

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

KEN C. HICKS and PAYLESS	)	
SHOESOURCE, INC.,	)	
	)	
Petitioners,	)	
	)	
v.	)	Case No. 2D03-574
	)	
HOME SHOPPING NETWORK, INC.,	)	
	)	
Respondent.	)	
_____	)	

Opinion filed December 24, 2003.

Petition for Writ of Certiorari to the  
Circuit Court for Pinellas County;  
Bruce Boyer, Judge.

F. Wallace Pope, Jr., of Johnson Pope  
Bokor Ruppel & Burns, P.A., Clearwater,  
for Petitioners.

G. Donovan Conwell, Jr., of Fowler White  
Boggs Banker, P.A., Tampa, for  
Respondent.

NORTHCUTT, Judge.

Ken C. Hicks and Payless Shoesource, Inc., petition for a writ of certiorari  
to quash the order of the circuit court denying their motion to disqualify the law firm of

Fowler White Boggs Banker, P.A., from representing Home Shopping Network, Inc., in this suit. Hicks and Payless contend that Fowler White has a conflict of interest based on its representation of Payless in other matters. Because there are disputed factual issues, we grant the petition, quash the order under review, and remand for an evidentiary hearing. See Dawson v. Bram, 491 So. 2d 1275, 1276 (Fla. 2d DCA 1986) (“If the affidavits filed by the parties did not agree on the issue presented, the court should have conducted an evidentiary hearing” before deciding motion to disqualify counsel.); see also Holland v. Tenenbaum, 360 So. 2d 493 (Fla. 4th DCA 1978) (granting certiorari, quashing order that disqualified petitioner’s counsel, and remanding for evidentiary hearing due to conflicting affidavits filed by the parties).

Petition granted; order quashed; remanded for evidentiary hearing.

DAVIS and COVINGTON, JJ., Concur.