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Supreme Court  
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NO. SCPW-12-000022

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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BURKE MCPHEETERS BORDNER & ESTES, Petitioner,

vs.

THE HONORABLE RANDAL G.B VALENCIANO, JUDGE OF THE CIRCUIT  
COURT OF THE FIFTH CIRCUIT, STATE OF HAWAI'I and  
DTRIC INSURANCE COMPANY LIMITED, Respondents.

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ORIGINAL PROCEEDING  
(CIVIL NO. 11-1-0076)

ORDER

(By: Recktenwald, C.J., Nakayama, Duffy, and McKenna, JJ.  
and Circuit Judge Chan, in place of Acoba, J., recused)

Upon consideration of petitioner Burke McPheeters Bordner & Estes' petition for a writ of mandamus and the responses thereto, it appears that: (1) Cades Schutte, as a result of its representation of petitioner, obtained confidential information of a non-public nature that, if known to any other client of Cades Schutte, could be used by such client to petitioner's material disadvantage and (2) petitioner's December 30, 2009 advanced conflict waiver did not, by its terms, apply in such instance. Therefore,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is granted. The respondent judge is directed to: (1) vacate the December 12, 2011 order denying petitioner's motion to disqualify Cades Schutte as plaintiff's counsel in Civil No. 11-1-0076 and (2) enter an order disqualifying Cades Schutte as plaintiff's counsel in Civil No. 11-1-0076.

DATED: Honolulu, Hawai'i, May 17, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ James E. Duffy, Jr.

/s/ Sabrina S. McKenna

/s/ Derrick H.M. Chan

