

King & Spalding Sues A Spalding

While taking the public relations firm of Manning Selvage & Lee as a client may create no conflict of interest for King & Spalding, it is certainly creating an awkward situation.

Manning Selvage sued three former top managers on Tuesday, the day after the managers opened a new firm, trying to stop them from taking several major clients. Among the defendants is Bolling P. Spalding, the son of retired King & Spalding partner Hughes Spalding Jr. and the great-grandson of founding partner Jack J. Spalding, who died in 1938.

In answering a question from U.S. District Court Senior Judge Marvin H. Shoob at a Thursday hearing about whether the family ties create a conflict of interest, King & Spalding partner William A. Clineburg Jr. replied, "There is no conflict of interest. We certainly have matters to discuss within the firm."

He declines any further comment on the issue, as does King & Spalding managing partner Ralph B. Levy.

But Sutherland, Asbill & Brennan partner **Richard L. Robbins**, representing Bo Spalding and three other defendants, depicted Manning Selvage's choice of counsel as a calculated twisting of the knife.

"Mr. Spalding is extremely upset that [Manning Selvage] would use the family firm to attack him," Robbins said. "We think it is deliberate. It is very upsetting to Mr. Spalding and his father, Hughes Spalding."

Talking about the quandary King & Spalding faces, Robbins adds, "In my personal view, I cannot imagine suing the son of one of my partners."

Hughes Spalding Jr., who still goes to the office on occasion, says he doesn't like the firm's taking the case against his son.

"It sounds like the lawyer who did that didn't have all his marbles. He ought to be ashamed of himself," he says.

Spalding says he raised the possibility of the firm's withdrawing from the case "with all the top people in the firm, and they agree."

Bo Spalding declines to comment on the case. But in an affidavit, he termed Manning Selvage's "appalling decision" to retain King & Spalding "an intentional act on their part to cause me distress and blemish my family's reputation." *Manning Selvage & Lee v. Ledlie*, No. 95-cv-1817 (N.D. Ga. filed July 18, 1995).

TRO Denied

At the hearing, Shoob denied Manning Selvage's request for a temporary restraining order against Spalding partners, Joseph M.A. Ledlie and Glen O. Jackson, and their new firm, Jackson Spalding Ledlie.

Clineburg sought to stop the new firm from wooing and working with former Manning Selvage clients, and to give Manning Selvage a chance to counterattack. "This office is hanging on by its fingernails in Atlanta," he said.

He said Jackson Spalding could take as many as 14 of Manning Selvage's top 22 clients in Atlanta.

"We need to give [Manning Selvage] a fighting chance to get these clients back," Clineburg said.

"The only way you can do that is to say [Jackson Spalding] cannot do business with these [clients] for a reasonable period of time." He argued.

Among the accounts that switched sides are Publix Super Markets, Inc., the architecture and engineering firm HNTB, and GTE Mobilnet, Powell, Goldstein, Frazer & Murphy, the one law firm client of Manning Selvage, has not yet decided where to go, according to an affidavit by Powell, Goldstein marketing manager Charlotte Fallon.

In ruling for Jackson Spalding, Shoob said, "There is some issue whether [Manning Selvage] will prevail on the merits. There is some question of whether the damages are irreparable. . . . At this point, I don't think the relief you seek is appropriate."

Nor did he offer Manning Selvage much encouragement for the future. "I do know that juries are not very sympathetic" to big companies attacking local startups, Shoob said. Manning Selvage, which has had an office in Atlanta for 30 years, is a subsidiary of New York-based giant D'Arcy Marcus Benton & Bowles Inc.

Out The Back Door With Boxes

According to both sides, Jackson, Spalding and Ledlie began planning their new agency early this year, among other things lining up new offices and legal counsel and informing clients of their impending departure.

Clineburg said documents showed the breakaway group was doing this on Manning Selvage's time, by taking lunch breaks as long as three hours and handling calls from vendors on matters such as new furniture.

However, Robbins responded, "[Jackson Spalding] tried very hard to do everything on our own time, at lunch time, after hours, on weekends."

The new firm, kept a secret from the Manning Selvage head office, came into the open on July 14 when the three principals and five other employees faxed their resignations to New York, effective July 28. But problems erupted immediately for the top managers.

"They began receiving phone calls from people not part of the [Jackson Spalding] group saying, 'What's going on?' People were going out the back door with boxes," Clineburg said.

By late afternoon on July 14, the New York office had ordered security guards to Manning Selvage's One Atlantic Center office to search carefully through anything being taken out. Still, Clineburg said, many files and information belonging to the company were already gone.

Nevertheless, he said Manning Selvage expected the breakaway group to remain through the entire two-week severance period.

Robbins, on the other hand, said the Jackson Spalding group took the posting of guards as immediate dismissal.

He further asserted that the breakaway group took nothing more than personal effects, such as diplomas and mementos from clients. “Every one of the employees said, ‘We didn’t take any company property or any computer records,’” Robbins said.

He drew an analogy to when lawyers switch firms. “The fact is, when our partners leave, they are going to take clients and we let them have the files, so be it,” he said. “We don’t hire security guards.”

As for the Jackson Spalding group’s not staying, the entire two-week severance period, Shoob noted, “The same damage [of switching clients] would have occurred even if [Jackson Spalding] had done it entirely properly.