

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION
CASE NO.: 24-003939-CI**

JOHN WILLIAM LICCIONE,
Plaintiff

v.

MARK WEINKRANTZ, et al,
Defendant.

MOTION TO VACATE CLERK DEFAULT

COMES NOW, Defendant, MARK WEINKRANTZ, files this MOTION TO VACATE CLERKS DEFAULT pursuant to Fla. R. Civ. P. 1.540, and hereby moves this Court for an Order Vacating the Clerk's Default against Defendant issued in this matter, and in support thereof states as follows:

SUMMARY

1. This is a complaint that stems from the Democratic Primary.
2. Plaintiff filed on counts ranging from violation of Florida statutes of election fraud, conspiracy, federal election fraud, violation of federal computer laws.
3. Defendant Mark Weinkrantz, lost at the Democratic Primary, receiving only 7.2% of the votes.
4. Defendant was not a beneficiary as alleged in the complaint
5. Undersigned counsel was only notified of Defendant's involvement in this suit when they were informed of the in-person hearing.

MEMORANDUM OF LAW AND ANALYSIS

6. Florida Rule of Civil Procedure 1.540 states that a party may also seek relief from a decree, order, or proceeding for "... mistake, inadvertence, surprise, or excusable neglect..."
7. The judicial authority in this State has consistently held that "... inaction results from clerical or secretarial error, reasonable misunderstanding, a system gone awry, or any other of the foibles to which human nature is heir." *Elliott v. Aurora Loan Servs. LLC*, 31 So. 3d 304, 307 (Fla. 4th DCA 2010). See also *Perez Mesa v. Miami-Dade County*, 278 So.3d 818 (Fla. 3rd DCA 2019) ; *Emerald Coast Utilities Authority v. Bear Marcus Pointe, LLC*, 227

So.3d 752 (Fla. 1st DCA 2017). In fact, Rule 1.540 "...envisions an honest mistake made during the regular course of litigation, including those that result from oversight, neglect, or accident." *Paladin Props. v. Family Inv. Enters.*, 952 So.2d 560, 562 (Fla. 2nd DCA 2007)(citing (citing *Schrank v. State Farm Mut. Auto. Ins. Co.*, 438 So.2d 410, 412 (Fla. 4th DCA 1983); *Pompano Atlantis Condo. Ass'n v. Merlino*, 415 So.2d 153, 154 (Fla. 4th DCA 1982))).

8. Defendant has meritorious defenses, , in that they did not benefit from any fraud alleged, contends that no fraud took place, and did not win the democratic primary, coming in 4th place out of 5 candidates.
9. Due to the fact that the Defendant has shown excusable neglect, meritorious defenses, and diligent action upon learning of the default, justice requires that the Clerk's Default be vacated, and the Defendant be permitted to properly defend against the frivolous claims by the Plaintiff in this matter.

WHEREFORE, Defendant MARK WEINKRANTZ respectfully requests that this Court enter an order to VACATE Clerks Default, DENY Motion for Default, allow time for Defendant to file an answer and affirmative defenses..

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-filing to the Clerk of the Court and a copy to plaintiff via e-mail on this day of November 11, 2024.



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