

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED September 8, 2025
Original Proceeding District Court, Arapahoe County, 2022CV30537	
<b>In Re:</b>  <b>Plaintiff:</b>  Marcie R. Mcminimee, Special Administrator of the Estate of Jack J. Grynberg,  <b>v.</b>  <b>Defendants:</b>  Dorsey & Whitney LLP and Gregory S. Tamkin.	Supreme Court Case No: 2025SA125
ORDER OF THE COURT	

Petitioners, Dorsey & Whitney, LLP (“Dorsey”) and Gregory S. Tamkin, a Dorsey lawyer, sought an order to show cause why the district court didn’t err in disqualifying their defense counsel, Christopher Carrington and Benjamin Hudgens of Richards Carrington, LLC (“RC”) in the underlying legal malpractice case pending in Arapahoe County District Court. We issued the order to show cause on May 12, 2025.

This original proceeding is the latest chapter in a long story, some summary of which is essential to our orders below. Jack Grynberg formed several business entities peripherally at issue in the underlying malpractice case. When the entities were formed, Grynberg placed ownership of them in the names of his children,

Rachel, Stephen, and Miriam, their respective trusts, and his wife, Celeste (whom he divorced in 2018).

In 2015, expert testimony later revealed, Grynberg developed dementia, which caused his mental faculties to decline.

In April 2016, Grynberg's family sued Grynberg, seeking confirmation of their rights of ownership and control in the businesses due to Grynberg's increasingly poor judgment (the "Family Litigation"). Grynberg retained Tamkin as local counsel. The family retained various lawyers over almost four years, including Wheeler Trigg O'Donnell, LLP ("WTO"). The family prevailed, and they subsequently moved for the appointment of a permanent conservator. The court appointed Marcie McMinimee.

During the Family Litigation, Grynberg revised his estate plan to remove his children and provide for a professional personal representative. After her appointment as conservator, McMinimee re-established Grynberg's children as heirs and made Rachel the personal representative, who in turn made McMinimee the special administrator, in which capacity she is now named as a respondent in this original proceeding.

Grynberg died on October 11, 2021.

In March 2022, McMinimee filed the underlying malpractice case against petitioners Dorsey and Tamkin. Dorsey retained RC in May 2024. In January 2025, two of Grynberg's children, Rachel and Stephen (collectively, "Intervenors"), moved to disqualify RC attorneys Carrington and Hudgens as Dorsey's counsel. They argued that Michael Mulvania, a former WTO associate

and current partner at RC, represented them in the Family Litigation and therefore had a former-client conflict under Colo. RPC 1.9(a) that hadn't been waived. They further argued that the conflict was imputed to all lawyers at RC.

The district court granted Intervenor's motion. It concluded that Mulvania's previous representation of Intervenor in the Family Litigation created a disqualifying conflict under Rule 1.9(a) because (1)an attorney-client relationship existed in the past; (2)the present litigation involves a matter that is substantially related to the Family Litigation; (3)petitioners' interests are materially adverse to Intervenor's interests; and (4)Intervenor didn't consent to the disputed representation after consultation. *McMinimeev. Dorsey & Whitney, LLP*, No. 22CV30537 at 5-7 (Dist. Ct., Arapahoe Cnty., Apr. 8, 2025). The court also found that the conflict was imputed to all lawyers at RC under Rule 1.10(e) because Mulvania substantially participated in the Family Litigation; it's not evident that he was timely screened; petitioners' response "is silent" on whether Mulvania will be apportioned any part of the attorney fees; and Mulvania didn't give prompt written notice to Intervenor. *Id.* at 8-9. It ultimately concluded that "the totality of the circumstances" warranted disqualification. *Id.* at 9.

Upon consideration of the pleadings filed in the above-captioned action, the court **MAKES THE ORDER TO SHOW CAUSE ABSOLUTE** and remands the case, without opinion, to the district court to reconsider its April 8, 2025 order disqualifying Christopher Carrington and Benjamin Hudgens after making additional factual findings on the following issues:

- Why is there a substantial risk that Mulvania obtained confidential information during his prior representation of the Intervenor in the

underlying Family Litigation *that would materially advance the petitioners' case* in the underlying malpractice action;

- Whether any such information has already been made public;
- Why any existing ethical screen fails to adequately ensure that such confidential information will not be shared by Mulvania with Carrington and Hudgens.

BY THE COURT, EN BANC, SEPTEMBER 8, 2025.