

**IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY,  
FLORIDA**

DEEPGULF, INC. and  
TOKE OIL AND GAS, S.A.

Plaintiffs,

vs.

MARC M. MOSZKOWSKI

Defendant.

Case No.: 2018 CA 000543

Division: "E"

**DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO MOTION TO  
DISQUALIFY PRESIDING JUDGE**

Defendant, Marc Moszkowski, replies to Plaintiff's May 6, 2025  
Opposition to the Motion to Disqualify the Presiding Judge, and states:

**1. Timeliness**

Plaintiff wrongly asserts that this Motion is untimely under Fla. R. Gen. Prac. & Jud. Admin. 2.330. The conduct that gave rise to the Motion occurred in April 2025, not in 2022. The disqualifying grounds are based on:

- A rapid sequence of adverse procedural rulings,
- The Court's failure to address over sixty substantive filings,

- And the extrajudicial communication from Plaintiff's counsel to the Court's Judicial Assistant, which appears to have forestalled prompt adjudication of the Motion to Disqualify itself. These facts only crystallized in late April and early May 2025, and the Motion was filed within days.

## **2. Not Based on Adverse Rulings Alone**

Plaintiff mischaracterizes the Motion as rooted in dissatisfaction with judicial rulings. It is not. Rather, it is grounded in a documented pattern of procedural neglect, evident in the Court's refusal to address over sixty substantive filings—some of which raise serious issues of fraud, jurisdiction, and standing. The Court has proceeded to trial scheduling and mediation orders without ever ruling on Defendant's discovery motions, motions for dismissal, or requests for equitable relief.

While Plaintiff cites *Barwick v. State*, 660 So. 2d 685 (Fla. 1995), to argue that adverse rulings cannot justify disqualification, he omits the governing standard: disqualification is appropriate where a litigant demonstrates a reasonable fear of partiality. As the Florida Supreme Court made clear in *Livingston v. State*, 441 So. 2d 1083 (Fla. 1983),

“The question is not whether the judge is fair or impartial in fact, but whether the party has a reasonable, well-grounded fear that he or she will not receive a fair trial.” In *Barwick* itself, the Court noted that a motion to disqualify “must be well-founded and must demonstrate an actual fear that the judge will not be fair and impartial; it is not a vehicle for simply expressing dissatisfaction with adverse rulings.” Here, the disqualifying conduct goes far beyond adverse rulings: it includes the sustained failure to address Defendant’s case at all.

### **3. Judicial Efficiency Is Not a Justification for Injustice**

Plaintiff closes by objecting that “granting the motion this close to a final hearing... would undermine judicial efficiency.” That statement inadvertently proves Defendant’s point: the Court’s desire to “proceed expeditiously” has substituted speed for scrutiny, especially at the expense of a pro se litigant. Justice cannot be sacrificed to administrative convenience. A “final hearing” that takes place before discovery, before admissibility rulings, and before acknowledgment of the record cannot be just.

#### **4. Discovery Has Not Occurred**

Plaintiff's claim that this case is on the eve of final adjudication ignores the fact that discovery has not even been scheduled. Defendant's numerous requests for production, interrogatories, and motions to compel have all been ignored—both by Plaintiff and by the Court. Plaintiff cannot invoke judicial economy while simultaneously benefiting from procedural inertia and asymmetry.

#### **5. Appearance of Coordination and Extrajudicial Influence**

Plaintiff's own unsolicited email to the Judicial Assistant, sent in response to a pending disqualification motion, raises serious questions about procedural impartiality and chamber coordination. The Court did not act on the Motion prior to that communication and has not acknowledged its contents since. This alone supports a reasonable fear of partiality.

#### **WHEREFORE,**

Defendant respectfully requests that the Motion to Disqualify be granted, and that the matter be reassigned to a Judge who can consider the full record and ensure procedural parity going forward.

Respectfully submitted on this 6<sup>th</sup> day of May, 2025.

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### **CERTIFICATE OF SERVICE**

I hereby certify that, on this 6<sup>th</sup> day of May, 2025, a copy of this Notice has been furnished to Braden K. Ball, Jr., attorney for the plaintiffs, through the Florida Courts E-Filing Portal.

