge to Meridian payments due them under the Moore-Lorimer purchase money mortgage on the Kater Street property as security for their bank debt. Instead, on February 12, 1990, the Kater Street Moore-Lorimer mortgage was satisfied and a new mortgage from Lorimer only was assigned to Meridian as collateral for the original Reilly and Schwartz loan. Settlement of the Meridian litigation involved that 1990 mortgage. Reilly gave Blasdel documents pertaining to the Kater Street property in connection with the settlement. The Meridian litigation, and Blasdel's

representation of Reilly, are substantially related to this litigation.

c. Reilly's consent to Blasdel's adverse representation of Schwartz

Schwartz argues that Reilly has waived any possible conflict of interest in this action when he consented to the adverse representation in the Meridian action. The right to be fully informed about possible conflicts of interest cannot be easily waived. International Longshoremen's Ass'n., Local Union 1332 v. International Longshoremen's Ass'n., 909 F. Supp. 287, 292 (E.D. Pa. 1995) (conflict of interest not waived where defendant's counsel spoke only to plaintiff's counsel and not to plaintiff directly). "Attorneys must consult with their clients about potential conflicts of interest, and must disclose the facts and circumstances surrounding the conflicts to such an extent that the clients appreciate the significance of the conflict." Id. See also, Brennan v. Independence Blue Cross, 949 F. Supp. 305, 308 (E.D. Pa. 1996) (no waiver of conflict of interest although defendant could have surmised that plaintiff's counsel might represent plaintiff against defendant).

Reilly did consent to Blasdel's representation of Schwartz against Reilly in the Meridian litigation "and matters arising subsequently or ancillary thereto," but Reilly consented after consulting with Blasdel and learning Blasdel's strategy in that litigation. Blasdel did not inform Reilly that he would represent Schwartz in any future dispute between Schwartz and

Reilly in connection with the 1990 closing. Reilly's 1993 consent is inadequate to constitute a waiver in this litigation.

d. Blasdel as a likely witness

Rule of Professional Conduct 3.7(a) prohibits an attorney from acting as an advocate in a trial where he or she is likely to be called as a witness. At this stage of the litigation, it is not clear whether Blasdel is likely to be a witness. It is possible that defendants will depose Blasdel to determine his knowledge of the February 12, 1990 closing when the Meridian litigation was settled. "Nothing in Rule 3.7 prevents [an attorney/witness] from representing [the client] in all pretrial matters, including discovery." Lebovic v. Nigro, 1997 WL 83735 at * 1 (E.D. Pa. 1997) (motion to disqualify denied without prejudice to renew if discovery reveals counsel is likely to be a necessary witness at trial). Blasdel would not be disqualified as Schwartz's counsel solely because he might be a prospective witness unless that prospect would become likely rather than merely possible.²

2. Schwartz filed a supplemental brief on whether Blasdel is a likely witness. Schwartz denies Blasdel has any knowledge of the original Lorimer/Moore purchase money mortgage or the 1990 Lorimer mortgage assignment to Meridian. Schwartz admits that Reilly might call Blasdel as a witness. Schwartz suggests the court "grant judgment in favor of Defendant Joseph N. Reilly and against Plaintiff Joseph L. Schwartz in this matter" on Reilly's asserted defense of statute of limitations. Pl. Supp. Br. Opp. Def. Motion to Disqualify Counsel at 3.

Reilly has not moved for summary judgment on the statute of limitations bar. Granting Reilly judgment at this stage of the litigation would be inappropriate unless "the complaint facially shows noncompliance with the limitations period . . ." Oshiver v. Levin, Fishbein, Sedran & Berman, 38 F.3d 1380, 1384 n.1 (3d Cir. 1993). Schwartz alleges in the complaint and amended complaint that he did not know of the

(continued...)

2. Reilly's Motions for Sanctions

Reilly moves for sanctions against Blasdel under F.R.Civ.P. Rule 11 and 28 U.S.C. § 1927.

a. Rule 11

Rule 11(b) provides:

By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney . . . is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,--

- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

In Cooter & Gell v. Hartmarx Corp., the Supreme Court held:

Determining whether an attorney has violated Rule 11 involves a consideration of three types of issues. The court must consider

2. (...continued)

February 12, 1990 closing until 1996. If there is a statutory bar, it would appear to apply to all defendants. There is no reason for the court sua sponte to grant judgment solely in Reilly's favor.

factual questions regarding the nature of the attorney's prefiling inquiry and the factual basis of the pleading or other paper. Legal issues are raised in considering whether a pleading is "warranted by existing law or a good faith argument" changing the law and whether the attorney's conduct violated Rule 11. Finally, the district court must exercise its discretion to tailor an "appropriate sanction."

Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 399 (1990) (Court upheld Rule 11 sanctions imposed after involuntary dismissal). Rule 11 sanctions may reimburse the moving party for the expense of litigating those pleadings that violated Rule 11. Id. at 406.

Reilly moves for imposition of sanctions because Blasdel, in "Answer of Plaintiff Schwartz to Motion to Disqualify Counsel," denied he had represented Reilly in the Meridian action. "On the contrary, Attorney Blasdel was an adversarial counsel against Reilly, and did not represent Reilly in Meridian v. Schwartz." Pl. Ans. to Motion to Disqualify Counsel, ¶ 5. Blasdel had an insufficient factual basis for claiming he never represented Reilly in the Meridian litigation; he knew he had entered an appearance on Reilly's behalf in Meridian and had obtained Reilly's signed "Power of Attorney/Contingency Fee Agreement" appointing Blasdel as his attorney and waiving any conflict of interest that might arise under Rule 1.7. Blasdel's bald assertion, both in pleadings and at the hearing on Reilly's

motion to disqualify, that he had not represented Reilly in the Meridian litigation was a violation of Rule 11.³

In Schwartz's answer to Reilly's motion to disqualify, Blasdel asserted two other bases for the denial of the motion: 1)

3. Schwartz now claims there was no partnership or joint venture called "Reilly and Schwartz." In Schwartz's answer to the motion to disqualify him, Blasdel asserts, "REILLY AND SCHWARTZ is a non-existent entity referred to in several Meridian documents as the legal partnership of Schwartz and Reilly doing business with the bank, and as the actual debtor on the 1986 Meridian loan." Pl. Ans. to Motion to Disqualify Counsel, n. 1. But appended to Schwartz's answer is the "Complaint of Defendant Joseph L. Schwartz Against Additional Defendants Joseph Reilly, Reilly and Schwartz, and David C. Bragg" from the Meridian litigation; it states, "Additional Defendant REILLY AND SCHWARTZ is a Pennsylvania partnership with it's [sic] sole place of business at 1614 Naudain Street, Philadelphia, PA, 19107, and is a citizen of the Commonwealth of Pennsylvania." Pl. Ans. to Motion to Disqualify Counsel, Ex. C at ¶ 2.

Having asserted the existence of the partnership in prior litigation, Schwartz is judicially estopped from stating that Reilly and Schwartz is a "non-existent entity" or that they were never partners. See, McCarron v. Federal Dep. Ins. Corp., 111 F.3d 1089 (3d Cir. 1997); Government of the Virgin Islands v. Paniaqua, 922 F.2d 178, 183 (3d Cir. 1990); Murray v. Silberstein, 882 F.2d 61, 66 (3d Cir. 1989) ("the law of this circuit bar[s] switches of position of this kind"); Oneida Motor Freight, Inc. v. United Jersey Bank, 848 F.2d 414, 419 (3d Cir. 1988). Judicial estoppel "prevent[s] a party from playing 'fast and loose' with courts by asserting contradictory positions." McCarron, 111 F.3d at 1097, citing United States v. Vastola, 989 F.2d 1318, 1324 (3d Cir. 1993).

These contradictory assertions, appearing in the main body and appendix of the same filing, may constitute further violation of Rule 11. Reilly did not include this particular contradiction in his motion for sanctions. Without notice to the plaintiff, the court cannot impose Rule 11 sanctions. Jones v. Pittsburgh Nat'l Corp., 899 F.2d 1350, 1357 (3d Cir. 1990) (Prior to sanctioning an attorney, a court must provide the party with notice of and some opportunity to respond to the charges.). The court will not sanction Blasdel for this, but Schwartz and any substitute counsel he obtains may not assert the non-existence of the partnership.

the Meridian litigation was not substantially related to the instant action, and 2) Reilly waived his objections to any conflict of interest by signing the "Power of Attorney/Contingency Fee Agreement." These assertions, while erroneous, did not violate Rule 11 per se. An appropriate measure for sanctions is "those expenses directly caused by the improper filing." Waltz v. County of Lycoming, 974 F.2d 387, 390 (3d Cir. 1992). Here it is the attorney's fees charged Reilly for responding to Blasdel's claim he never represented Reilly.

b. 28 U.S.C. § 1927

Reilly has moved to sanction Blasdel under 28 U.S.C. § 1927, which provides:

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

"[T]he principal purpose of imposing sanctions under 28 U.S.C. § 1927 is 'the deterrence of intentional and unnecessary delay in the proceedings.'" Zuk v. Eastern Pennsylvania Psychiatric Inst. of the Med. Coll. of Pennsylvania, 103 F.3d 294, 297 (3d Cir. 1996) quoting Beatrice Foods Co. v. New England Printing and Lithographing Co., 899 F.2d 1171, 1177 (Fed. Cir. 1990). Section 1927 requires a showing of bad faith. Jones v. Pittsburgh National Corp., 899 F.2d 1350, 1358 (3d Cir. 1990).

Schwartz did not name Reilly in the original complaint, but Schwartz's complaint against the original defendants would have been dismissed without joinder of additional indispensable parties.⁴ Blasdel should have informed the court of his potential conflict of interest when the court heard defendants' motion to dismiss for failure to join an indispensable party. His denial that he represented Reilly in the Meridian litigation, in pleadings and at the hearing on Reilly's motion to disqualify counsel, is hard to understand. His motive may have been to preserve his client's action against the original defendants, but his action is unacceptable. Blasdel acted in bad faith by denying his prior representation of Reilly. Had he admitted the potential conflict of interest to the court at the original hearing, Schwartz could have obtained new counsel sooner, Reilly would not have moved for Blasdel's disqualification, and the litigation would have proceeded more expeditiously. Blasdel is subject to sanctions under 28 U.S.C. § 1927.

Alternative sanctions under 28 U.S.C. § 1927 should also be limited to the excess costs and attorneys' fees incurred as a result of the sanctioned conduct.

An appropriate order follows.

4. In fact, to avoid the conflict of interest in attorney Blasdel's representation, he is willing to have judgment entered in favor of Reilly in the amended action. There is no indication the other defendants, who insisted Reilly was an indispensable party, would agree.

IN THE UNITED STATES DISTRICT COURT
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 National Abstract Agency, Inc., and :
 Richard B. Moore : No. 96-5677

ORDER

AND NOW, this 4th day of June, 1997, upon consideration after notice and hearing, it is **ORDERED** that:

1. Defendant Reilly's motion to disqualify counsel is **GRANTED** and William G. Blasdel, Jr. Esq. may not represent Joseph L. Schwartz, plaintiff in this action;

2. Reilly's motion for sanctions against attorney Blasdel under Rule 11 is **GRANTED**;

3. Reilly's alternative motion for sanctions against attorney Blasdel under 28 U.S.C § 1927 is **GRANTED**;

4. Reilly may submit a verified fee petition within ten (10) days for excess costs and attorney's fees incurred as a result of Blasdel's claim that he never represented him;

5. This action shall be placed in **ADMINISTRATIVE SUSPENSE** for thirty (30) days to allow plaintiff Schwartz to obtain substitute counsel. Schwartz or new counsel shall inform the court on or before July 7, 1997, of the status of this action.

J.