

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 MOTION TO PRECLUDE SANCTIONS AND TO
DISMISS PLAINTIFF'S REQUEST FOR AN ORDER TO SHOW CAUSE**

COMES NOW Defendant, Marc Moszkowski, and respectfully moves this Court to preclude sanctions and deny Plaintiff's Motion for an Order to Show Cause dated April 16, 2025, and as grounds therefore states as follows:

I. INTRODUCTION

Plaintiff's request for an Order to Show Cause misrepresents the factual and procedural record, disregards this Court's own awareness of Defendant's indigency, and cynically mischaracterizes the April 9, 2025 Order on Case Management. Defendant has never refused mediation, but rather made repeated, documented efforts to comply—efforts hindered

solely by extreme financial hardship, health limitations, and logistical obstruction caused in part by Plaintiff's own shareholder, who has judicially encumbered Defendant's only asset. The record demonstrates that Defendant acted in good faith and that sanctions would be wholly inappropriate.

II. BACKGROUND

1. On April 9, 2025, this Court entered an Order stating that failure to participate in mediation “*shall result in the issuance of an Order to Show Cause.*”
2. Plaintiff's April 16, 2025 Motion mischaracterizes this provision as authorizing immediate sanctions or default, despite the fact that no Order to Show Cause has yet been issued.
3. Defendant filed a timely **Response** on April 17, 2025, followed by a **Supplemental Memorandum** (filed concurrently herewith) that set forth in detail:
 - The Defendant's well-documented indigency;
 - The physical and legal impossibility of raising funds from his only real estate asset;
 - Prior compliance with all court instructions;

- Plaintiff's refusal to pay for mediation costs despite corporate bylaws.

III. ARGUMENT

A. No Refusal to Mediate Exists in the Record

Contrary to Plaintiff's assertion, Defendant never declined mediation. He merely:

- Sought enforcement of corporate bylaws obligating Plaintiff to bear his legal expenses;
- Notified the Court of inability to pay due to proven financial and physical constraints;
- Requested alternative relief, including waiver or modification.

Such efforts reflect a good faith intent to comply—not a sanctionable refusal.

B. The April 9 Order Requires Issuance of an Order to Show Cause Before Sanctions

The April 9 Order expressly states:

“Failure to participate [...] shall result in the issuance of an Order to Show Cause.”

This language sets forth a contingent procedural step, not an automatic penalty. Plaintiff's motion improperly seeks to leapfrog this process and pre-emptively assign guilt without hearing or proper notice.

C. Plaintiff's Representations Are Misleading and Unsupported

Plaintiff's counsel, a real estate attorney based in Pensacola, claimed Defendant's rural French property must "assuredly" have increased in value since 2007, and implied that failure to liquidate that asset reflects bad faith. As shown in the attached Supplemental Memorandum:

- The property is under judicial foreclosure by Plaintiff's own shareholder;
- No mortgage or reverse mortgage is legally possible;
- The house is in a state of decay and abandonment due to Defendant's indigency;
- Defendant's inability to attend mediation or pay fees stems from factors outside his control, not willful noncompliance.

D. Sanctions Would Constitute Manifest Injustice

To impose sanctions—let alone strike pleadings or enter default—on a physically disabled, indigent defendant who has consistently participated in

proceedings, filed over 100 substantive pleadings, and prevailed on the same claims over the same Plaintiff in prior federal litigation, would not only be inequitable, but potentially unconstitutional under due process standards.

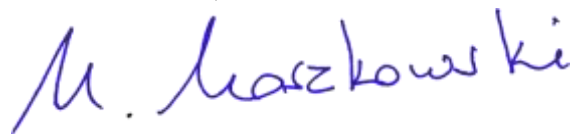
IV. RELIEF REQUESTED

WHEREFORE, Defendant respectfully requests that the Court:

1. Deny Plaintiff's Motion for an Order to Show Cause;
2. Decline to impose any sanctions based on mediation-related issues;
3. Recognize Defendant's good faith efforts and documented inability to pay;
4. Grant such further relief as is just and proper.

Respectfully submitted on this 9th day of June, 2025.

Marc Moszkowski, Pro Se
Email: m.moszkowski@deepgulf.net
Le Verdos
83300 Châteaudouble, France



CERTIFICATE OF SERVICE

I hereby certify that, on this 9th day of June, 2025, a copy of this Motion has been furnished to Braden K. Ball, Jr., attorney for the plaintiffs, through the Florida Courts E-Filing Port

M. Maczkowski