

**LAWYER DISQUALIFICATION:
RECENT DEVELOPMENTS & PRACTICAL TIPS**

**Charles Herring, Jr.
Herring & Panzer, L.L.P.
and
Gaines West
West Webb Allbritton & Gentry, P.C.**

**40TH ANNUAL PAGE KEETON
CIVIL LITIGATION CONFERENCE
October 27-28, 2016**

Note: This paper was converted from a scanned image.
The conversion has been reviewed for accuracy; however,
minor spelling or text-conversion errors may still be present.

TABLE OF CONTENTS

***In re RSR Corp.*, 475 S.W.3d 775 (Tex. 2015)**

***In re National Lloyds Ins, Co.*, 2016 WL 552112 (Tex. App.—Corpus Christi-Edinburg 2016, orig. proceeding [mand. pet. filed])**

PEC Opinion 644 (2014)

Amended Rule 1.06 Comment 19 (eff. 3/22/16)

Revised PEC Opinion 644 (2016)

***Texas Guide to Lawyer Disqualification* (2016), Chapter 2 (Practical Considerations Concerning Whether To Seek Or Oppose Disqualification)**

475 S.W.3d 775
Supreme Court of Texas.

In re RSR Corporation and Quemetco Metals Limited, Inc., Relators

NO. 13-0499

Argued September 2, 2015

Opinion delivered: December 4, 2015

Synopsis

Background: Licensor of anode-production information brought action against licensee for breach of contract and misappropriation of trade secrets, and licensor's counsel hired licensee's former finance manager and reviewed his documents. The District Court, Dallas County, Carlo Cortez, J., [2012 WL 6051319](#), granted licensee's motion to disqualify. Licensor petitioned for writ of mandamus, which the Dallas Court of Appeals, [405 S.W.3d 265](#), denied. Licensor petitioned the Supreme Court for writ of mandamus.

Holdings: The Supreme Court, Devine, J., held that: ^[1]

manager was a fact witness relating to litigation, and

^[2] presumptions applicable to disqualification analysis involving a side-switching paralegal do not apply to fact witnesses, disapproving *In re Bell Helicopter Textron, Inc.*, [87 S.W.3d 139](#).

Mandamus relief conditionally granted.

West Headnotes (9)

^[1] [Attorney and Client](#)

— Disqualification in general

Disqualification of counsel is a severe remedy.

Cases that cite this headnote

^[2] **Mandamus**

— Modification or vacation of judgment or order **Mandamus**
-- Specific acts

A party whose counsel is improperly disqualified has no adequate remedy by appeal, and thus, if a trial court abuses its discretion by disqualifying counsel, an appellate court may grant mandamus relief.

Cases that cite this headnote

^[3] **Appeal and Error**

— Abuse of discretion

A trial court abuses its discretion if it incorrectly analyzes or applies the law.

Cases that cite this headnote

Also available as part of the eCourse

[Answer Bar: Going to Trial on an Employment Law Case](#)

First appeared as part of the conference materials for the
40th Annual Page Keeton Civil Litigation Conference session
"Lawyer Disqualification: Recent Developments & Practical Tips"