

unlawful about the firm's actions. Mr. Padget produced those materials pursuant to a contractual relationship with Mintz Levin which obtained his professional services in connection with their legal advocacy for another client.

Further, the Court already determined that Defendants had ample opportunity to procure an expert to support their position on process and handling fees but failed to do so. (Dkt. No. 712 at 6-7.) Indeed, Defendants still have not argued that there was any reason they could not have timely named an expert witness to provide an opinion on Code 99000 that was similar to Mr. Padget's. The Court only afforded Defendants the opportunity to secure Mr. Padget as an expert witness because doing so would not substantially prejudice the Government which already had its own witness, Kathleen McNamara, able to speak to the issue. That Mr. Padget ultimately decided not to provide expert testimony for Defendants is not grounds for sanctioning the Government.

For these reasons, the Government's Motion to Exclude the Testimony of Dennis Padget (Dkt. No. 717) is DENIED AS MOOT, and no sanction will be imposed.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

November 15, 2017
Charleston, South Carolina