

Third District Court of Appeal
State of Florida, July Term, A.D. 2008

Opinion filed August 06, 2008.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-1776
Lower Tribunal No. 08-16922

Lance R. Stelzer and Lance R. Stelzer, P.A.,
Petitioners,

vs.

Eve Noelle Chin,
Respondent.

A Case of Original Jurisdiction – Prohibition.

Alan K. Marcus, for petitioners.

Coffey Burlington and David A. Freedman, for respondent.

Before WELLS, ROTHENBERG, and SALTER, JJ.

ROTHENBERG, J.

Lance R. Stelzer and Lance R. Stelzer, P.A. (“the petitioners”) seek a writ of prohibition directed to the trial judge who denied the petitioners’ motion to disqualify her. We grant the petition.

The trial judge denied the petitioners’ motion to disqualify as legally insufficient, and we agree that the grounds asserted in the motion did not require the trial judge’s disqualification. However, after ruling on the petitioners’ motion to disqualify, the trial judge addressed the merits of the motion and stated her reasons for the ruling. Accordingly, prohibition disqualifying the trial judge is required. See Fla. R. Jud. Admin. 2.330(f) (stating that after deeming the motion to disqualify insufficient, “[n]o other reason for denial shall be stated”); Bundy v. Rudd, 366 So. 2d 440, 442 (Fla. 1978) (“When a judge has looked beyond the mere legal sufficiency of a suggestion of prejudice and has attempted to refute the charges of partiality, he [or she] has then exceeded the proper scope of his [or her] inquiry and on that basis alone established grounds for his [or her] disqualification.”).

Petition granted.