

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"

**SUPPLEMENTAL MEMORANDUM IN ANTICIPATION OF PLAINTIFF'S
OBJECTION TO DEFENDANT'S RENEWED AND SUPPLEMENTAL
MOTION TO STRIKE COMPLAINT AS A SHAM**

COMES NOW the Defendant, Marc Moszkowski, pro se, and respectfully submits this Supplemental Memorandum under the "MEMORANDUM" category, in anticipation of any Objection that may be filed by Plaintiff or its counsel in response to Defendant's *Renewed and Supplemental Motion to Strike Complaint as a Sham and for Sanctions Due to Systemic Misrepresentations and Procedural Abuse*, filed June 5, 2025.

This filing is necessary because Defendant, for valid and documented medical reasons already on record, is unable to attend the June 10 pre-trial conference in person. The Court has repeatedly declined to allow remote

appearance despite multiple formal requests and substantiating physician certifications. This Memorandum therefore serves to preserve and clarify the logic and factual basis of Defendant's position in advance of any oral argument or judicial discussion that may occur without his presence.

I. ANTICIPATED OBJECTION: TIMING

Plaintiff may assert that Defendant's Motion to Strike, renewed after the scheduling of trial, is untimely or improper. Such an objection would be meritless. Defendant originally filed his Motion to Strike in June 2021, with full supporting evidence and exhibits. A hearing was never held on that motion for reasons unrelated to Defendant. The renewal is thus procedurally proper under Rule 1.150, which does not impose a deadline but is governed by the inherent discretion of the Court to address sham pleadings when justice so requires.

II. ANTICIPATED OBJECTION: "TRIABLE ISSUES OF FACT"

Plaintiff may attempt to argue that the Motion to Strike must be denied because it raises issues that should be resolved at trial. However, the Motion demonstrates that the Complaint is not merely weak but self-contradictory and affirmatively disproven by Plaintiff's own documents and sworn filings. The sham pleading rule exists specifically to prevent abuse of

the judicial process where, as here, a party has pursued litigation on knowingly false premises.

The Court is not required to submit to trial allegations that collapse under their own arithmetic. No jury can resolve a contradiction between two figures filed by the same Plaintiff that disprove its own theory of the case.

III. ANTICIPATED OBJECTION: “DEFENDANT’S ALLEGATIONS ARE UNPROVEN”

Plaintiff may seek to discredit the Motion by claiming that the Defendant’s declarations and attached documents are unproven, self-serving, or irrelevant. However:

- The Motion to Strike relies heavily on Plaintiff’s own Complaint and Exhibits, not merely Defendant’s assertions;
- Plaintiff has failed to respond to over 70 filings submitted by Defendant, including detailed affidavits and procedural evidence;
- Plaintiff has never clarified or substantiated the central factual predicate of its Complaint—namely, the alleged “business opportunity”—despite multiple formal demands and Court filings highlighting the omission.

IV. ANTICIPATED OBJECTION: “EVIDENCE WILL BE PRESENTED AT TRIAL”

It is foreseeable that Plaintiff will state vaguely that "evidence will be shown at trial." This is not an answer to a Motion to Strike under Rule 1.150. The Rule requires that the Court determine whether the pleading is *inherently false* and *known to be so by the pleader*. Defendant has shown this using only Plaintiff's own pleadings and exhibits. A vague promise of future clarification does not salvage a sham Complaint.

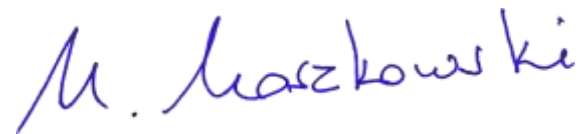
Plaintiff has had over seven years to define the supposed "business opportunity." It has failed to do so. That failure is not a pending factual issue—it is conclusive evidence of a nonjusticiable pleading.

V. CONCLUSION

Defendant respectfully asks the Court to carefully consider the record already before it and not to allow delay, vagueness, or procedural gaming to override the objective factual contradictions that justify striking the Complaint as a sham. This Memorandum is submitted to ensure the completeness of the record and the preservation of Defendant's objections in the event that argument occurs in his absence.

Respectfully submitted on this 5th day of June, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that, on this 5th day of June, 2025, a copy of this Supplemental Memorandum has been furnished to Braden K. Ball, Jr., attorney for the plaintiffs, through the Florida Courts E-Filing Port

