

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

JANUARY TERM 2004

**EASTRICH NO. 157 CORPORATION, a  
Massachusetts corporation, d/b/a PARK  
TERRACE APARTMENTS, AEW  
CAPITAL MANAGEMENT, L.P., a  
Massachusetts Limited Partnership, d/b/a  
PARK TERRACE APARTMENTS, and  
GABLES RESIDENTIAL SERVICES,  
INC., a Texas corporation, f/k/a  
TRAMMEL CROW RESIDENTIAL  
SERVICES, INC., a Texas corporation,  
d/b/a PARK TERRACE APARTMENTS,**

Petitioners,

v.

**CLAUDIA C. GATTO,**

Respondent.

\_\_\_\_\_  
CASE NO. 4D03-4443  
\_\_\_\_\_

Opinion filed March 24, 2004

Petition for writ of certiorari to the Seventeenth  
Judicial Circuit, Broward County; Patti Englander  
Henning, Judge; L.T. Case No. 00-8858 03.

Nancy W. Gregoire of Bunnell, Woulfe,  
Kirschbaum, Keller, McIntyre & Gregoire, P.A.,  
Fort Lauderdale, for petitioners.

Steven H. Osber of Rothstein, Rosenfeldt, Dolin  
& Pancier, P.A., Fort Lauderdale, for respondent.

PER CURIAM.

Eastrich No. 157 Corporation seeks relief from  
an order that disqualified its counsel. See, e.g.,  
Koulisis v. Rivers, 730 So. 2d 289 (Fla. 4th DCA  
1999). We grant the petition.

The underlying action involves a premises  
liability claim. The employee at issue worked as  
a legal secretary for plaintiff/respondent's counsel.  
After being terminated from her employment as a  
secretary with the plaintiff's firm, the employee at  
issue was given the opportunity to work part time  
for Eastrich's attorney's firm. As an independent  
contractor the former employee worked at the  
opposing firm for two days, for five hours each  
day entering billing data into the computer. The  
billing records did not concern the underlying case.  
Albeit reluctantly, the trial court looked to Koulisis,  
and granted the motion to disqualify defense  
counsel.

In Koulisis we held that once a party moving for  
disqualification had established a prima facie case  
for attorney disqualification, the burden of proof  
shifted to the law firm whose disqualification was  
sought. Its burden was to demonstrate by the  
greater weight of the evidence that the secretary  
had no actual knowledge of any confidential  
information material to the case. Through this  
petition, Eastrich asks this court to reconsider our  
opinion in Koulisis in favor of the view allowing for  
the screening of non-lawyer employees. See, e.g.,  
Stewart v. Bee-Dee Neon & Signs, Inc., 751 So.  
2d 196, 198-99 (Fla. 1st DCA 2000); City of  
Apopka v. All Corners, Inc., 701 So. 2d 641 (Fla.  
5th DCA 1997); Esquire Care, Inc. v. Maguire,  
532 So. 2d 740 (Fla. 2d DCA 1988).

We adhere to our opinion as stated in Koulisis,  
but find it distinguishable from the case before us.  
As detailed above, the employee herein was not  
hired as an employee or legal secretary by the  
opposing party's firm, nor did she perform any  
secretarial duties. Although there is no apparent  
dispute that during her employment at plaintiff's  
counsel's firm she was privy to privileged  
information concerning the case, her brief, and  
now-completed, employment in opposing counsel's  
firm, in a non-legal capacity, represents an  
exception to the rule in Koulisis.

CERTIORARI GRANTED AND ORDER

QUASHED.

POLEN, KLEIN and TAYLOR, JJ., concur.

***NOT FINAL UNTIL DISPOSITION OF ANY TIMELY  
FILED MOTION FOR REHEARING.***