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## DISQUALIFICATION

California Law

By Helen Kim and Jennifer A. Becker

***Med-Trans Corp. v. City of California City*** (2007) 156 Cal.App.4<sup>th</sup> 655 (rev. den 1/16/08)

*An attorney's solicitation of business and basic legal advice amounting to no more than initial impressions does not create an attorney-client relationship.*

Med Tran Corporation (MTC) sued City of California City involving a contract for air ambulance services. California City sought to disqualify MTC's attorney Thomas Anton due to a prior meeting between Anton and California City's fire chief Michael Antonucci. In that meeting, Anton discussed a separate lawsuit, also involving ambulance service permits, and solicited the city's involvement as a plaintiff. Anton offered an opinion regarding the legality of conduct in the separate lawsuit, strategy in that lawsuit, and advice about applying for a permit to operate an air ambulance service. The trial court found a substantial relationship between the separate lawsuit and the MTC lawsuit, and granted the disqualification motion.

The Court of Appeal held that in situations involving a preliminary conversation that does not result in professional employment or services, the party seeking disqualification bears the burden to show, directly or by reasonable inference, that the attorney acquired confidential information during

the conversation. The only relevant information shared at Anton's meeting with Antonucci was the City's plan to hire MTC and apply for an ambulance permit. The court found no reason to infer that the city's objective to hire an ambulance company and seek a permit was a confidential matter.

In addition, the circumstances of the prior meeting lacked confidentiality, and there was no evidence of shared confidences during the consultation. Anton solicited the City's involvement, and there was nothing to suggest that the City ever pursued Anton's representation or considered Anton to be its lawyer. Anton's legal advice consisted of no more than initial impressions.

Even the briefest conversation between a lawyer and client can result in a disclosure of confidences and create an attorney-client relationship. However a party seeking to disqualify an attorney based on a preliminary consultation must show more than an attorney's unsuccessful solicitation of the party or

the attorney's expression of initial impressions.

*Comment:* This case is another example of the reluctance to allow disqualification motions to be used strategically, at the expense of one party's right to the counsel of its choice.