



IN THE SUPREME COURT OF THE STATE OF NEVADA

AAA AIR FILTER CO., INC; WOMBLE
BOND DICKINSON (US) LLP; DANIEL
F. POLSENBERG; AND KORY J.
KOERPERICH,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ANNA C. ALBERTSON, DISTRICT
JUDGE,

Respondents,

and

KARINA TINTA-OCHOA,
INDIVIDUALLY, AS LEGAL HEIR,
AND AS SPECIAL ADMINISTRATRIX
OF THE ESTATE OF FRANCISCO
ROMERO-PADILLA; K.N.R.-T., A
MINOR AND LEGAL HEIR, BY AND
THROUGH HER NATURAL PARENT
AND GUARDIAN, KARINA TINTA-
OCHOA; RAUL ELIJIO GONZALEZ;
AND GABRIEL JARAMILLO,
Real Parties in Interest.

No. 92463

ORDER GRANTING PETITION FOR A WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order disqualifying counsel in a tort action.¹ In December 2025, petitioner AAA Air Filter Co., Inc. retained petitioners Womble Bond Dickinson (US) LLP, Daniel F. Polsenberg, and Kory J. Koerperich (collectively

¹Petitioners alternatively seek a writ of prohibition. We conclude a writ of mandamus is the more appropriate relief.

WBD) as counsel. Before WBD made an appearance in the action, counsel for real party in interest Karina Tinta-Ochoa, Sean Claggett, consulted with another attorney at WBD, Ogonna Brown. When Brown learned AAA Air Filter had retained WBD, Brown informed Claggett she could not represent Tinta-Ochoa due to the conflict. Tinta-Ochoa filed a motion to disqualify WBD from representing AAA Air Filter, which the district court granted. Petitioners now seek a writ of mandamus or prohibition directing the district court to vacate its order disqualifying WBD.

“A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion.” *Int’l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008); *see also* NRS 34.160. A petition for a writ of mandamus is the appropriate vehicle for challenging a disqualification order. *Nev. Yellow Cab Corp. v. Eighth Jud. Dist. Ct.*, 123 Nev. 44, 49, 152 P.3d 737, 740 (2007). Thus, we exercise our discretion to consider this petition.

“[D]istrict courts are responsible for controlling the conduct of attorneys practicing before them, and have broad discretion in determining whether disqualification is required in a particular case.” *Leibowitz v. Eighth Jud. Dist. Ct.*, 119 Nev. 523, 529, 78 P.3d 515, 519 (2003) (internal quotations omitted). Although we hesitate to “substitute our judgment for the district court’s,” when a district court manifestly abuses its discretion, as we conclude it did here, extraordinary relief is warranted. *Walker v. Second Jud. Dist. Ct.*, 136 Nev. 678, 680-81, 476 P.3d 1194, 1196-97 (2020); *see also* *Liapis v. Dist. Ct.*, 128 Nev. 414, 423, 282 P.3d 733, 739 (2012) (issuing a writ of mandamus because the district court manifestly abused its discretion in disqualifying counsel). The question of whether a firm has a conflict of interest requiring

disqualification “is primarily resolved by our rules of professional conduct governing conflicts.” *Nev. Yellow Cab*, 123 Nev. at 50, 152 P.3d at 741. We review “a district court’s interpretation of a statute or court rule . . . de novo, even in the context of a writ petition.” *Marquis & Aurbach v. Eighth Jud. Dist. Ct.*, 122 Nev. 1147, 1156, 146 P.3d 1130, 1136 (2006).

The district court disqualified WBD under RPC 1.7 because it found Brown formed an attorney-client relationship with Tinta-Ochoa when Claggett consulted with Brown about possible representation. In making this determination, the district court relied on NRS 49.045, which defines a “client” as “a person . . . who consults a lawyer with a view to obtaining professional legal services from the lawyer.” We conclude the district court erred by relying on NRS 49.045 to determine whether the Claggett-Brown consultation formed an attorney-client relationship. NRS 49.045 defines a “client” for purposes of ascertaining who has the right to assert the attorney-client privilege as set forth in NRS 49.095-.105. Although communications during an initial consultation may be protected by the attorney-client privilege, an attorney-client *relationship* requires more. Here, Brown did not consent to represent Tinta-Ochoa and there was no signed representation agreement, provision of legal services, or exchange of fees; thus an attorney-client relationship did not form. See RPC 1.0A(b) (“Most of the duties flowing from the client-lawyer relationship attach *only after* the client has requested the lawyer to render legal services and the lawyer has agreed to do so.” (emphasis added)). Because Brown did not form an attorney-client relationship with Tinta-Ochoa, we conclude the district court abused its discretion by finding that WBD was precluded from representing AAA Air Filter based on a concurrent client conflict under RPC 1.7.

The district court alternatively disqualified WBD under RPC 1.18, the rule governing duties owed to prospective clients. Because Claggett “consult[ed] with [Brown] about the possibility of forming a client-lawyer relationship with respect to” a potential case, we agree that Tinta-Ochoa was a “prospective client” of WBD and thus RPC 1.18 governs the analysis. RPC 1.18(a). RPC 1.18 explains that a lawyer receives “disqualifying information” and is barred from representing “a client with interests materially adverse to those of a prospective client in [a] . . . matter if the lawyer receive[s] information from [a] prospective client that could be significantly harmful to that person in the matter.” RPC 1.18(c).

Both Brown and Claggett provided sworn declarations to the district court explaining their respective positions as to whether Claggett shared information with Brown that could be significantly harmful to Tinta-Ochoa in the pending litigation. Claggett’s declaration asserted that Claggett “shared confidential information concerning the underlying matter, including a detailed discussion of Plaintiffs’ trial strategy and potential approaches should AAA seek bankruptcy.” Brown’s declaration stated that they “discussed only general bankruptcy procedures,” “[n]o confidential information or trial strategy,” and that Brown “only received information that would be publicly available.” AAA Air Filter requested an *in camera* evidentiary hearing for Claggett and Brown to provide live testimony to resolve the factual dispute between their competing declarations, but the district court declined that request. At the hearing on the motion to disqualify, however, the district court asked Claggett “as an officer of the [c]ourt” to confirm whether he had in fact revealed confidential information to Brown. Claggett stated that he had shared “specific details about th[e] case and a detailed plan” beyond simply lifting the bankruptcy stay. Because Brown was not in attendance at this

hearing, she was not afforded the same opportunity to provide assurances to the district court. And although other WBD attorneys renewed the request for an evidentiary hearing to resolve the discrepancies between Brown's and Claggett's declarations, the court again declined.

Determining whether an attorney acquired disqualifying information "is a factual matter for the district court to resolve." *New Horizon Kids Quest III, Inc. v. Eighth Jud. Dist. Ct.*, 133 Nev. 86, 89, 392 P.3d 166, 169 (2017). "Courts deciding attorney disqualification motions are faced with the delicate and sometimes difficult task of balancing competing interests" including a party's "right to be represented by counsel of one's choice," the "right to be free from the risk of even inadvertent disclosure of confidential information, and the public's interest in the scrupulous administration of justice." *Brown v. Eighth Jud. Dist. Ct.*, 116 Nev. 1200, 1205, 14 P.3d 1266, 1269-70 (2000). Generally, evidentiary hearings are appropriate to resolve disqualification motions where credibility questions dominate the district court's analysis. *See Nelson v. Eighth Jud. Dist. Ct.*, 138 Nev. 824, 830, 521 P.3d 1179, 1185 (2022). An evidentiary hearing may be helpful for district courts to balance the parties' interests when faced with competing factual assertions as to whether an attorney received disqualifying information. *See id.* And although we generally decline to intrude on the district court's discretion to decide whether to conduct an evidentiary hearing, *id.* at 830-31, 521 P.3d at 1185, we are troubled by the district court's decision here.

The district court was presented with two declarations from attorneys claiming inconsistent factual positions: Claggett declared that he had disclosed confidential information about his client to Brown, but Brown declared that all information received from Claggett was publicly available and thus not confidential. Moreover, by asking Claggett "as an officer of the court"

to reaffirm his position on the matter, the district court offered one side an opportunity to provide additional assurances, but did not provide the other side the same opportunity. Given the vastly diametric factual positions and the unequal opportunities to address those positions before the court, we conclude the district court manifestly abused its discretion by deciding the disqualification motion without first conducting an evidentiary hearing. Based on the foregoing, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate its disqualification order and to reconsider the motion to disqualify petitioner AAA Air Filter's counsel after conducting an evidentiary hearing to resolve the factual disputes between the competing declarations.²



Herndon, C.J.



Bell, J.



Stiglich, J.

cc: Hon. Anna C. Albertson, District Judge
Barron & Pruitt, LLP
Benson & Bingham
Claggett & Sykes Law Firm
Dennett Winspear, LLP
Harper Wixom
Womble Bond Dickinson (US) LLP/Las Vegas
Eighth District Court Clerk

²In light of this order, we lift the stay of proceedings imposed by our April 22, 2026, order.