

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA**

CHRISTOPHER GLEASON,

Plaintiff,

**CASE NO.: 24-003717-CI
UCN:522024CA003717XXCICI**

v.

JULIE MARCUS,

in her official capacity as

Pinellas County Supervisor of Elections; et al.,

Defendants.

**PLAINTIFF'S MOTION TO STRIKE PORTIONS OF DEFENDANTS'
MOTION TO DISMISS**

COMES NOW, the Plaintiff, Christopher Gleason, pro se, and pursuant to Fla. R. Civ. P. 1.140(f), respectfully moves this Court for an Order striking specific portions of the Defendants' Motion to Dismiss. In support thereof, Plaintiff states the following:

I. LEGAL STANDARD

Under Fla. R. Civ. P. 1.140(f), the Court may order stricken from any pleading any "redundant, immaterial, impertinent, or scandalous matter." The purpose of this rule is to eliminate any statements that are unnecessary, irrelevant to the legal issues at hand, or which serve to prejudice the opposing party by introducing improper arguments or facts that should not be considered at the motion to dismiss stage. See *Rice v. Rice*, 462 So. 2d 140 (Fla. 4th DCA 1985).

In reviewing a motion to dismiss, the Court must limit its analysis to the four corners of the complaint and accept all well-pleaded allegations as true. Factual disputes and matters outside the complaint are improper and should be stricken. *Sanchez v. Sun Microsystems, Inc.*, 672 So. 2d 1011 (Fla. 3d DCA 1996).

II. PORTIONS OF THE MOTION TO DISMISS THAT SHOULD BE STRICKEN

A. Introduction of Facts and Evidence Outside the Complaint

1. Defendants' Assertion of Factual Disputes

Grounds for Striking: Defendants' Motion to Dismiss improperly introduces factual arguments and evidence that fall outside the four corners of the complaint. For example, statements attempting to refute Plaintiff's allegations regarding the handling of public records requests and vote-by-mail procedures are fact-based defenses that are inappropriate for consideration at the motion to dismiss stage.

Legal Basis: As established in *Barrett v. City of Margate*, 743 So. 2d 1160 (Fla. 4th DCA 1999), a motion to dismiss tests the legal sufficiency of the complaint, not the truth or veracity of the allegations contained therein. The inclusion of such factual arguments is improper and should be stricken.

B. Immaterial and Impertinent Statements

2. Allegations Pertaining to Plaintiff's Motives or Intent

Grounds for Striking: Defendants' motion contains references to the Plaintiff's supposed motives, intentions, or personal beliefs in filing this lawsuit. These statements are immaterial to whether the complaint states a legally sufficient cause of action and are included merely to distract from the legal issues.

Legal Basis: The Court in *Smith v. Smith*, 64 So. 2d 177 (Fla. 1953) held that matters concerning the plaintiff's motives or subjective intent are irrelevant and should not be considered in evaluating a motion to dismiss. Such statements are impertinent and do not bear on the legal sufficiency of the claims.

C. Scandalous and Prejudicial Allegations

3. Defamatory or Inflammatory Language About the Plaintiff

Grounds for Striking: The Defendants' motion includes scandalous and inflammatory language aimed at discrediting the Plaintiff, portraying him as acting in bad faith or engaging in frivolous conduct. Such language is wholly inappropriate, prejudicial, and serves no legitimate purpose in the motion to dismiss.

Legal Basis: In *Bradsheer v. Florida Patient's Compensation Fund*, 530 So. 2d 1046 (Fla. 1st DCA 1988), the court underscored that scandalous language with no bearing on the underlying legal arguments should be stricken. The Defendants' use of such language here is designed solely to prejudice the Court against the Plaintiff and is, therefore, improper.

D. Legal Arguments Unsupported by Relevant Case Law

4. Mischaracterization of Applicable Legal Standards

Grounds for Striking: Defendants' motion attempts to mischaracterize the legal standards for dismissal by suggesting that the Plaintiff must prove his case at this stage or present evidence beyond the factual allegations in the complaint. Such arguments are contrary to Florida's established pleading standards.

Legal Basis: The Court must assume all well-pleaded facts are true and should not consider evidence or matters extraneous to the complaint, as outlined in *Wagner v. Wagner*, 739 So. 2d 613 (Fla. 5th DCA 1999). As the Defendants' arguments deviate from this principle, they should be stricken.

III. CONCLUSION

The challenged portions of the Defendants' Motion to Dismiss contain immaterial, impertinent, and scandalous material, as well as improper factual assertions and legal arguments that fall outside the scope of a proper motion to dismiss. These portions are designed to distract from the substantive legal issues and prejudice the Plaintiff.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

Strike all references to facts or evidence outside the four corners of the Complaint from the Defendants' Motion to Dismiss.

Strike all immaterial, impertinent, and scandalous statements that have no bearing on the legal sufficiency of the Plaintiff's claims.

Award Plaintiff such other and further relief as the Court deems just and proper.

Respectfully submitted, October 1, 2024.

/s/ Christopher Gleason

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Motion to Strike Portions of the Defendants' Motion to Dismiss was served via the Florida Courts E-Filing Portal to all counsel of record on this 09/24/2024.

/s/ Christopher Gleason

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