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

JULIE MARCUS,
JENNIFER GRIFFITH,
WHITNEY FOX,
MARK WEINKRANTZ,
CATHY SALUSTRI LOPER,
PATRICK HEINZEN,
OTHER UNKNOWN CO-CONSPIRATORS,
Defendants.
_____/

DEFENDANT GRIFFITH'S MOTION FOR SANCTIONS

Defendant, JENNIFER GRIFFITH ("Griffith"), by and through her undersigned counsel, and pursuant to Fla. Stat. § 57.105 and Florida Rules of Civil Procedure 1.140 and 1.150, hereby move this Honorable Court for the entry of an order imposing sanctions against Plaintiff, JOHN WILLIAM LICCIONE, and in support thereof state as follows:

I. INTRODUCTION

This instant lawsuit is the third lawsuit that Plaintiff has filed against Griffith in a two-month period. None of these lawsuits have had any legal or factual merit, and have simply been retaliation by Plaintiff, who was a candidate in the Democratic Primary for Florida's 13th Congressional District, against those who did not support his candidacy and in two of these cases, the elections officials who administered the primary election which he lost in a landslide. Ms. Griffith is merely the Chair of a county-level political party; she has no role in administering elections, and as the Chair of a county-level political party, she and her political party have the right to decide whether or not to provide a platform to a particular candidate under the First Amendment to the United States Constitution. This Court should uphold Ms. Griffith's clear right to engage in political speech, and sanction the Plaintiff for filing numerous frivolous lawsuits that seek to interfere or punish Ms. Griffith for exercising her constitutional rights.

II. FACTUAL BACKGROUND

1. Plaintiff was a candidate in the Democratic Primary for Florida's 13th Congressional District in the August 20, 2024 election.
2. Defendant Griffith has been the Chair of the Pinellas County Democratic Party ("PCDEC") since December 2022. PCDEC is a county-level affiliate of the Florida Democratic Party ("FDP").
3. In spring 2023, PCDEC decided to enact a "vetting process" for all Democratic candidates to determine which candidates PCDEC would provide a platform for in terms of being featured on PCDEC's website and at events. This is a very common process for political parties to utilize, and in fact, PCDEC referenced policies and legal guidance from at least three other counties in crafting its policy.
4. In June 2023, Plaintiff was informed that he did not meet the standards of PCDEC's vetting process based upon his background check and behavior, and was asked to stay away from party events (a request which Plaintiff did not oblige to on multiple occasions).
5. As confirmation of PCDEC's observations during the vetting process, the *Tampa Bay Times* ran a story on September 18, 2023[1] titled "Anna Paulina Luna's first congressional challenger has checkered past" making reference to Plaintiff having faced "trespassing and assault charges." The story makes mention of Plaintiff being "initially deemed incompetent to stand trial and involuntarily hospitalized."
6. Since being informed of his failing the vetting process in June 2023, Plaintiff made numerous social media and blog posts that chastised PCDEC and Griffith.
7. After an incident that Plaintiff alleged occurred between him and an officer of PCDEC[2], and PCDEC exercising its right to association by declining to invite Plaintiff to a Congressional debate, Plaintiff filed a lawsuit against Griffith, PCDEC, the PCDEC Secretary, and the Florida Democratic Party on July 3, 2024 (Case No. 24-002994-CI, hereinafter "*Liccione v. PCDEC*").

[1] https://www.tampabay.com/news/florida-politics/2023/09/18/john-liccione-anna-paulina-luna-congress-district-13-pinellas-democrat/

[2] In spite of Plaintiff's allegation that this incident occurred, he was unable to produce any witness to the St. Petersburg Police Department to support the complaint he filed.

8. In both social media posts and in his Complaint in *Liccione v. PCDEC*, Plaintiff mentions that he has sought two restraining orders against Griffith. While Griffith was never served with court documents from these proceedings—presumably because the Court denied Plaintiff's petition which means the Respondent is never served and there is no publicly available online record—she does not contest Plaintiff's allegations that he attempted to file these two actions against her.
9. On August 12th, 2024, Griffith (along with PCDEC and PCDEC Secretary Michael Sherosky) filed a Motion to Dismiss in *Liccione v. Griffith* under Florida's anti-SLAPP statute (Fla. Stat. § 768.295) on the grounds that (1) the primary purpose of Plaintiff's lawsuit was to quiet the protected political speech of Griffith and PCDEC; (2) that Griffith and PCDEC have a well-defined legal right to express their opinions on the qualifications of candidates for political office, such as the Plaintiff; and (3) that the other issues raised in the lawsuit were not properly pled and are non-justiciable, especially as it pertains to non-state actors such as Griffith and PCDEC. This Motion to Dismiss is set for hearing before the Honorable Thomas Ramsberger on October 1, 2024, and Defendant Griffith will supplement this Motion with the Court's ruling on the issues presented in the Motion to Dismiss.
10. After having notice of this legal defense, Plaintiff opted to include Griffith as a party to a federal lawsuit he filed on August 23, 2024 (*Liccione v. Marcus, et al*, United States District Court for the Middle District of Florida Case No. 8:24-cv-2005-SDM-NHA, hereinafter the "Federal Lawsuit"). Defendants Marcus, Fox, and Weinkrantz are also parties to the Federal Lawsuit. The Federal Lawsuit raised similar factual allegations, and attempted to plead similar causes of action, to this instant lawsuit, and sought Emergency Injunctive Relief based upon the unverified statements of "Tampa Girl." This instant lawsuit also relies upon the unverified statements of "Tampa Girl."
11. On August 26, 2024, The Honorable United States District Judge Steven D. Merryday entered an Order denying injunctive relief in the Federal Lawsuit. A copy of that order is attached as **Exhibit 1** to this Motion.
12. In his Order, Judge Merryday characterized the Federal Lawsuit as being:

> A candidate in the Democrat congressional primary, John Liccione allegedly received from an anonymous person "using the codename 'Tampa Girl'" an online message that purported to reveal the details of a

> scheme to manipulate the August 20, 2024 primary election. Based solely on Tampa Girl's message, the plaintiff sues an array of officials and requests a temporary restraining order to "prevent the certification of the August 20, 2024.

13. Judge Merryday's Order further concluded that "Nothing in the [Federal Lawsuit] establishes either a likelihood of success on the merits (an anonymous, hearsay message from 'Tampa Girl' supplies no prospectively admissible fact supporting relief)."
14. After Plaintiff (1) was served a copy of a Motion to Dismiss in *Liccione v. PCDEC* setting forth a cogent argument that Griffith's conduct was protected First Amendment Activity and (2) a Federal Judge found that there is "no prospectively admissible fact," including the anonymous statement from "Tampa Girl" support Plaintiff obtaining injunctive relief, Plaintiff opted to file this lawsuit—which is substantially similar to the Federal Lawsuit and contains overlapping allegations to those in *Liccione v. PCDEC*—on September 3, 2024.

III. THE THRESHOLD FOR SANCTIONS

15. Fla. Stat. § 57.105 governs sanctions that may be imposed on a litigant for raising unsupported claims or defenses. The statute states:

> (1) Upon the court's initiative or motion of any party, the court **shall** award a reasonable attorney's fee, including prejudgment interest, to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney on **any claim or defense** at **any time** during a civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:
> (a) Was not supported by the material facts necessary to establish the claim or defense; or
> (b) Would not be supported by the application of then-existing law to those material facts.

(emphasis added)

16. A party who does not have knowledge as to whether his or her claim or defense is supportable in fact and in law is required to make reasonable efforts to obtain such knowledge. See *Bowen v. Brewer*, 936 So. 2d 757 (Fla. 2d DCA 2006).
17. Attorney's fees awarded under Fla. Stat. § 57.105 are calculated from the time it was known or should have been known that the claim had no basis in fact or law. Thus, where

a claim was frivolous from the outset, the fee award should consider the defense of the claim from the beginning and not from the date of the filing of the motion for attorney's fees. See *Wood v. Haack*, 54 So. 3d 1082 (Fla. 4th DCA 2011).

18. Florida courts also have the ability to impose non-monetary sanctions.
19. The Florida Supreme Court has found it appropriate to sanction pro se litigants such as Plaintiff who "have abused the judicial process and otherwise misused [the] Court's limited judicial resources by filing frivolous, non-meritorious, or otherwise inappropriate filings" by prohibiting them from initiating further proceedings before the Court by prohibiting them from filing future pleadings, motions, or other requests unless such requests were signed by an attorney in good standing. *Lomax v. Taylor*, 143 So. 3d 920 (Fla. 2014).
20. The Second DCA, while recognizing the importance of access to the Courts, has found it appropriate to sanction pro se individuals by restricting their filing access in order to "prevent abusive filings" and stop "repetitious and frivolous pleadings." Harris *v. Gattie*, 263 So. 3d 829, 831 (Fla. 2d DCA 2019)
23. Sanctions may be imposed even when dismissal with prejudice is deemed too severe a remedy. *Rares v. Campbell*, 661 So. 2d 408 (Fla. 3d DCA 1995).

IV. EVEN AS A *PRO SE* LITIGANT, PLAINTIFF SHOULD HAVE BEEN AWARE THAT THIS INSTANT CASE HAD NO FACTUAL OR LEGAL MERIT BEFORE HE FILED IT.

24. Before filing any of his lawsuits, Plaintiff should have ascertained whether his theory was supported by any prospectively admissible fact or by law.
25. Even if Plaintiff did not bother ascertaining whether *Liccione v. PCDEC* was supported by fact or law before filing, he should have reviewed the law cited in the Motion to Dismiss which was served upon him well before he opted to file two other cases, including this instant action.
26. Even if Plaintiff did not bother ascertaining whether the Federal Lawsuit was supported by fact or law before filing, Plaintiff knew or should have known of Judge Merryday's Order in the Federal Lawsuit, which used exceptionally clear language to communicate that there were not material facts necessary to establish Plaintiff's claims, and that

anonymous statements from "Tampa Girl" were not admissible evidence. In spite of a federal judge making that finding, Plaintiff still opted to advance this cause based upon the same materials.

V. THE APPROPRIATE SANCTION AGAINST PLAINTIFF WOULD BE THE AWARD OF REASONABLE ATTORNEY'S FEES AND COSTS, AND A PROHIBITION AGAINST FILING FURTHER ACTIONS AGAINST DEFENDANT GRIFFITH.

27. Upon the clear language of Fla. Stat. § 57.105(1), this Court must award Griffith her reasonable attorney's fees and costs should it reach the conclusion that Plaintiff knew or should have known that his case (a) was not supported by the material facts necessary to establish the claim or defense; or (b) would not be supported by the application of then-existing law to those material facts.
28. Plaintiff should have known that his case was not supported by the material facts necessary to support his claim or defense by August 26, 2024, the date Judge Merryday entered his order making that abundantly clear. And in reality, Plaintiff should have known that before filing either of his two previous lawsuits.
29. The monetary sanction of the award of attorney's fees in this case alone is insufficient. Based upon the clear fact that Plaintiff filed three cases against Griffith in a two month period, and that Plaintiff has represented that he filed two other cases against Griffith earlier this year, Plaintiff has apparently filed five (5) cases against Griffith this year, none of which have had any legitimacy.
30. It is also unknown whether a judgment for attorney's fees against Plaintiff, as a pro se litigant, would be collectable. That warrants serious consideration of alternative remedies.
31. The result of Plaintiff having filed five (5) lawsuits against Griffith—three (3) of which required hiring an attorney for a response—is that Griffith has had to expend time and money responding to these frivolous lawsuits.
32. In fact, it has come to the point where if Griffith hears a knock on the door early in the morning, Griffith and her family assume that it is Plaintiff attempting to serve her with yet another frivolous lawsuit.

33. This extreme abuse of process by Plaintiff as it pertains to Ms. Griffith deems a bar on filing pro se lawsuits—either in full or solely as it pertains to Ms. Griffith and the organizations she is affiliated with—as an appropriate and necessary sanction. Plaintiff is clearly not deterred by a Judge merely finding that his case is without merit; Plaintiff has shown that when that happens, he just goes to file another lawsuit.

VI. CONCLUSION

Plaintiff has clearly engaged in prohibited litigation tactics by filing an action against Griffith which knew was unsupported by fact and law, and in fact was informed of that by a Federal Judge in advance of filing. Pursuant to Fla. Stat. § 57.105(1), this Court should award Griffith her reasonable attorney's fees and costs incurred in defending this action. Given Plaintiff's pattern of filing frivolous actions pro se against Ms. Griffith, this Court should also impose a non-monetary sanction upon Plaintiff restricting his ability to file further pro se pleadings directed at Ms. Griffith.

Dated: September 16, 2024

/s/ George A.D. Thurlow
George A.D. Thurlow, Esquire
FBN 1019960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was served upon John William Liccione via e-mail to JLiccione@gmail.com and by FedEx to 2826 54th Street South, Unit A, Gulfport, FL 33707 (Tracking # 778591286635) on this 16th day of September, 2024.

/s/ George A.D. Thurlow
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EXHIBIT 1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JOHN WILLIAM LICCIONE,

Plaintiff,

v. CASE NO. 8:24-cv-2005-SDM-NHA

JULIE MARCUS, et. al.,

Defendants.
_____/

ORDER

A candidate in the Democrat congressional primary, John Liccione allegedly received from an anonymous person "using the codename 'Tampa Girl'" an online message that purported to reveal the details of a scheme to manipulate the August 20, 2024 primary election. Based solely on Tampa Girl's message, the plaintiff sues an array of officials and requests a temporary restraining order to "prevent the certification of the August 20, 2024."

Under Local Rule 6.01(a), a motion for a temporary restraining order must include:

> (1) "Temporary Restraining Order" in the title;
> (2) specific facts — supported by a verified complaint, an affidavit, or other evidence — demonstrating an entitlement to relief;
> (3) a precise description of the conduct and the persons subject to restraint;
> (4) a precise and verified explanation of the amount and form of the required security;
> (5) a supporting legal memorandum; and
> (6) a proposed order.

Liccione's motion, imbedded in the complaint, fails to include a precise and verified explanation of the amount and form of the required security, fails to include a supporting legal memorandum, and fails to include a proposed order.

Also, under Local Rule 6.01(b) the legal memorandum must establish:

> (1) the likelihood that the movant ultimately will prevail on the merits of the claim,
> (2) the irreparable nature of the threatened injury and the reason that notice is impractical,
> (3) the harm that might result absent a restraining order, and
> (4) the nature and extent of any public interest affected.

Nothing in the complaint establishes either a likelihood of success on the merits (an anonymous, hearsay message from "Tampa Girl" supplies no prospectively admissible fact supporting relief) or the reason that notice is impractical. Liccione's facially insufficient motion for a temporary restraining order and all other pending motions (Docs. 3, 4, 5, 6) are **DENIED**.

ORDERED in Tampa, Florida, on August 26, 2024.

STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE