

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

CLEARWATER – SECTION 7

JOHN WILLIAM LICCIONE,
Plaintiff,
v.
Cathy Salustri-Loper
Defendants.

CASE NO.: CA-003939-CI

Related Federal Case:
8:24-cv-02005-SDM-NHA

_____/

PLAINTIFF’S MOTION TO LIFT STAY

COMES NOW, Plaintiff JOHN WILLIAM LICCIONE, pro se, pursuant to Florida Rule of Civil Procedure 1.530 and this Court’s inherent authority to reconsider interlocutory orders, and respectfully moves this Honorable Court to Lift Stay. The factual and legal circumstances underpinning the Court’s sua sponte stay have since materially changed. The stay no longer serves a judicial purpose, as no remaining claims or defendants in this state case overlap with the related federal litigation. In support, Plaintiff states:

I. PROCEDURAL BACKGROUND

1. On November 20, 2024, this Court entered a sua sponte Order staying proceedings, citing the pendency of a related federal case and the existence of “overlapping legal and factual issues, including Defendants in common.”
2. At the time the stay was entered, this state case included Defendants Julie Marcus, Patrick Heinzen, Jennifer Griffith, Whitney Fox, and Mark Weinkrantz, in addition to Defendant Cathy Salustri-Loper. Several of these defendants were alleged to be involved in events

overlapping with Plaintiff's federal action, 8:24-cv-02005-SDM-NHA, in which Plaintiff subsequently filed his First Amended Complaint on February 18, 2025. **(EXHIBIT A)**

3. Since that time:

1) Defendant Jennifer Griffith was transferred to case number 24-002994-CI pursuant to this Court's order;

2) Defendants Whitney Fox and Mark Weinkrantz were voluntarily dismissed by Plaintiff;

2. On March 20, 2025, Plaintiff filed a Notice of Voluntary Dismissal (Dkt 120) Without Prejudice of Defendants Julie Marcus and Patrick Heinzen, pursuant to Florida Rule of Civil Procedure 1.420(a)(1).

4. Plaintiff's Notice of Voluntary Dismissal was filed pursuant to Florida Rule of Civil Procedure 1.420(a)(1) and is legally self-executing. Upon filing, it immediately and effectively dismissed Defendants Marcus and Heinzen from this action. Florida courts have consistently held that a notice of voluntary dismissal under Rule 1.420(a)(1) is effective upon filing and requires no court order to take effect. See *Pino v. Bank of New York*, 121 So. 3d 23, 32 (Fla. 2013) ("A plaintiff's notice of voluntary dismissal under rule 1.420(a)(1) terminates judicial labor and divests the trial court of jurisdiction."); *Falkner v. Ameris Bank*, 314 So. 3d 784, 787 (Fla. 1st DCA 2021) ("Once a notice of voluntary dismissal is filed, the trial court loses jurisdiction to take further action on the merits of the case."). As a result, the only remaining defendant is Cathy Salustri-Loper, who is not a party to the federal action and is alleged to have engaged in conduct wholly unrelated to the facts and legal theories asserted in that case.

II. NO REMAINING COMMONALITY BETWEEN STATE AND FEDERAL CASES AS TO SOLE REMAINING DEFENDANT SALUSTRI-LOPER

A. Federal Case: *Liccione v. DeSantis*, 8:24-cv-02005-SDM-NHA

1) **Federal Defendants now are:** Governor Ron DeSantis, Secretary of State Cord Byrd, Chief of Election Crimes and Security Andrew Darlington, Matt Smith, Mindy Perkins, Julie Marcus, and Wendy Link.

2) **Federal Claims now are:**

- I. Violation of 42 U.S.C. § 1983 – Deprivation of Civil Rights
- II. Violation of 52 U.S.C. § 20511 – Federal Election Law
- III. Conspiracy to Commit Election Fraud
- IV. Violation of Florida Public Records Act (Fla. Stat. § 119.01)
- V. Fraudulent Concealment
- VI. Violation of the Computer Fraud and Abuse Act (18 U.S.C. § 1030)
- VII. Violation of RICO (18 U.S.C. §§ 1961–1968)
- VIII. Obstruction of Justice (18 U.S.C. § 1503)
- IX. Intentional Infliction of Emotional Distress
- X. Fraudulent Misrepresentation

B. This State Case: Remaining Defendant – Cathy Salustri-Loper

1) **Claims now or will be** (under a 2nd Amended complaint to be filed upon grant of leave to amend by the court):

- a) Defamation by omission and misrepresentation in *The Gabber Newspaper*
- b) Voter suppression through misleading journalism
- c) Tortious interference with prospective economic advantage

- d) Potential other counts.
 - e) New Defendants connected to The Gabber Newspaper:
 - i. Thursday Morning Media, Inc. (The Gabber’s parent company)
 - ii. Thomas Loper – Co-owner of The Gabber and Thursday Morning Media
- 2) **Factual Basis Is:** Allegations involve local press misconduct, wholly distinct from state-actor election administration, oversight, absentee ballot systems, or election infrastructure.
5. There is no longer any factual, legal, or party-based overlap between the two proceedings.

IV. LEGAL BASIS FOR RECONSIDERATION

6. Florida courts allow reconsideration of interlocutory orders where material facts have changed or to prevent manifest injustice. *State v. Lewis*, 775 So. 2d 947, 948 (Fla. 2000).
7. A trial court has inherent authority to modify non-final rulings prior to final judgment. *Silvestrone v. Edell*, 721 So. 2d 1173, 1174 (Fla. 1998); *Precision Tune Auto Care, Inc. v. Radcliff*, 731 So. 2d 744, 746 (Fla. 4th DCA 1999).
8. A stay should be lifted when its legal justification has been extinguished. *Abu-Nayleh v. First Class Parking Sys. LLC*, 228 So. 3d 638 (Fla. 3d DCA 2017).
9. Continuing a stay under invalid or obsolete grounds imposes unfair delay and prejudice. *Gonzalez v. State Farm Fire & Cas. Co.*, 805 So. 2d 814 (Fla. 3d DCA 2000).

V. CONCLUSION

10. All conceivable legal justification for the Court’s stay no longer exists. All potentially overlapping defendants—Marcus, Heinzen, Griffith, Fox, and Weinkrantz—have either been transferred or dismissed.

11. The only remaining Defendant, Cathy Salustri-Loper, has no connection to the federal case in parties, facts, or law.
12. The voluntary dismissal of Marcus and Heinzen is procedurally valid, and self-executing.
13. Plaintiff's forthcoming Second Amended Complaint will introduce new, post-filing acts of malicious defamation per se and other continued harm, and two new defendants associated with Salustri-Loper and The Gabber Newspaper, reinforcing the need to proceed.

VI. RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. GRANT this Motion to lift stay
- B. Grant Plaintiff's Motion to Compel Discovery filed on October 29, 2024;
- C. Grant any other relief this Court deems just and proper.

Respectfully submitted,

Enclosed: Proposed Order

/s/ John W. Liccione
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CERTIFICATION OF COMPLIANCE WITH MEET AND CONFER ORDER

Pursuant to the applicable rules and administrative orders of the Sixth Judicial Circuit, I hereby certify that I and Defendant Salustri-Loper's counsel James Lake made a good faith effort to meet and confer on this motion and did in fact meet and confer on this day. Defendant Salustri-Loper opposes this motion.

/s/ John W. Liccione

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Lift Stay has been served via the Florida e-Filing Portal and via email to all relevant parties on this 29th day of March, 2025.

/s/ John W. Liccione