

Tex. R. Civ. P. 18b

Rule 18b - Grounds for Recusal and Disqualification of Judges

- (a)** *Grounds for Disqualification.* A judge must disqualify in any proceeding in which:
- (1)** the judge has served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter;
 - (2)** the judge knows that, individually or as a fiduciary, the judge has an interest in the subject matter in controversy; or
 - (3)** either of the parties may be related to the judge by affinity or consanguinity within the third degree.
- (b)** *Grounds for Recusal.* A judge must recuse in any proceeding in which:
- (1)** the judge's impartiality might reasonably be questioned;
 - (2)** the judge has a personal bias or prejudice concerning the subject matter or a party;
 - (3)** the judge has personal knowledge of disputed evidentiary facts concerning the proceeding;
 - (4)** the judge or a lawyer with whom the judge previously practiced law has been a material witness concerning the proceeding;
 - (5)** the judge participated as counsel, adviser, or material witness in the matter in controversy, or expressed an opinion concerning the merits of it, while acting as an attorney in government service;
 - (6)** the judge knows that the judge, individually or as a fiduciary, or the judge's spouse or minor child residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
 - (7)** the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:
 - (A)** is a party to the proceeding or an officer, director, or trustee of a party;
 - (B)** is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or
 - (C)** is to the judge's knowledge likely to be a material witness in the proceeding.
 - (8)** the judge or the judge's spouse, or a person within the first degree of relationship to either of them, or the spouse of such a person, is acting as a lawyer in the proceeding.

(c) Financial Interests. A judge should inform himself or herself about personal and fiduciary financial interests, and make a reasonable effort to inform himself or herself about the personal financial interests of his or her spouse and minor children residing in the household.

(d) Terminology and Standards. In this rule:

- (1)** "proceeding" includes pretrial, trial, or other stages of litigation;
- (2)** the degree of relationship is calculated according to the civil law system;
- (3)** "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;
- (4)** "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:
 - (A)** ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;
 - (B)** an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;
 - (C)** the proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;
 - (D)** ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities;
 - (E)** an interest as a taxpayer or utility ratepayer, or any similar interest, is not a "financial interest" unless the outcome of the proceeding could substantially affect the liability of the judge or a person related to him within the third degree more than other judge

Waiving a Ground for Recusal. The parties to a proceeding may waive any ground for recusal after it is fully disclosed on the record.

(f) Discovery and Divestiture. If a judge does not discover that the judge is recused under subparagraphs (b)(6) or (b)(7)(B) until after the judge has devoted substantial time to the matter, the judge is not required to recuse himself or herself if the judge or the person related to the judge divests himself or herself of the interest that would otherwise require recusal.

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Comment to 2011 Change: Rule 18a governs the procedure for recusing or disqualifying a judge sitting in any trial court other than a statutory probate court, justice court, or municipal court. Chapter 25 of the Government Code governs statutory probate courts, Rule 528 governs justice courts, and Chapter 29 of the Government Code governs municipal courts. Under Rule 18a, a judge's rulings may not be the sole basis for a motion to recuse or disqualify

the judge. But when one or more sufficient other bases are raised, the judge hearing the motion may consider evidence of rulings when considering whether to grant the motion. For purposes of this rule, the term "rulings" is not meant to encompass a judge's statements or remarks about a case.

The amendments to Rule 18b are not intended to be substantive.

