

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 NOTICE OF UNADJUDICATED COUNTERCLAIM
PRECLUDING FINAL JUDGMENT**

COMES NOW Defendant, Marc Moszkowski, pro se, and respectfully submits this Notice to preserve the record and alert the Court that a final judgment cannot lawfully be entered in this matter so long as Defendant's Counterclaim remains unadjudicated. In support thereof, Defendant states:

I. INTRODUCTION

Defendant has filed a verified Amended Counterclaim, which supersedes his original Counterclaim and remains pending before this Court. No order has ever been issued dismissing or striking either version. The Court's June 10, 2025 Order contains a reference to an "improperly

filed” Amended Counterclaim, but offers no legal basis or procedural finding sufficient to dispose of that pleading. Under governing Florida law, a final judgment cannot be entered while a counterclaim remains unresolved.

II. FACTUAL BACKGROUND

1. Defendant filed his original Counterclaim on February 20, 2025.
2. Plaintiffs filed a Motion to Dismiss on March 11, 2025, which was never ruled upon.
3. Defendant filed a Response in Opposition to Plaintiff’s Motion to Dismiss on March 24, 2025, which was not acknowledged by either Plaintiff or the Court.
4. Defendant filed an Amended Counterclaim on June 8, 2025.
5. In its Order of June 10, 2025, the Court stated:

“Defendant’s pleadings are struck, which shall include, but not be limited to his Counterclaim, his improperly filed Amended Counterclaim, and all Affirmative Defenses.”

6. No explanation, legal findings, or citation to rule or authority accompanied this language. No ruling was ever entered on the

Motion to Dismiss. No motion to strike was filed. No prior order deemed the Amended Counterclaim improper.

III. LEGAL BASIS

A. Defendant's Counterclaim—and Amended Counterclaim—Remain Unadjudicated

Defendant filed his Answer and Counterclaim on February 20, 2025, in response to Plaintiffs' First Amended Complaint dated June 3, 2021. Plaintiffs moved to dismiss that Counterclaim on March 11, 2025, but no ruling has ever issued. On June 6, 2025, Defendant filed an Amended Counterclaim, refining and expanding upon the original allegations. Although filed after the 20-day window of Rule 1.190(a), and without express leave of court, the Amended Counterclaim has neither been stricken nor addressed by Plaintiffs or the Court. As such, the original Counterclaim remains pending, and the Amended Counterclaim—accepted and docketed—stands as an operative refinement. No counterclaim, amended or otherwise, has ever been adjudicated.

B. Improperly Filed Is Not a Legal Finding

The Court's unexplained adoption of the phrase "improperly filed Amended

Counterclaim” lacks any supporting reasoning or reference to rule or procedure. A pleading cannot be dismissed or nullified merely by label or implication. No motion to strike was filed. No order was entered granting dismissal. No procedural rule allows a court to extinguish a counterclaim without adjudication. The procedural status of Plaintiffs’ claims—whether dismissed, struck, or defaulted—has no bearing on the independent viability of Defendant’s counterclaim, which remains active unless formally resolved. Entry of final judgment without such resolution constitutes legal error.

C. The Amended Counterclaim Supersedes the Original

The Amended Counterclaim, filed June 8, 2025, supersedes the earlier version and represents Defendant’s operative pleading. It was filed in good faith, with no procedural objections lodged, and has not been struck. A final ruling must address it specifically or allow it to proceed.

IV. CONCLUSION AND RESERVATION OF RIGHTS

This Notice is submitted to ensure the record reflects that Defendant’s Counterclaim remains unadjudicated. Entry of a final judgment without resolving that Counterclaim would violate Florida law, deny due process,

and constitute reversible error.

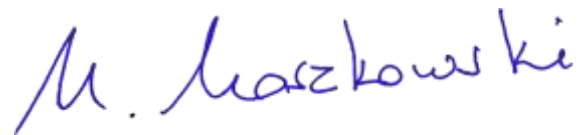
Respectfully submitted on this 16th day of June, 2025.

Marc Moszkowski, Pro Se

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Le Verdos

83300 Châteaudouble, France



CERTIFICATE OF SERVICE

I hereby certify that, on this 16th day of June, 2025, a copy of this Notice has been furnished to Braden K. Ball, Jr., attorney for the plaintiffs, through the Florida Courts E-Filing Portal.

