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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2345-25

SELENA NAVARRO,

Plaintiff-Appellant,

v.

HECTOR LEON-WONG, M.D., OPTIMUM PRI-MED CARE, P.A., NAEL A. ABUTABIKH, M.D., MICHAEL N. CHOI, M.D., SEAN EGAN, M.D., BARBARA B. HARALSON, M.D., KATHERINE GABIN, R.N., MANUEL MARTINS, R.N., AIRA VINAS, R.N., PRIME HEALTHCARE SERVICES-ST. MARY'S PASSAIC, LLC d/b/a ST. MARY'S HOSPITAL, PASSAIC, N.J. d/b/a ST. MARY'S GENERAL HOSPITAL d/b/a ST. MARY'S HOSPITAL, MAGDA B. MEKAIL AS ADMINISTRATOR OF THE ESTATE OF MAGDY Y. YACOUB, M.D., NORTH AMERICAN PARTNERS IN ANESTHESIA OF NEW JERSEY, L.L.C., PRIME HEALTHCARE SERVICES, INC., BHAGIRATH PALLA, ANN MICHELE

SWINEFORD, and OPKO
HEALTH, INC.,

Defendants-Respondents.

Submitted October 29, 2026 – Decided November 12, 2026

Before Judges Chase and Augostini.

On appeal from an interlocutory order of the Superior Court of New Jersey, Law Division, Passaic County, Docket No. L-0384-22.

Lomurro Munson LLC, attorneys for appellant (Jonathan H. Lomurro, of counsel and on the briefs).

Dughi Hewit & Domalewski PC, attorneys for respondents Prime Healthcare Services-St. Mary's Passaic, LLC d/b/a St. Mary's General Hospital, Prime Healthcare Services, Inc., Katherine Gabin, R.N., Manuel Martins, R.N., Aira Vinas, R.N., Bhagirath Palla, and Ann Michele Swineford (Benjamin H. Haftel, Mary Lou Dennis-Suckow, and Alysia J. Machlovitz, on the briefs).

PER CURIAM

We granted plaintiff Selena Navarro leave to appeal from a January 26, 2026 Law Division order denying her motion to disqualify the law firm Hall Booth Smith, P.C. (HBS) and Nichole Hair, Esq. (Hair) from representing defendants Prime Healthcare Services–St. Mary's Passaic, LLC d/b/a St. Mary's

General Hospital (SMGH), Prime Healthcare Services, Inc. (Prime), Katherine Gabin, R.N., Manuel Martins, R.N. and Aira Vinas, R.N. We affirm.

I.

On November 15, 2019, plaintiff went to defendant Optimum Pri-Med Care, P.A., where defendant Dr. Hector J. Leon-Wong, M.D., treated her. She reported three days of lower back pain, nausea, weakness, fatigue, and body aches. Two days later, an ambulance transported her to SMGH. There, Doctors Barbara Haralson, Michael N. Choi, and Sean Egan, along with Nurses Martins, Vinas, and Gabin, treated her for lower-right back pain.

In November 2021, plaintiff filed a medical malpractice complaint arising from that treatment. She alleged defendants' negligent care caused her to suffer acute respiratory failure, undergo a cystoscopy, develop sepsis, become tachycardic and bradycardic, require resuscitation, lose consciousness, and ultimately sustain permanent brain damage. The complaint named SMGH, Dr. Leon-Wong, Optimum Pri-Med Care P.A., OPKO Health Inc. (OPKO Health), Dr. Haralson, Dr. Choi, Dr. Egan, M.D., Manuel Martins, R.N., Aira Vinas, R.N., and Katherine Gabin, R.N. Plaintiff named Dr. Egan because he was the urologist treating her when her injuries occurred.

Relevant to this appeal, in January 2022, Philip F. Mattia, Esq., of McBride & Grieco, P.C. filed an answer on Dr. Egan's behalf. The next month after joining HBS, Mattia filed a substitution of attorney. Three years later, Mattia moved to Lyons & Associates and filed another substitution, withdrawing from the case in his former capacity at HBS. Since July 2022, Dughi, Hewit & Domalewski has represented SMGH, Prime, and Nurses Gabin, Martins, and Vinas.

In November 2024, the court granted plaintiff's motion to file a second amended complaint. The amendment added Magda B. Mekail as Administrator of the Estate of Magdy Y. Yacoub, M.D. and Summit Anesthesia Associates, P.A. as defendants. It also added claims based entirely on the handling of plaintiff's medical records years after her discharge from the hospital. Those claims asserted fraudulent concealment, negligence, and vicarious liability against SMGH only.

In its answer, SMGH asserted crossclaims for contribution and indemnification only against co-defendants Dr. Leon-Wong, Optimum Pri-Med Care P.A. and OPKO Health. Those entities had treated plaintiff before her admission to SMGH. SMGH did not assert crossclaims against any other defendants, including Dr. Egan.

While Mattia still represented Dr. Egan through HBS, he filed Dr. Egan's answer to the second amended complaint. In that pleading, he asserted crossclaims for indemnification and contribution against "all defendants presently or hereafter named" and all non-named tortfeasors.

A year later, the court granted plaintiff's motion to file a third amended complaint. That amendment substituted North American Partners in Anesthesia of New Jersey, LLC for Summit Anesthesia Associates, P.A., and added Prime, Bhagirath Palla, and Ann Michele Swineford as defendants. It asserted negligence in handling the medical record, fraudulent concealment, civil conspiracy, breach of confidentiality, and invasion of privacy against the new defendants and SMGH.

After plaintiff filed the third amended complaint, Dughi, Hewit & Domalewski moved for the admission pro hac vice of Hair, a partner in HBS's Atlanta office and a member in good standing of the Georgia bar. The firm retained her to represent SMGH and Prime because of her expertise with the Epic healthcare records system. The motion was unopposed, and the court granted it in December 2025.

Plaintiff then moved to disqualify HBS and Hair. Relying on RPC 1.9(a), the court found "the interests of the SMGH defendants [were] not 'materially

adverse to the interests of the former clients.'" The court also noted Hair certified she had never known that HBS represented Dr. Egan, had never accessed information related to his representation, and would not access any remaining materials in the New Jersey computer system. The court therefore denied the motion. We later granted plaintiff's motion for leave to appeal.

II.

"The determination of whether counsel should be disqualified is an issue of law subject to de novo review." In re Talc Based Powder Prods. Litig., 483 N.J. Super. 370, 385-86 (App. Div. 2026); City of Atl. City v. Trupos, 201 N.J. 447, 463 (2010). The burden is on the movant to prove a basis for disqualification. State v. Hudson, 443 N.J. Super. 276, 282 (App. Div. 2015) (citing State v. Morelli, 152 N.J. Super. 67, 70-71 (App. Div. 1977)). But there is no right to representation by counsel who is ethically disqualified. Twenty-First Century Rail Corp. v. N.J. Transit Corp., 210 N.J. 264, 274 (2012) (quoting Dewey v. R.J. Reynolds Tobacco Co., 109 N.J. 201, 218 (1988)).

"Disqualification of counsel is a harsh discretionary remedy which must be used sparingly." Dental Health Assocs. S. Jersey, P.A. v. RRI Gibbsboro, LLC, 471 N.J. Super. 184, 192 (App. Div. 2022) (quoting Cavallaro v. Jamco Prop. Mgmt., 334 N.J. Super. 557, 572 (App. Div. 2000)). Courts balance the

need to maintain the highest standards of the profession against a client's interest in chosen counsel. Trupos, 201 N.J. at 462 (quoting Dewey, 109 N.J. at 218). Such an analysis requires a "painstaking analysis of the facts." Reardon v. Marlayne, Inc., 83 N.J. 460, 469 (1980) (quoting United States v. Standard Oil Co., 136 F.Supp. 345, 367 (S.D.N.Y. 1955)). "[O]nly in extraordinary cases should a client's right to counsel of his or her choice outweigh the need to maintain the highest standards of the profession." Dewey, 109 N.J. at 220. Thus, any "doubt must be resolved in favor of disqualification." Herbert v. Haytaian, 292 N.J. Super. 426, 438-39 (App. Div. 1996) (quoting Reardon, 83 N.J. at 471).

III.

Plaintiff argues RPC 1.9(a) bars HBS and Hair from representing SMGH and Prime on the fraudulent concealment claim. She emphasizes that HBS previously represented Dr. Egan in this same litigation, arising from the same November 2019 hospitalization, involving the same malpractice allegations, the same co-defendants, and the same trial. In her view, the current representation is not merely "substantially related"; it is the same case. She further contends that HBS's current representation is materially adverse to Dr. Egan.

At the outset, we reject Prime's argument that plaintiff lacks standing to seek disqualification. Plaintiff has standing to challenge Hair's representation in the fraudulent concealment matter because she has an interest in the outcome of the case. That suffices. Van Horn v. Van Horn, 415 N.J. Super. 398, 412 (App. Div. 2010).

A court may specially authorize an out-of-state attorney to appear pro hac vice in a pending matter. See In re Jackman, 165 N.J. 580, 585 (2000). Once admitted, that attorney is fully subject to New Jersey's Rules of Professional Conduct. Ibid. Thus, although Prime characterizes Hair's role as narrow, that characterization does not alter the fact that she appeared pro hac vice and is bound by our ethics rules.

RPC 1.9 states that "[a] lawyer who has represented a client in a matter shall not thereafter represent another client in the same or substantially related matter in which that client's interests are materially adverse to the interests of the former client." RPC 1.9(a). Under RPC 1.9,

> three elements are necessary in order to create a conflict of interest . . . : (1) a former client whom the lawyer represented in a matter; (2) a current client whose interests are materially adverse to those of the former client; and (3) a current matter that is the same as or substantially related to the matter in which the lawyer represented the former client.

> [Trupos, 201 N.J. at 455 (quoting City of Atl. City v. Trupos, 25 N.J. Tax 108, 113 (Tax 2009)).]

The dispute here turns on whether Hair's representation of SMGH and Prime through HBS creates an impermissible conflict.

The first element is satisfied. HBS previously represented Dr. Egan through Mattia for about three years in connection with the medical negligence claims. See ibid.; see also Mauer v. State, 481 N.J. Super. 254, 267-68 (App. Div. 2025). HBS now represents SMGH and Prime.

The third element is also satisfied. Dr. Egan and the current HBS clients are co-defendants in the same litigation. HBS previously defended Dr. Egan against the negligence claim and now represents SMGH and Prime. Thus, absent waiver, disqualification would be required if the clients' interests are materially adverse.

A lawyer may not represent a client in the same or a substantially related matter if the new client's interests are materially adverse to those of the former client. Twenty-First Century Rail Corp., 210 N.J. at 273 (quoting RPC 1.9(a)). Whether interests are materially adverse is a fact-sensitive inquiry that depends on context and must be assessed together with the "same or substantially related" requirement of RPC 1.9(a). Ibid.

We are not persuaded that Dr. Egan's interests are materially adverse to those of SMGH and Prime. First, the fraudulent concealment claims differ from plaintiff's malpractice claims against Dr. Egan. The concealment claims concern alleged post-treatment conduct involving the disclosure, operation, and use of the Epic system. Resolving those claims does not require the court to adjudicate the medical care or professional judgment Dr. Egan exercised. Plaintiff did not name Dr. Egan in those claims, and he has no role in defending or prosecuting them. Because those claims involve different conduct, different time periods, different legal elements, and different evidence, HBS's representation of SMGH and Prime on those issues is not materially adverse to Dr. Egan's interests.

HBS did not enter the case on behalf of SMGH and Prime until plaintiff filed the third amended complaint, which added the new fraudulent concealment allegations concerning the medical record. Although all of these parties remain co-defendants, those allegations are distinct from the malpractice claim against Dr. Egan. By the time Hair became involved, the parties had already completed discovery related to the malpractice claims. Hair was not retained as general litigation counsel; instead, her assistance in this matter is limited to advising Prime on Epic's systems and the specific allegations of fraudulent concealment.

Second, plaintiff's argument based on Dr. Egan's crossclaim for indemnification and contribution against SMGH and Prime does not establish material adversity. Plaintiff has not proven that HBS is in a position to use confidential information from its prior representation of Dr. Egan against him. Nor has she identified any specific litigation position or strategic objective demonstrating that the interests of SMGH and Prime are materially adverse to Dr. Egan's. To prevail, plaintiff had to show that HBS's current representation would place the firm in a position to use Dr. Egan's confidential information against him in some meaningful way. She did not make that showing.

Because no conflict exists under RPC 1.9(a), no conflict can be imputed to HBS under RPC 1.10(a). See RPC 1.10(a) (imputing conflicts when a lawyer "practicing alone would be prohibited" from the representation under RPC 1.9); see also Dewey, 109 N.J. at 212 (treating the existence of an RPC 1.9 conflict as a prerequisite to imputation under RPC 1.10).

To the extent we have not specifically addressed any of plaintiff's remaining arguments, we deem them without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing is
a true copy of the original on file in
my office.
M.C. Harley
Clerk of the Appellate Division