

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

POLISH ROMAN CATHOLIC ST.	)	No. ED93551
STANISLAUS PARISH, JOHN BARAS,	)	
WILLIAM BIALCZAK, FATHER	)	
MAREK BOZEK, RICHARD LAPINSKI,	)	
JANICE MERZWEILLER, STANLEY	)	
NOVAK and JOSEPH RUDAWSKI,	)	
	)	Writ of Prohibition or Mandamus
Relators,	)	
	)	
v.	)	
	)	Cause No. 0822-CC07847
THE HONORABLE BRYAN	)	
HETTENBACH, 22 <sup>nd</sup> Judicial Circuit,	)	
City of St. Louis, Missouri,	)	
	)	
Respondent.	)	Filed: February 2, 2010

**OPINION SUMMARY**

Relators, Polish Roman Catholic St. Stanislaus Parish (“the Parish”), Parish Pastor, Father Marek Bozek, and six individual directors of St. Stanislaus’ Board (collectively “St. Stanislaus”), seek a writ of prohibition ordering Respondent, Circuit Judge Bryan L. Hettenbach (“Respondent” or “the trial court”), to vacate his Judgment and Order denying St. Stanislaus’ motion to disqualify the law firm of Greensfelder, Hemker & Gale, P.C. (“Greensfelder”) from representing the Archdiocese of St. Louis, the Archdiocesan Administrator, Bishop Robert Hermann, and six individuals who were former parishioners of the Parish (collectively “Plaintiffs”) in their action against St. Stanislaus. St. Stanislaus also requests that we direct the trial court to disqualify Greensfelder from further representing Plaintiffs. As grounds, St. Stanislaus contends that the trial court abused its discretion by failing to grant its motion to disqualify because Greensfelder entered into a co-counsel relationship with the former attorney for St. Stanislaus, Roger Krasnicki (“Krasnicki”), received confidential and privileged information from Krasnicki, coordinated each step of the underlying litigation with Krasnicki, and agreed to a Confidential Joint Litigation Agreement with Krasnicki. Respondent denies St. Stanislaus’ allegations and further contends that St. Stanislaus failed to timely file its motion to disqualify, thereby resulting in a waiver.

**PRELIMINARY WRIT MADE PERMANENT IN PART AND QUASHED IN PART**

Respondent abused his discretion by denying St. Stanislaus’ motion to disqualify without applying the proper legal framework to the issues presented. First, we conclude that St. Stanislaus timely filed its motion to disqualify given the trial court’s factual findings and the underlying record establishing that St. Stanislaus filed its motion promptly after learning of

Greensfelder's alleged conflict of interest and did not file its motion in bad faith or solely for strategic purposes. Second, denial of St. Stanislaus' motion on the merits requires a determination of whether Krasnicki has a conflict of interest with St. Stanislaus, and then whether Krasnicki's conflict is properly imputed to Greensfelder. Accordingly, we direct Respondent to vacate the Judgment and Order denying St. Stanislaus' motion and remand for proceedings in a manner consistent with this court's opinion.

Opinion by: Patricia L. Cohen, P.J. Clifford H. Ahrens, J., and Robert G. Dowd, Jr., J., concur.

Attorney for Relators: Richard B. Scherrer and Kenneth K. Vuylsteke

Attorney for Respondent: Maurice B. Graham

Attorney for Plaintiffs: Bernard C. Huger

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.**