

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

DEEPGULF, INC. and

TOKE OIL AND GAS, S.A.,

Plaintiffs,

Case No.: 2018 CA 000543

vs.

Division:

MARC M. MOSZKOWSKI,

Defendant.

**PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO
DISQUALIFY PRESIDING JUDGE AND FOR REASSIGNMENT TO A DIFFERENT
DIVISION**

COMES NOW Plaintiffs, DeepGulf, Inc. and Toke Oil and Gas, S.A., by and through undersigned counsel, and respectfully oppose Defendant's Motion to Disqualify Presiding Judge and for Reassignment to a Different Division, filed on May 5, 2025, as legally insufficient under Rule 2.330, Florida Rules of Judicial Administration and applicable law. For the reasons set forth below, the Court should deny the motion.

I. INTRODUCTION

Defendant Marc Moszkowski seeks to disqualify the Honorable Jan Shackelford from presiding over this case, alleging bias based on her prior rulings in Case No. 2020 CA 001021 and perceived procedural disparities in the present case. The motion fails simply because it is untimely under the applicable rule. In addition, the motion fails to meet the legal standard for disqualification, as it relies on dissatisfaction with adverse judicial rulings, speculative claims, and administrative case management decisions, none of which establish a well-founded fear of bias.

Pursuant to Florida Rule 2.330 and controlling precedent, the motion is legally insufficient and should be denied.

II. LEGAL STANDARD

Under Rule 2.330(d), a motion to disqualify a judge must allege specific facts demonstrating a well-founded fear that the movant will not receive a fair and impartial trial, such that a reasonably prudent person would doubt the judge's impartiality. The Motion shall be filed within a reasonable time not to exceed 20 days after discovery by the party of the facts constituting the grounds for the Motion. Rule 2.330(c), Rule of Judicial Administration. Moreover, adverse judicial rulings alone do not constitute grounds for disqualification. Barwick v. State, 660 So. 2d 685, 692 (Fla. 1995). See also Thompson v. State, 659 So.2d 650 (Fla. 2000). Such Motions are determined on whether or not the fear of judicial bias is objectively reasonable. Subjective fear of bias is not sufficient. Parker v. State, 3 So. 3d 974 (Fla. 2009).

III. ARGUMENT

Defendant's motion fails to establish a well-founded fear of bias and is legally insufficient for the following reasons:

Defendant's Motion is Untimely

Rule 2.330(e) requires motions to disqualify to be filed within 20 days of discovering the grounds for disqualification. Defendant's reliance on events from 2022 (e.g., the Final Judgment in Case No. 2020 CA 001021) evidences that his arguments are untimely, as these grounds were known by Defendant years ago. Judge Shackelford has been the Judge in this case for a significant period of time, certainly since the hearing was held on February 10, 2025 on multiple motions filed by the parties. Thus, Defendant knew of the reassignment of the case to Judge Shackelford for a much greater time than 20 days prior to filing his Motion to Disqualify. Therefore, since the

Motion relates to events that were more than 20 days prior to the filing of the Motion, it fails to comply with Rule 2.330(e).

Adverse Rulings in Case No. 2020 CA 001021 Do Not Constitute Bias

The crux of Defendant's motion is his dissatisfaction with the Court's entry of a Final Judgment of No Liability in Case No. 2020 CA 001021, which he claims ignored his timely motions and deprived him of due process. This is a complaint about an adverse ruling, not evidence of judicial bias. Florida law is clear that adverse rulings, even if perceived as erroneous, do not justify disqualification. Barwick, 660 So. 2d at 692. If Defendant believed the 2022 judgment was procedurally or substantively improper, his remedy was to appeal, not to seek disqualification years later. Defendant's Motion's reliance on the prior case's outcome fails to demonstrate any personal prejudice by Judge Shackelford.

The Motion Lacks Allegations of Personal Bias or Extrajudicial Conduct

Defendant alleges no personal animus, extrajudicial conduct, or statements by Judge Shackelford indicating bias. Instead, his motion focuses on judicial actions—rulings, case management, and reassignment—which courts routinely find insufficient for disqualification. Parker, 3 So. 3d at 982. For example, Defendant's claim that the Court ignored his motions in Case No. 2020 CA 001021 reflects disagreement with case management, not evidence of bias. Absent specific allegations of personal bias, the motion fails to meet the threshold under Rule 2.330.

Case Reassignment Is an Administrative Act, Not Evidence of Bias

Cases in Escambia County are routinely reassigned as Judges rotate from division to division, based upon the order of the Administrative Judge for the 1st Circuit. Defendant asserts that the reassignment of this case to Judge Shackelford suggests "forum coordination." Case assignments, however, are standard administrative functions, not evidence of judicial misconduct.

Defendant provides no evidence of improper motive or coordination, and his conclusory allegation is insufficient to support disqualification. Thompson, 759 So. 2d at 659.

Statistical Arguments Are Irrelevant to Bias

Defendant's statistical analysis—claiming he filed 58% of the docket in this case compared to Plaintiffs' 26%—is irrelevant to judicial bias. The undersigned concedes that Defendant has the undersigned beat on filing volume. Courts must decide on the weight of the law, both procedurally and substantively, but that does not mean that the party with the most filings wins the day. Filing volume reflects Defendant's litigation strategy, not unequal treatment by the Court. Pro se litigants are held to the same procedural standards as represented parties. Kohn v. City of Miami Beach, 611 So. 2d 538, 539 (Fla. 3d DCA 1992). Defendant's assertion that his filings "failed to receive due consideration" is speculative and unsupported by specific evidence of bias, rendering this argument legally insufficient.

Allegations of "Forum Coordination" and "Quiet Burial" Are Conclusory


Defendant's claims of "forum coordination" and "quiet burial of a full record of corporate fraud" are speculative and lack factual support. Conclusory allegations do not meet the specificity required for disqualification. Thompson, 759 So. 2d at 659. Defendant provides no evidence of judicial misconduct or intent to favor Plaintiffs, and these assertions appear to rehash his disagreement with the prior case's outcome, which is not a basis for disqualification.

IV. CONCLUSION

Defendant's motion is untimely in accordance with Rule 2.330(e), which in and of itself is sufficient for the Court to deny his Motion to Disqualify. Additionally, Defendant's motion fails to establish a well-founded fear of bias under Florida Rule 2.330. His allegations reflect dissatisfaction with adverse rulings, procedural disagreements, and speculative claims, none of

which meet the legal standard for disqualification. Granting the motion this close to a final hearing, especially with the Court's desire to proceed expeditiously with this case, would undermine judicial efficiency. Accordingly, Plaintiffs respectfully request that the Court deny Defendant's Motion to Disqualify Presiding Judge and for Reassignment to a Different Division as legally insufficient.

RESPECTFULLY SUBMITTED,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 6th day of May, 2025, a copy of the foregoing has been furnished to the Defendant, Marc M. Moszkowski, Le Verdos, 83300 Chateaudouble, France (m.moszkowski@deepgulf.net) via the Court's E-filing system.



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