

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 SECOND MOTION
TO DISQUALIFY PRESIDING JUDGE FOR APPEARANCE OF IMPROPRIETY,
PATTERN OF NON-ENGAGEMENT, AND DENIAL OF DUE PROCESS**

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 for appearance of impropriety, pattern of non-engagement, and denial of due process, filed on May 22, 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 for the second time in the month of May, 2025, alleging bias based on the Court's recent rulings in the present case, the denial of a Motion for Summary Judgment from February, 2025, the filing of a pleading in this case, to wit—Answer, Affirmative Defenses and Counter-Claim dated February 20, 2025, and some other general, non-specific concerns set forth by Defendant. The motion fails in part as it relates to the Motion for Summary Judgment 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. To the extent that the motion relies on certain matters prior to 20 days of the filing, such as the denial of the Defendant's Motion for Summary Judgment, then the Motion is untimely.

Adverse Rulings in the Present Case

The crux of Defendant's motion is his dissatisfaction with the Court's entry of multiple Orders in this case. The Motion to Compel Corporate Records and the Motion to Lift Fraudulent Lien and for Judicial Finding of Abuse of Process request relief which are not within the scope of any claim presented in an affirmative claim by Defendant against Plaintiffs and were justifiably denied out of hand by this Court. The Motion to Hold Trial in Abeyance Pending Resolution of Threshold Issues, Motion for Protective Order from an Unjustified \$900 mediation payment and Motion for Reconsideration of the Court's April 17, 2025 are all based upon issues that have long been determined by this Court in prior rulings, detailing what the procedure is in order to proceed to a final trial in this case. This Motion is merely a complaint about adverse rulings, 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.

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 and case management—which courts routinely find insufficient for disqualification. Parker, 3 So. 3d at 982. All of the grounds cited by Defendant for disqualification are based upon adverse rulings which reflect the Court's reasonable exercise of discretion, not partiality. Absent specific allegations of personal bias, the motion fails to meet the threshold under Rule 2.330.

Speculative Claims of Impropriety

Defendant's allegations of "improper communications with opposing counsel" and "predetermined trajectory" are speculative and unsupported by evidence. Such claims require specific, verifiable facts, not conjecture. Conclusory allegations do not meet the specificity

required for disqualification. Thompson, 759 So.2d at 659. The motion's reference to the Court's alleged "dismissive remarks" about Defendant's foreign residence or health conditions lacks specific quotations or context, rendering it legally insufficient and the reference is to a hearing held on April 3, 2025 and such references even if specified and sufficient¹ to meet the standard for disqualification are untimely.

IV. CONCLUSION

Defendant's motion is untimely in many respects 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 for appearance of impropriety, pattern of non-engagement, and denial of due process.

RESPECTFULLY SUBMITTED,



BRADEN K. BALL, JR.

Florida Bar No. 89000

LITVAK BEASLEY WILSON & BALL, LLP

40 Palafox Place, Suite 300

Pensacola, Florida 32502

Telephone: (850) 432-9818

Facsimile: (850) 432-9830

Attorneys for Plaintiffs

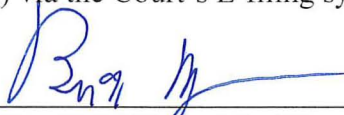
Primary E-mail: braden@lawpensacola.com

Secondary E-mail: mandrews@lawpensacola.com

¹ In any event, there were no such dismissive remarks by the Court.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 22nd 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.



BRADEN K. BALL, JR.

Florida Bar No. 89000

LITVAK BEASLEY WILSON & BALL, LLP

40 Palafox Place, Suite 300

Pensacola, Florida 32502

Telephone: (850) 432-9818

Facsimile: (850) 432-9830

Attorneys for Plaintiffs

Primary E-mail: braden@lawpensacola.com

Secondary E-mail: mandrews@lawpensacola.com