

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

JOHN WILLIAM LICCIONE,

Plaintiff,

v.

Case No.: 24-003939-CI

CATHY SALUSTRI LOPER et al.,

Defendants.

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DEFENDANTS' RESPONSE TO DISQUALIFICATION MOTION

Defendants Cathy Salustri Loper and Thursday Morning Media, Inc., respond to Plaintiff's Verified Motion to Disqualify the Honorable Patricia Muscarella (the "Disqualification Motion"), filed February 5, 2025, as follows:

1. Plaintiff first sought this Court's disqualification in a Petition to the Florida Supreme Court (DN 114), which was transferred to this Court and denied as legally insufficient (DN 119). The Disqualification Motion is likewise legally insufficient.

2. Rule 2.1330(e) provides that a disqualification motion must "set forth all specific and material facts upon which the judge's impartiality might reasonably be questioned." Such circumstances exist, for example, if "the party reasonably fears that he or she will not receive a fair trial or hearing because of *specifically described prejudice or bias* of the judge." *Id.* Rule 2.1330(e)(1) (emphasis added). "A motion to disqualify must be well-founded and contain facts germane to the judge's undue bias, prejudice, or sympathy." *Jackson v. State*, 599 So. 2d 103, 107 (Fla. 1992).

3. To warrant disqualification, an ex-parte communication "would have to be alleged with specificity in a motion for disqualification prepared and filed in accordance with the

requirements of the rule in order to determine whether the communication was prejudicial.” *Nassetta v. Kaplan*, 557 So. 2d 919, 921 (Fla. 4th DCA 1990). The Disqualification Motion does not meet these standards.

4. The Disqualification Motion’s Exhibits A and B are copies of JAWS notifications that referred to email attachments. The notifications indicate that they were sent January 29, 2026, at 2:40 p.m. by the Court’s judicial assistant. Seventeen minutes later, at 2:57 p.m., Plaintiff sent the judicial assistant a message requesting “a copy of the Order just uploaded to JAWS.” *See* Disqualification Motion Exhibit C. Three minutes later – at 3:00 p.m. on January 29 – this Court’s judicial assistant sent a notification to all parties – including Plaintiff at his email addresses [JLICCIONE@GMAIL.COM](mailto:JLICCIONE@GMAIL.COM) and [john@voteliccione.org](mailto:john@voteliccione.org) – with this Court’s January 29 Order. *See* Exhibit 1 (attached to this Response)

5. As a factual matter, Defendants note that they – like Plaintiff – did not receive any attachments with the 2:40 p.m. notifications. Nor did Defendants submit a proposed order on January 29 (or at any other time since July 15, 2025). Nor did Defendants or their counsel ever engage in ex parte communications. But taking the facts in the Disqualification Motion as true, the request for disqualification assumes *the Court* received ex parte communications *from Defendants*. The exhibits to the Disqualification Motion do not support that assumption, because the notifications refer to an upload of documents *by the Court’s judicial assistant* from an unidentified source. There is no indication any documents came from Defendants or their counsel. Plaintiff is merely guessing (wrongly) that a proposed order was submitted.

6. Moreover, communication with the Court’s judicial assistant (though none occurred) would not provide “an objectively reasonable basis for [Plaintiff] to fear that the judge will not be fair and impartial.” *Nudel v. Flagstar Bank, FSB*, 52 So. 3d 692, 695 (Fla. 4th DCA

2010). Plaintiff's allegations, therefore, lack the specificity required to warrant disqualification. No prejudice, bias or ex parte communication has been shown.

7. Plaintiff's repeat attempt at disqualification appears designed not to ensure that any future proceedings in this case "are presided over by a neutral and fair tribunal, but to ... frustrate the efficient function" of the Court. *Nudel*, 52 So. 3d at 695. The Disqualification Motion also appears intended to cause Defendants to incur further unnecessary attorneys' fees in a case that has been found to be without merit and to delay resolution of the forthcoming motion for attorneys' fees. The Disqualification Motion should be denied.

Respectfully submitted,

THOMAS & LOCICERO PL

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*Counsel for Defendants Cathy Salustri Loper  
and Thursday Morning Media, Inc.*

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on Feb. 6, 2026, the foregoing document was electronically filed with the Clerk of the Court via the E-Portal, and was served this same day on all parties and attorneys of record, either via transmission of Notices of Electronic Filing generated by the E-Portal or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notices of Electronic Filing.

s/ James B. Lake

Attorney