

Tex. R. Civ. P. 18a

Rule 18a - Recusal and Disqualification of Judges

(a) Motion; Form and Contents. A party in a case in any trial court other than a statutory probate court or justice court may seek to recuse or disqualify a judge who is sitting in the case by filing a motion with the clerk of the court in which the case is pending. The motion:

- (1) must be verified;
- (2) must assert one or more of the grounds listed in Rule 18b;
- (3) must not be based solely on the judge's ruling in the case; and
- (4) must state with detail and particularity facts that:
 - (A) are within the affiant's personal knowledge, except that facts may be stated on information and belief if the basis for that belief is specifically stated;
 - (B) would be admissible in evidence; and
 - (C) if proven, would be sufficient to justify recusal or disqualification.

(b) Time for Filing Motion.

- (1) Motion to Recuse. A motion to recuse:
 - (A) must be filed as soon as practicable after the movant knows of the ground stated in the motion; and
 - (B) must not be filed after the tenth day before the date set for trial or other hearing unless, before that day, the movant neither knew nor reasonably should have known:
 - (i) that the judge whose recusal is sought would preside at the trial or hearing; or
 - (ii) that the ground stated in the motion existed.
- (2) Motion to Disqualify. A motion to disqualify should be filed as soon as practicable after the movant knows of the ground stated in the motion.

(c) Response to Motion.

- (1) By Another Party. Any other party in the case may, but need not, file a response to the motion. Any response must be filed before the motion is heard.
- (2) By the Respondent Judge. The judge whose recusal or disqualification is sought should not file a response to the motion.

(d) Service of Motion or Response. A party who files a motion or response must serve a copy on every other party. The method of service must be the same as the method of filing. If possible.

(e) Duty of the Clerk.

(1) Delivery of a Motion or Response. When a motion or response is filed, the clerk of the court must immediately deliver a copy to the respondent judge and to the presiding judge of the administrative judicial region in which the court is located ("the regional presiding judge").

(2) Delivery of Order of Recusal or Referral. When a respondent judge signs and files an order of recusal or referral, the clerk of the court must immediately deliver a copy to the regional presiding judge.

(f) Duties of the Respondent Judge; Failure to Comply.

(1) Responding to the Motion. Regardless of whether the motion complies with this rule, the respondent judge, within three business days after the motion is filed, must either:

(A) sign and file with the clerk an order of recusal or disqualification; or

(B) sign and file with the clerk an order referring the motion to the regional presiding judge.

(2) Restrictions on Further Action.

(A) Motion Filed Before Evidence Offered at Trial. If a motion is filed before evidence has been offered at trial, the respondent judge must take no further action in the case until the motion has been decided, except for good cause stated in writing or on the record.

(B) Motion Filed After Evidence Offered at Trial. If a motion is filed after evidence has been offered at trial, the respondent judge may proceed, subject to stay by the regional presiding judge.

(3) Failure to Comply. If the respondent judge fails to comply with a duty imposed by this rule, the movant may notify the regional presiding judge.

(g) Duties of Regional Presiding Judge.

(1) Motion. The regional presiding judge must rule on a referred motion or assign a judge to rule. If a party files a motion to recuse or disqualify the regional presiding judge, the regional presiding judge may still assign a judge to rule on the original, referred motion. Alternatively, the regional presiding judge may sign and file with the clerk an order referring the second motion to the Chief Justice for consideration.

(2) Order. The ruling must be by written order.

(3) Summary Denial for Noncompliance.

(A) Motion to Recuse. A motion to recuse that does not comply with this rule may be denied without an oral hearing. The order must state the nature of the noncompliance. Even if the motion is amended to correct the stated noncompliance, the motion will count for purposes of determining whether a tertiary recusal motion has been filed under the Civil Practice and Remedies Code.

(B) Motion to Disqualify. A motion to disqualify may not be denied on the ground that it was not filed or served in compliance with this rule.

- (4) **Interim Orders.** The regional presiding judge or judge assigned to decide the motion may issue interim or ancillary orders in the pending case as justice may require.
- (5) **Discovery.** Except by order of the regional presiding judge or the judge assigned to decide the motion, a subpoena or discovery request may not issue to the respondent judge and may be disregarded unless accompanied by the order.
- (6) **Hearing.**
- (A) **Time.** The motion must be heard as soon as practicable and may be heard immediately after it is referred to the regional presiding judge or an assigned judge.
- (B) **Notice.** Notice of the hearing must be given to all parties in the case.
- (C) **By Telephone.** The hearing may be conducted by telephone on the record. Documents submitted by facsimile or email, otherwise admissible under the rules of evidence, may be considered.
- (7) **Reassignment of Case if Motion Granted.** If the motion is granted, the regional presiding judge must transfer the case to another court or assign another judge to the case.
- (h) **Sanctions.** After notice and hearing, the judge who hears the motion may order the party or attorney who filed the motion, or both, to pay the reasonable attorney fees and expenses incurred by other parties if the judge determines that the motion was:
- (1) groundless and filed in bad faith or for the purpose of harassment, or
- (2) clearly brought for unnecessary delay and without sufficient cause.
- (i) **Chief Justice.** The Chief Justice of the Supreme Court of Texas may assign judges and issue any orders permitted by this rule or pursuant to statute.
- (j) **Appellate Review.**
- (1) **Order on Motion to Recuse.**
- (A) **Denying Motion.** An order denying a motion to recuse may be reviewed only for abuse of discretion on appeal from the final judgment.
- (B) **Granting Motion.** An order granting a motion to recuse is final and cannot be reviewed by appeal, mandamus, or otherwise.
- (2) **Order on Motion to Disqualify.** An order granting or denying a motion to disqualify may be reviewed by mandamus and may be appealed in accordance with other law.

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