

**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 FOR RECONSIDERATION OR  
CLARIFICATION OF ORDER COMPELLING IN-PERSON TRIAL AND  
MEDIATION ATTENDANCE**

COMES NOW Defendant, Marc Moszkowski, and respectfully moves this Court to reconsider or clarify its Order dated April 9<sup>th</sup>, 2025, which compels Defendant to participate in mediation and appear in person at the Pretrial Conference and Bench Trial scheduled for June 17–18, 2025. Defendant submits this Motion due to the unresolved status of motions related to legal expense responsibility, the severe logistical and medical obstacles to travel, and the severe prejudice resulting from the Court's decision to defer all pending motions until the week of trial.

## **I. PLAINTIFF'S REQUEST AND MISLEADING FRAMING**

Defendant was not aware until receipt of the Order that it was Plaintiff who specifically requested in-person attendance, despite full knowledge that Defendant had previously sworn his inability to travel without financial assistance. Plaintiff's insistence on in-person proceedings, knowing this fact, appears less a matter of procedural need than of tactical advantage.

The Court's phrase, 'Not only is he the Defendant in the case, but he has also filed a counterclaim,' creates an inference of impropriety in the lawful exercise of Defendant's rights. Defendant respectfully submits that counterclaims are standard procedural responses and do not justify increased burdens or insinuations of misconduct.

## **II. MEDICAL, FINANCIAL, AND LOGISTICAL OBSTACLES**

Defendant currently suffers from two large, untreated inguinal hernias—diagnosed in 2017 but getting worse by the month—which cause ongoing pain and physical limitations. As described in previous filings, Defendant's daily income is approximately \$31.50, with no savings or surplus remaining. Travel to Pensacola, Florida for a 13-day period would require at least \$6,353.48—representing seven months of Defendant's

entire income. This includes the cheapest airfare, airport transport, lodging, local transportation, and the cost of maintaining basic oversight of Defendant's home during absence.

### **III. DELAY AND DEFERRAL OF PENDING MOTIONS**

The Court's apparent decision to defer all of Defendant's pending motions—including those involving allegations of fraud on the court, standing, misuse of corporate authority, and failure to conduct discovery—until the week of trial imposes serious prejudice. Defendant respectfully requests that critical procedural and evidentiary issues be addressed well in advance of trial to avoid unfair surprise or irreversible harm.

### **IV. GOOD FAITH AND DESIRE TO APPEAR**

Defendant wishes to make clear that if it became financially and physically possible to attend trial, he would do so without hesitation. After eight years of complete isolation, extreme medical hardship, and uninterrupted litigation, the opportunity to face those who have attacked his reputation, his property, and his integrity is not something Defendant would avoid.

In the meantime, Defendant is also actively seeking pro bono trial representation, both within Florida and nationally. Defendant believes that with appropriate representation, trial participation—even remotely—could be substantially facilitated. However, to date, no counsel has been able to take the case, and Defendant continues to pursue every available avenue in good faith.

Defendant has not ridden in a vehicle or left his location in eight years, except for the short hiatus of his depositions in Pensacola in July 2019. Trial would not only offer the chance to defend himself in person, but to briefly re-enter the world. If a solution were to emerge—a loan, a donor, a procedural relief—Defendant would do his best to travel. However, as of now, travel remains medically risky and financially prohibitive—though not categorically impossible should circumstances change. Until a solution is confirmed, Defendant cannot affirm or deny his ability to appear. He respectfully asks the Court not to equate his inability with unwillingness.

## **V. RELIEF REQUESTED**

Defendant respectfully requests that the Court reconsider or clarify its Order dated April 9<sup>th</sup>, 2025, and specifically:

1. Stay or defer the requirement for in-person attendance at trial until such time as financial feasibility or accommodation is resolved;
2. Reconsider the denial of Defendant's Motion seeking enforcement of corporate responsibility for legal expenses under DeepGulf, Inc.'s Bylaws;
3. Address, prior to trial, the pending motions concerning fraud, procedural abuse, and evidentiary integrity;
4. Permit continued use of Zoom for mediation and, if necessary, for trial participation; see however Section VIII below;
5. Grant such other relief as the Court deems just and equitable under the circumstances.

## **VI. NOTICE OF TIMING DISCREPANCY REGARDING ORDER COMMUNICATION**

Defendant further notes that on April 9<sup>th</sup>, 2025, at 4:42 PM, Plaintiff's counsel emailed the assigned mediator, referencing and quoting the Court's Order, exactly 14 minutes before Defendant received at 4:56 PM the official service notification through the Florida Courts e-Filing Portal, which had been filed at 04:55:27 PM EDT.

Defendant respectfully submits this discrepancy for the record, as it raises concerns about how and when the Order was communicated to the parties, and whether Plaintiff was provided advance access—formally or informally—prior to its availability to Defendant.

While Defendant does not allege misconduct, the timing, coupled with Plaintiff's immediate use of the Order to influence the mediation schedule, merits clarification to preserve the appearance of fairness in ongoing proceedings.

## **VII. PRIOR RELATED LITIGATION – JUDICIAL PATTERN OF PROCEDURAL DENIAL**

Defendant respectfully informs the Court that in a prior case before this same Court, filed in August 2020 —Case 2020 CA 001021—, involving the same Plaintiff's counsel and relating claims of fraud, abuse of process, and perjury, Defendant's complaint was dismissed and the Court entered Final Judgment of no liability in favor of the Defendants in May 2022 . In that 2020 case, Defendant brought claims against the individual instigators of the present litigation. The same attorney now representing Plaintiff refused to comply with Defendant's discovery requests, depriving Defendant of the

corporate identity information required to amend the complaint as instructed by the Court.

Despite notifying the Court in writing of this obstacle and asserting that the failure to amend was solely due to the Defendants' strategic withholding of non-confidential information, the Court dismissed the action and entered a Final Judgment of no liability in favor of the Defendants, Rustin R. Howard and Thomas J. Johnson. That ruling was not based on a contested hearing or evidentiary analysis, but rather issued over Defendant's stated objections and without the benefit of depositions, full discovery, or a substantive review of the facts.

The current litigation bears disturbing resemblance: the same counsel, the same refusal to engage with the discovery process, and the same risk that procedural irregularities will once again result in the dismissal or default of Defendant—without meaningful review of the evidence. Defendant respectfully submits this history to preserve the record and alert the Court to a pattern that may again threaten the integrity of these proceedings.

## VIII. CLARIFICATION ON MEDIATION COST BARRIER

Defendant further clarifies that, at the time of this filing, he is unable to provide the required \$900 payment for mediation. This amount is equal to one full month of Defendant's income. Defendant respectfully requests that the Court not equate this financial barrier with a refusal to participate in mediation. Defendant has consistently expressed willingness to engage in meaningful dispute resolution but cannot do so at a cost he cannot meet, especially after his Motion regarding corporate responsibility for legal expenses has been denied.

Respectfully submitted this 10<sup>th</sup> day of April, 2025

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## **CERTIFICATE OF SERVICE**

I hereby certify that, on this 10<sup>th</sup> day of April, 2025, a copy of this motion has been furnished to Braden K. Ball, Jr., attorney for the plaintiffs, through the Florida Courts E-Filing Portal.

*M. Marzowski*