

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

SAAD RAHMAN, M.D., and
PENSACOLA NEPHROLOGY, P.A.,
d/b/a THE KIDNEY GROUP, a Florida
Corporation,

Petitioners,

v.

RICHARD TAB JACKSON as the
Personal Representative of the Estate of
Wendy Leigh Kirby Jackson; WYNDAL
BLANKENSHIP, M.D., WYNDAL
BLANKENSHIP, M.D., P.A., BARRY
F. RIGGS, M.D., RADIOLOGY
ASSOCIATES OF FORT WALTON
BEACH, FLORIDA, Inc., a Florida
Corporation, RADIOLOGY
ASSOCIATES OF FORT WALTON
BEACH, FLORIDA, LLC, a Florida
Limited Liability Company, and FORT
WALTON BEACH MEDICAL
CENTER, INC., a Florida Corporation,

Respondents.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D08-3187

Opinion filed October 10, 2008.

Petition for Writ of Certiorari -- Original Jurisdiction.

William T. Jackson and Craig A. Dennis of Dennis, Jackson, Martin & Fontela,
Tallahassee, for Petitioners.

David R. Swanick, III and Stanley B. Powell of Powell & Swanick, Niceville, for Respondent Richard Tab Jackson, as Personal Representative of the Estate of Wendy Leigh Kirby Jackson; P. Scott Mitchell of Fuller, Mitchell, Hood & Stephens, Tallahassee, for Respondents Barry F. Riggs, M.D., and Radiology Associates of Fort Walton Beach Florida, Inc.; Pamela K. Frazier of Lozier, Thames & Frazier, Pensacola, for Respondent Fort Walton Beach Medical Center, Inc.; Jesse F. Suber of Henry, Buchanan, Hudson, Suber & Carter, Tallahassee, for Respondents Wyndal Blankenship, M.D., and Wyndal Blankenship, M.D., P.A.

PER CURIAM.

Petitioner Saad Rahman (“Petitioner”) seeks certiorari review of the trial court’s order disqualifying his attorney. Respondent Richard Tab Jackson (“Respondent”), as the Personal Representative of the Estate of Wendy Leigh Kirby Jackson, filed a motion to disqualify Petitioner’s attorney more than two years after Petitioner engaged that attorney to represent him in this matter. When Petitioner hired his attorney, the facts supporting the motion to disqualify were readily available to Respondent through a deposition that was taken before Petitioner was ever named as a defendant. In Transmark, U.S.A., Inc. v. State, Department of Insurance, 631 So. 2d 1112, 1116 (Fla. 1st DCA 1994), we held that “[a] motion to disqualify should be made with reasonable promptness after the party discovers the facts which lead to the motion.” We further explained, “The rationale behind this rule is to prevent a litigant from

using the motion as a tool to deprive his opponent of counsel of his choice after completing substantial preparation of the case.” Id. Because the trial court failed to apply these principles, and the injury caused by the order is not remediable by appeal, certiorari relief is warranted. Accordingly, we GRANT the petition and QUASH the order disqualifying Petitioner’s counsel.

KAHN, BENTON, and LEWIS, JJ., CONCUR.