

STATE OF NEW MEXICO  
COUNTY OF SAN JUAN  
ELEVENTH JUDICIAL DISTRICT

DISTRICT COURT  
SAN JUAN COUNTY NM  
FILED

PS

2013 JAN 10 AM 10: 22

STATE OF NEW MEXICO, *ex rel.*,  
STATE ENGINEER,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA et al.,

Defendants,

D-1116-CV-75-184  
HON. JAMES J. WECHSLER  
Presiding Judge

SAN JUAN RIVER ADJUDICATION

Cause No. AB-07-1  
Claims of the Navajo Nation

DESCRIPTIVE SUMMARY: Defendants B Square Ranch, LLC et al. move for attorneys for United States of America to be disqualified from the subject action.

NAME OF PARTY: Defendants B Square Ranch, LLC et al.

NUMBER OF PAGES: 4

DATE OF FILING: January 9, 2013 by electronic service and January 9, 2013 with Court Clerk

**DEFENDANTS B SQUARE RANCH, LLC ET AL.'s MOTION  
TO DISQUALIFY ATTORNEYS FOR UNITED STATES OF  
AMERICA FROM PARTICIPATION IN THE SUBJECT ACTION**

Defendants B Square Ranch, LLC et al. respectfully move the Court for an Order disqualifying attorneys for United States of America from participation in the above-styled action.

As grounds for this Motion, these Defendants state as follows:

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Rule 1-089.1 (A) NMRA 2012 (adopted October 15, 1986, and amended January 20, 2005) provides that counsel not admitted to practice law in New Mexico, but who are licensed to practice law and are in good standing in another state or country, may upon compliance with Rule 24-106 NMRA participate in proceedings before New Mexico courts only in association with counsel licensed to practice law and in good standing in New Mexico. Nonadmitted counsel shall state by affidavit that they are admitted to practice law and are in good standing to practice law in another state or country and that they have complied with Rule 24-106 NMRA. The affidavit must be filed with the first paper filed in the court, or as soon as practicable after a party decides on representation by nonadmitted counsel

In addition, Rule 1-089.1 (A) NMRA 2012 provides New Mexico counsel must sign the first motion or pleading, and New Mexico counsel's name and address must appear on all subsequent papers or pleadings.

Rule 24-106 NMRA 2012 (A) (adopted January 20, 2005) provides that, upon compliance with this rule and only in association with an active member in good standing as a member of the State Bar of New Mexico, an attorney authorized to practice law before the highest court of record in any state or country may appear on behalf of a party in a civil proceeding pending before a New Mexico court even though the attorney is not licensed to practice law in New Mexico.

Rule 24-106 NMRA 2012 (B) and (C) (adopted January 20, 2005) provides that for each civil proceeding in which an attorney intends to appear, the nonadmitted attorney must file a registration certificate with the State Bar of New Mexico and pay a

non-refundable fee of \$250.00. This Rule also provides the \$250 fee shall be waived if the nonadmitted attorney certifies that the attorney is employed by a governmental authority and will be appearing on behalf of the governmental authority in the proceeding in which the attorney is registering.

A review of the 2012-2013 Bench & Bar Directory issued by the State of New Mexico does not list Andrew J. ("Guss") Guarino or David W. ("Dave") Gehlert, attorneys who have appeared in the above-styled action on behalf of United States of America, as being licensed to practice law in New Mexico.

In a telephone call to the State Bar of New Mexico on January 8, 2013, counsel for Defendants B Square Ranch, LLC et al. was informed that neither Andrew J. ("Guss") Guarino nor David W. ("Dave") Gehlert have filed registration certificates with the State Bar of New Mexico to appear in a civil proceeding in any New Mexico court, and Messrs. Guarino and Gehlert are not active members in good standing as members of the State Bar of New Mexico.

Andrew J. ("Guss") Guarino and David W. ("Dave") Gehlert have further not complied with Rule 24-106 NMRA because they can only participate in proceedings before New Mexico courts in association with counsel licensed to practice law and in good standing in New Mexico. A review of the pleadings, motions and other papers filed in the above-styled action show that Messrs. Guarino and Gehlert have not associated with counsel licensed to practice law and in good standing in New Mexico, and that no New Mexico counsel has signed any pleadings, motions or other papers for the United States of America with his/her name and address appearing on any such pleadings, motions, or other papers.

