

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

COMES NOW Defendant, Marc Moszkowski, appearing pro se, pursuant to Article V, Section 20(c)(3) of the Florida Constitution, Florida Statutes § 38.10, and the Florida Code of Judicial Conduct Canon 3(E)(1), and respectfully moves to disqualify the Honorable Jan Shackelford from further involvement in this action, and in support thereof states the following:

**STATEMENT REGARDING PRIOR DISQUALIFICATION MOTION**

Defendant previously filed a Motion to Disqualify the Honorable Jan Shackelford on May 5, 2025. This present motion is not duplicative, but is based on new and additional grounds that arose or became manifest only

after the filing of the prior motion. Specifically, this motion incorporates and responds to the Court's May 21, 2025 issuance of five separate unexplained one-page denials affecting statutory and equitable rights, and the denial of a supported Motion for Summary Judgment following a hearing on February 10, 2025, the full implications of which only became apparent in light of the Court's subsequent pattern of rulings. At that hearing, Defendant, appearing pro se and remotely, was unable to present the full record due to its volume and the time constraints imposed. These developments reinforce the appearance of judicial bias, procedural neglect, and the denial of due process, and satisfy the requirement of Rule 2.330(h) and § 38.10, Florida Statutes.

## **PART I: CONSOLIDATED PROCEDURAL TIMELINE AND STATEMENT**

### **1. June 23, 2021 – *Motion to Strike Complaint as a Sham***

Defendant filed a 23-page motion pursuant to Rule 1.150, supported by multiple exhibits. The motion demonstrated that Plaintiffs' claims were facially inconsistent, legally impossible, or factually disproven, including patent claims for inventions already assigned, domain names never owned by Plaintiffs, and mischaracterized financial transactions. Plaintiffs filed no response for

three years and eight months. The Court denied the motion on May 21, 2025 in a one-page order without findings of fact, legal reasoning, or acknowledgment of the evidentiary record.

## **2. January 1, 2025 – Motion for Summary Judgment**

Defendant submitted a detailed Motion for Summary Judgment under Rule 1.510, addressing all eleven counts in the Complaint. The motion cited controlling precedent (*Celotex*, *Liberty Lobby*, *Freestream*), relied on deposition admissions from Plaintiff's principal, and included bank records, domain registration logs, and corporate filings. The Court denied the motion in a one-line ruling:

*“Defendant’s Motion for Summary Judgment is hereby DENIED because there are issues of material fact to be determined by the trier of fact.”*

A hearing was held on February 10, 2025, at which Defendant, appearing pro se and remotely, attempted to summarize nearly four years of pleadings. Due to the volume and complexity of the record, Defendant was unable to convey the full scope of argument within the limited time allowed. The Court offered no substantive discussion of the motion or the evidence presented. No material facts in dispute

were identified. No discussion of exhibits or counter-evidence was provided.

**3. February 20, 2025 – *Answer, Affirmative Defenses, and Counter-Claim***

Defendant filed a full responsive pleading asserting ten affirmative defenses (including fraud, lack of standing, waiver, and statute of limitations) and six counterclaims. These included breach of contract for unpaid salary obligations and broken immigration support promises; accounting and restitution for work performed without compensation; and two counts of fraud based on documented misrepresentations by Plaintiffs and their counsel. The pleading remains pending and unacknowledged by the Court.

**4. May 21, 2025 – *Three Critical Motions Denied Without Explanation***

In a single day, the Court issued initially three separate one-page denials—each devoid of analysis—rejecting Defendant’s:

- Motion to Compel Corporate Records (despite being the largest shareholder and recognized director),
- Motion to Hold Trial in Abeyance Pending Resolution of Threshold Issues,

- Motion for Protective Order from an unjustified \$900 mediation payment.

These denials followed a consistent pattern: no hearings, no reasoning, no reference to the extensive record, and no apparent engagement with Defendant's statutory, financial, or constitutional arguments.

#### **5. May 21, 2025 – *Two Additional Motions Denied Without Explanation***

On the same day as three prior denials, the Court also summarily denied Defendant's:

- Motion to Lift Fraudulent Lien and for Judicial Finding of Abuse of Process, and
- Motion for Reconsideration of the Court's April 17, 2025 Order.

The first motion presented a complex and factually substantiated account of extraterritorial fraud involving coordinated actions in France between Plaintiff's Howard and a shareholder, leading to the wrongful imposition of a lien on Defendant's property abroad. The Court issued its denial in a single line, without addressing the facts, allegations, or requested equitable relief. This either reflects a refusal to read or consider the record, or suggests improper communications with opposing counsel—both of which create an undeniable appearance of judicial bias.

## **PART II: LEGAL STANDARD FOR DISQUALIFICATION**

Under Florida Statutes § 38.10 and Canon 3(E)(1) of the Florida Code of Judicial Conduct, a judge shall disqualify herself in a proceeding in which the judge's impartiality might reasonably be questioned. Disqualification is warranted not only in cases of actual bias but also when there exists an appearance of impropriety or partiality that would lead a reasonable person to fear that justice will not be administered fairly.

The Florida Supreme Court has held that the test is not the judge's subjective belief in her own impartiality, but whether "the facts alleged would place a reasonably prudent person in fear of not receiving a fair and impartial trial." *Livingston v. State*, 441 So. 2d 1083, 1086 (Fla. 1983); *MacKenzie v. Super Kids Bargain Store, Inc.*, 565 So. 2d 1332 (Fla. 1990).

## **PART III: GROUNDS FOR DISQUALIFICATION**

Defendant asserts the following facts support the appearance of partiality:

1. A sustained pattern of unexplained rulings, where dispositive motions are denied in single-sentence orders with no legal reasoning or findings of fact;

2. Complete disregard of un rebutted filings spanning four years and more than 90 pleadings;
3. Denial of Defendant's statutory rights as shareholder and director without discussion of the governing statute (Fla. Stat. § 607.1604);
4. Repeated failures to require Plaintiff to respond to dispositive motions, resulting in procedural advantage to a represented party over a pro se litigant;
5. Statements made on the record that suggest personal animus or prejudice against Defendant, including dismissive remarks regarding Defendant's foreign residence and health conditions;
6. The appearance that the Court has predetermined the trajectory of the case without regard to the voluminous record.
7. Defendant has, over the course of multiple years and in multiple forums—including the U.S. District Court, the U.S. Court of Appeals for the Eleventh Circuit, and this Court—submitted detailed, well-documented evidence that Plaintiff's Chairman Howard has repeatedly fabricated or altered evidence, including documents central to the claims at issue. These include board meeting minutes dated on days when Defendant was verifiably very far from the meeting venue; altered corporate records; contradictory sworn

declarations; and the presentation of fictitious entities. Despite filing motions that catalog these incidents with supporting exhibits, no court has acknowledged, addressed, or taken corrective action in response. The consistent silence in the face of documented fraud, across forums, would lead any reasonable observer to conclude that this Court is unwilling to examine the evidentiary foundations of this case. Such refusal to engage with the core factual record—especially where the entire cause of action is built upon it—further reinforces the appearance of partiality and denial of due process.

8. In his deposition of July 19, 2019, Plaintiff's Chairman Howard was asked whether he had been deposed before and cited only a single instance involving a company called Calmare Therapeutics. He acknowledged involvement regarding a person named 'John Nano' but claimed not to know the court in which the case occurred. In fact, Howard himself was the plaintiff in *Howard v. Nano*, Case No. 3:11-cv-366/MCR/CJK, filed in 2011 in the U.S. District Court for the Northern District of Florida, Pensacola Division—the same court and judge as was this case. The omission of this fact, and his misstatement regarding lack of court knowledge, reflect a deliberate attempt to obscure relevant litigation history. Notably, the deposition



took place but one block from the very courthouse in which he had filed that prior suit, rendering the claimed lack of recollection implausible. This incident further supports the pattern of misrepresentation that this Court has consistently failed to address.

A reasonable person, aware of these facts, would question whether justice is being administered impartially.

## **ON THE LIMITS OF ORAL PRESENTATION**

Defendant understands that the volume of his filings—totaling nearly half a million words over multiple years—may exceed the bounds of what any judge, unaided by staff, could reasonably read with care. Yet the Court has never acknowledged the existence, much less the substance, of these pleadings, which would require an estimated one hundred hours of concentrated study and cross-reference to apprehend fully. Nor has Defendant ever been asked for clarification or amplification of any argument presented. Defendant has never demanded more than what justice itself requires: engagement. Instead, he has been asked to condense the entire scope of the record into a few minutes of oral argument—a feat that not even a Cicero could perform, and which no court should pretend is a substitute for written analysis. The result is not due

process but judicial theater, where the outcome appears predetermined and the script already printed.

## **CLOSING OBSERVATION**

Defendant has brought before this Court not only procedural arguments but factual contradictions that strike at the very structure of the case. In multiple instances, Plaintiffs have filed pleadings in which the same paragraph or count that accuses Defendant of fraud plainly establishes that Plaintiffs themselves committed the act in question. Elsewhere, Plaintiffs alternate—sometimes within the same legal instrument—between declaring Defendant a corporate director and denying him all the rights of one. These are not subtle ambiguities; they are categorical reversals. The Court has not addressed them. The refusal to do so, over hundreds of pages of documented filings, is no longer a matter of discretion but of due process. Justice does not reside in silence before contradiction, nor in neutrality before falsehood. It requires acknowledgment of fact, engagement with argument, and willingness to confront the consequence of what the record plainly shows. Defendant respectfully asks that this principle be restored here, or that another judge be entrusted to do so.

## **PRAYER FOR RELIEF**

WHEREFORE, Defendant respectfully requests:

1. That the Honorable Jan Shackelford be disqualified from this matter;
2. That the case be reassigned to a different judge within the First Judicial Circuit;
3. That all future motions be heard and ruled upon in accordance with Rule 1.510, Rule 1.150, and applicable constitutional standards of due process.

## **CERTIFICATE OF GOOD FAITH**

I HEREBY CERTIFY that this motion is made in good faith, is based on facts not previously raised in any earlier motion, or whose full implications became manifest only after the filing of the prior motion to disqualify on May 5, 2025, and arises from conduct and rulings that have occurred or crystallized since that date.

Respectfully submitted on this 22<sup>nd</sup> day of May, 2025.

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### **CERTIFICATE OF SERVICE**

I hereby certify that, on this 22<sup>nd</sup> day of May, 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.

