

Third District Court of Appeal

State of Florida

Opinion filed August 26, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D20-279
Lower Tribunal No. 16-24104

Rapid-Envios, et al.,
Appellants,

vs.

Mauricio Gomez, et al.,
Appellees.

An Appeal from a non-final order from the Circuit Court for Miami-Dade County, Abby Cynamon, Judge.

Fuerst Ittleman David & Joseph and Jeffrey J. Molinaro and Andrew Ittleman and Jayson Thomas, for appellants.

Zumpano Castro, LLC., and Daniel E. Zumpano and Antonio Castro and Joseph Ruiz, for appellees.

Before FERNANDEZ, LOGUE and LOBREE, JJ.

PER CURIAM.

Affirmed. See Case v. City of Miami, 756 So. 2d 259, 260–61 (Fla. 3d DCA 2000) (observing that “motion to disqualify should be made with reasonable promptness after the party discovers facts which lead to the motion”) (quoting Transmark, U.S.A., Inc. v. State, Dep’t of Ins., 631 So. 2d 1112, 1116 (Fla. 1st DCA 1994)); Zayas-Bazan v. Marcelin, 40 So. 3d 870, 872-73 (Fla. 3d DCA 2010) (“A party can waive his right to seek disqualification . . . by failing to promptly move for [it] upon learning of the facts leading to the alleged conflict.”); Lackow v. Walter E. Heller & Co. Se., Inc., 466 So. 2d 1120, 1122 n.2 (Fla. 3d DCA 1985) (critical point in time from which to assess undue delay and waiver is when movant is on notice of conflicted firm’s representation of opposing party in “*particular case*”); Balda v. Sorchych, 616 So. 2d 1114, 1116 (Fla. 5th DCA 1993); cf. Key Largo Rest., Inc. v. T.H. Old Town Assocs., Ltd., 759 So. 2d 690, 694 (Fla. 5th DCA 2000) (affirming grant of disqualification, “[a]lthough other trial judges may have arrived at a different conclusion, the ruling entered in this case is supported by the evidence, well reasoned, and did not offend existing statutes or case law”).