

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

CHRISTOPHER GLEASON,

Plaintiff,

**CASE NO.: 24-003995-CI
UCN: 522024CA003995XXCICI**

v.

JULIE MARCUS, in her personal and official capacity as Pinellas County Supervisor of Elections; and the **CANVASSING BOARD OF PINELLAS COUNTY**,

Defendants.

**PLAINTIFF'S RENEWED NOTICE AND MOTION FOR
RECUSAL/DISQUALIFICATION OF JUDGE PATRICIA MUSCARELLA
PURSUANT TO SECTION 38.10, FLORIDA STATUTES**

COMES NOW the Plaintiff, Christopher Gleason, appearing pro se, and hereby moves this Honorable Court for the recusal/disqualification of Judge Patricia Muscarella from presiding over this case pursuant to Section 38.10, Florida Statutes, and Rule 2.330 of the Florida Rules of General Practice and Judicial Administration. In support of this Motion, Plaintiff submits the following:

I. LEGAL BASIS FOR RECUSAL/DISQUALIFICATION

1. Section 38.10, Florida Statutes states:

> "Whenever a party makes and files an affidavit stating fear that the party will not receive a fair trial on account of the prejudice of the judge, the judge shall proceed no further, but another judge shall be designated."

- The statutory mandate is unequivocal. When a party's affidavit alleges fear of prejudice, and it is legally sufficient, the presiding judge must cease further proceedings and transfer the case to another judge. The standard for sufficiency is grounded not in proof of actual prejudice but in the appearance of potential bias.

2. Florida Rule of General Practice and Judicial Administration 2.330 dictates that:

- A motion for disqualification must be granted if a reasonably prudent person in the movant's position would fear not receiving a fair and impartial trial before the assigned judge. The motion and accompanying affidavit(s) need only be "legally sufficient," a standard satisfied when the motion sets forth facts that, if true, would place a reasonable person in fear of judicial bias.

II. FACTUAL BASIS SUPPORTING DISQUALIFICATION

3. Plaintiff's fear that Judge Muscarella is prejudiced is well-founded, substantiated by his own sworn affidavit and corroborated by sworn affidavits from five witnesses. These affidavits establish a consistent pattern of judicial conduct that demonstrates actual bias or, at minimum, the appearance thereof.

III. GROUNDS FOR DISQUALIFICATION

A. Repeated Failure to Rule on Critical Motions:

- Judge Muscarella has consistently failed to rule on Plaintiff's motions for judicial notice, discovery, and other critical motions necessary to the litigation of this case. Florida jurisprudence establishes that undue delay or failure to rule on motions constitutes a denial of due process. As held in **State ex rel. Davis v. Parks**, 141 So. 2d 638 (Fla. 1932), justice delayed is justice denied, and such delays cast doubt on the impartiality and efficiency of the judiciary.

B. Evidence of Conflict of Interest:

- Plaintiff has obtained evidence indicating that the Pinellas County Supervisor of Elections engaged in similar electoral improprieties during Judge Muscarella's 2010 judicial election. This creates an irrefutable conflict of interest. As noted in **State ex rel. Mickler v. Rowe**, 126 So. 2d 129 (Fla. 1960), a judge must recuse themselves when an appearance of bias or impropriety exists. The conflict is not merely hypothetical but grounded in Plaintiff's evidence, demonstrating Judge Muscarella's potential vested interest in protecting the Defendant.

C. Improper Reliance on Defense Counsel's Representations:

- On September 19, 2024, Judge Muscarella admitted unfamiliarity with relevant election law and sought guidance from defense counsel, Mr. Jared Kahn, on how to proceed. This reliance on defense counsel's guidance over Plaintiff's arguments contravenes the judicial duty of impartiality, as articulated in **The Florida Bar v. Cox**, 794 So. 2d 1278 (Fla. 2001). The impartial role of a judge requires independent evaluation of the law, not deferring to one party's counsel.

D. Acceptance of Misrepresentations Without Verification:

- Defense counsel falsely claimed that Exhibit G contained information protected under Florida Statutes §§ 119.0725(2)(b) and (d), despite the information being widely accessible online. Judge Muscarella accepted this misrepresentation without requiring proof. In **Holloway v. State**, 342 So. 2d 966 (Fla. 1st DCA 1977), the court held that uncritically accepting one party's assertions is indicative of prejudice.

E. Disparate Treatment of Pro Se Litigant:

- The Florida judiciary recognizes the rights of pro se litigants to be treated fairly and *equitably* (*Platel v. Maguire, Voorhis & Wells, P.A.*, 436 So. 2d 303 (Fla. 5th DCA 1983)). Judge Muscarella's consistent deference to defense counsel and disregard for Plaintiff's arguments exhibits a clear bias against the Plaintiff as a self-represented litigant.

F. Prohibition on Recording Court Proceedings:

- Judge Muscarella's prohibition of recording court hearings is contrary to the principles of transparency mandated by *In re Petition of Post-Newsweek Stations, Florida, Inc.*, 370 So. 2d 764 (Fla. 1979). The absence of any valid basis for this restriction raises concerns about transparency and impartiality.

G. Excessive Sealing of Exhibits:

- The Florida Constitution, Article I, Section 24, and Chapter 119 of the Florida Statutes emphasize transparency and open government. Judge Muscarella's order to seal all exhibits without using the least restrictive means violates Rule 2.420, Florida Rules of General Practice and Judicial Administration, and raises further concerns about her impartiality. As ruled in *Barron v. Florida Freedom*

Newspapers, Inc., 531 So. 2d 113 (Fla. 1988), excessive secrecy is inimical to the public interest.

IV. AFFIDAVITS IN SUPPORT OF MOTION

4. Plaintiff's Affidavit is attached hereto, setting forth detailed facts substantiating the claim of bias and prejudice.

5. Affidavits of Five Witnesses are attached, corroborating Plaintiff's assertions of judicial bias and confirming specific incidents that exemplify Judge Muscarella's partiality.

- Each affidavit attests to observations of Judge Muscarella's statements, rulings, demeanor, and conduct that display a clear bias against Plaintiff, as well as her overt favoritism toward defense counsel, Mr. Jared Kahn.

V. LEGAL ANALYSIS

6. Florida courts have consistently upheld that a judge must be disqualified where there is an objectively reasonable fear of bias. The Plaintiff's allegations, supported by multiple sworn affidavits, provide ample grounds for such fear.

- *In MacKenzie v. Super Kids Bargain Store, Inc.*, 565 So. 2d 1332 (Fla. 1990), the Florida Supreme Court reaffirmed that disqualification is appropriate where a party harbors a well-founded fear of not receiving a fair trial, even in the absence of proven actual bias.

- In *Livingston v. State*, 441 So. 2d 1083 (Fla. 1983), the Court held that the appearance of justice must be maintained, stating, "It is the very essence of a fair trial that the judge be impartial and that there be an appearance of impartiality."

VI. CONCLUSION

7. Based on the detailed facts and legal authorities presented, it is evident that Judge Patricia Muscarella's continued involvement in this case would undermine Plaintiff's constitutional right to a fair and impartial trial.

8. The facts, when viewed objectively, establish a reasonable fear of prejudice that warrants the immediate disqualification of Judge Muscarella under Section 38.10, Florida Statutes, and Rule 2.330 of the Florida Rules of General Practice and Judicial Administration.

WHEREFORE, Plaintiff respectfully requests that:

1. This Honorable Court GRANT Plaintiff's Motion for Recusal/Disqualification.
2. This matter be reassigned to another judge who can ensure the fair, impartial, and just adjudication of Plaintiff's claims.

CERTIFICATE OF GOOD FAITH

I, Christopher Gleason, certify that this motion is made in good faith and not for purposes of delay. The facts presented are true to the best of my knowledge and belief, and I genuinely fear that I will not receive a fair trial if Judge Muscarella continues to preside.

Respectfully submitted,

/s/ Christopher Gleason

Christopher Gleason

1628 Sand Key Estates Court

Clearwater, FL 33767

727-480-2059

gleasonforpinellas@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via email on this October 1, 2024 to: JARED N. KAHN, ESQ., Attorney for Defendant Julie Marcus, in her official capacity as Pinellas County Supervisor of Elections, Dustin Chase in his official capacity as the Deputy Supervisor of Elections and Matt Smith in his official capacity as General Counsel for the Pinellas County Supervisor of Elections, at jkahn@pinellas.gov and eservice@pinellas.gov and to KELLY L. VICARI, Attorney for Defendant Julie Marcus, in her official capacity as Pinellas County Supervisor of Elections, Dustin Chase in his official capacity as the Deputy Supervisor of Elections and Matt Smith in his official capacity as General Counsel for the Pinellas County Supervisor of Elections, at kvicari@pinellas.gov and eservice@pinellas.gov .

JARED D. KAHN

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Attorney for Defendant, Attorney for the Pinellas
County Canvassing Board

/s/ Christopher Gleason

Dated: 09/23/2024

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

CHRISTOPHER GLEASON,

Plaintiff,

**CASE NO.: 24-003995-CI
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v.

JULIE MARCUS, in her personal and official capacity as Pinellas County
Supervisor of Elections; and the **CANVASSING BOARD OF PINELLAS
COUNTY,**

Defendants.

**AFFIDAVIT OF CHRISTOPHER GLEASON IN SUPPORT OF RENEWED
MOTION FOR DISQUALIFICATION**

STATE OF FLORIDA
COUNTY OF PINELLAS

BEFORE ME, the undersigned authority, personally appeared CHRISTOPHER
GLEASON, who, being first duly sworn, deposes and states as follows:

1. My name is Christopher Gleason, and I am the Plaintiff in the above-captioned case currently pending before the Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida.

2. I am over the age of 18, competent to testify, and make this affidavit based on my personal knowledge and belief.

3. I have a well-founded fear that I will not receive a fair trial in this case due to the demonstrated bias and prejudice of the presiding judge, the Honorable Judge Muscarella. This fear is reasonable and based on the following facts and circumstances:

A. Reliance on Defense Counsel's Misrepresentations

4. Throughout the proceeding, Judge Muscarella has consistently relied on the representations and arguments made by defense counsel, Mr. Jared Kahn, without independent verification or examination of the accuracy and legal validity of these statements.

5. Specifically, defense counsel misrepresented the legal status of Exhibit G by claiming that it contained critical infrastructure information protected under Florida Statutes §§ 119.0725(2)(b) and (d). Despite there being no valid basis or supporting evidence for such a claim, Judge Muscarella accepted these assertions without requiring defense counsel to provide proof or further clarification.

6. By adopting the defense counsel's misrepresentations, Judge Muscarella has shown a lack of impartiality and a predisposition to favor the defense's position, thereby undermining my confidence in her ability to preside over this case fairly and without bias.

B. Disregard for My Rights as a Pro Se Litigant

7. I am representing myself in this matter as a pro se litigant, which places me at a disadvantage compared to the represented defendants. It is my understanding that as a pro se litigant, I am entitled to the same fair treatment, consideration, and

protection of my rights as any other party appearing before the court, regardless of whether I have legal representation.

8. Despite this, Judge Muscarella has demonstrated a consistent pattern of favoring the defense's arguments and legal positions while disregarding or dismissing my legitimate legal arguments and evidence.

9. On multiple occasions, Judge Muscarella sought guidance and clarification from defense counsel regarding legal procedures and the interpretation of the law. This conduct suggests that Judge Muscarella is improperly relying on defense counsel's advice to guide the proceedings, rather than independently evaluating the issues and ensuring that both parties receive equal and fair treatment under the law.

10. The court's deference to defense counsel has created an imbalance in the proceedings and a well-founded fear that Judge Muscarella is not providing me, as a pro se litigant, the fair and impartial trial to which I am entitled under Florida law.

C. Unjustified Prohibition on Recording Court Proceedings

11. During the course of these proceeding, Judge Muscarella issued an order prohibiting the recording of court hearings, without providing any valid legal basis or compelling justification for such a restriction.

12. As a pro se litigant, I rely on the ability to record court proceedings to ensure that I have an accurate record of the hearings, which is essential for preserving my right to appeal or seek review of any adverse rulings. The prohibition on recording has significantly hindered my ability to protect my legal interests and maintain an accurate record of these proceedings.

13. The Florida Supreme Court has held that court proceedings should be open to the public and that recording should be permitted unless there is a compelling reason to restrict it (**In re Petition of Post-Newsweek Stations, Florida, Inc.**, 370 So. 2d 764 (Fla. 1979)). Judge Muscarella's prohibition on recording, without a valid justification, raises concerns about transparency and suggests an attempt to limit public scrutiny, further contributing to my fear of bias.

D. Appearance of Impropriety and Bias

14. The Florida Supreme Court has made it clear that a judge should be disqualified if the facts create a reasonable fear that a party will not receive a fair trial (**MacKenzie v. Super Kids Bargain Store, Inc.**, 565 So. 2d 1332 (Fla. 1990)). The appearance of impropriety, partiality, or favoritism is sufficient grounds for recusal.

15. Based on the totality of the circumstances, including Judge Muscarella's reliance on defense counsel's guidance, disregard for my rights as a pro se litigant, and the unjustified prohibition on recording court proceedings, I have a well-founded fear that Judge Muscarella is biased and unable to preside over this case impartially.

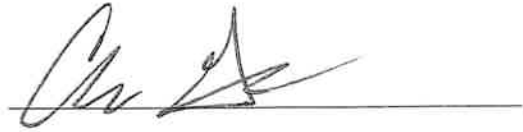
16. Statement of Good Faith

16. I make this affidavit in good faith and not for the purpose of delay. I genuinely fear that I will not receive a fair and impartial trial if Judge Muscarella continues to preside over this case.

WHEREFORE, I respectfully request that Judge Muscarella be disqualified from this case pursuant to Section 38.10, Florida Statutes, and that this matter be reassigned to another judge who can ensure that I receive a fair and impartial trial.

FURTHER AFFIANT SAYETH NAUGHT.

Dated this 29 day of September, 2024



Christopher Gleason

Plaintiff

NOTARY ACKNOWLEDGMENT

STATE OF FLORIDA

COUNTY OF PINELLAS

SWORN TO and subscribed before me this 29th day of Sept, 2024, by Christopher Gleason, who is personally known to me or who has produced FL Drivers License as identification.



Notary Public

State of Florida

My Commission Expires: [insert date]

[Seal]



CHRISTINE PETERS
Commission # HH 496653
Expires February 26, 2028

AFFIDAVIT OF Regina Hansen
REGARDING JUDGE MUSCARELLA'S IMPARTIALITY

STATE OF FLORIDA

COUNTY OF PINELLAS

BEFORE ME, the undersigned authority, personally appeared Regina Hansen
who, being first duly sworn, deposes and states as follows:

1. My name is Regina Hansen, and I am over the age of 18, competent to testify, and make this affidavit based on my personal knowledge and observations.

2. I am not a party to the above-captioned case involving Plaintiff Christopher Gleason and Defendant Julie Marcus, nor do I have any personal interest in the outcome of this litigation. I attended the court proceedings involving this case as an observer on 9-19-24, and my observations are based on what I personally witnessed during these proceedings.

3. I observed the conduct and demeanor of Judge Patricia Muscarella during the court proceedings, and I have a well-founded belief that she did not act impartially and that Plaintiff Christopher Gleason was not treated fairly due to the judge's demonstrated bias and favoritism toward the defendant and their legal counsel, Mr. Jared Kahn.

A. Judge Muscarella's Reliance on Defense Counsel's Legal Guidance

4. During the proceedings, I witnessed Judge Muscarella repeatedly seek guidance and clarification from defense counsel, Mr. Jared Kahn, regarding legal procedures

and interpretations of the law. On multiple occasions, the judge asked Mr. Kahn for his opinion on how to proceed, and she appeared to rely on his statements without independent verification or consideration of the Plaintiff's arguments.

5. Specifically, Judge Muscarella accepted Mr. Kahn's representation that Exhibit G contained critical infrastructure information protected under Florida Statutes §§ 119.0725(2)(b) and (d), despite the absence of any statutory basis or evidence provided to support this claim. Judge Muscarella did not question or challenge Mr. Kahn's statements, even though Plaintiff Christopher Gleason attempted to raise concerns and objections regarding the accuracy of the defense counsel's assertions.

6. In my opinion, Judge Muscarella's reliance on Mr. Kahn's guidance demonstrated a lack of impartiality and an appearance of bias in favor of the defense. This behavior suggested that the judge was not acting as a neutral arbiter but rather as someone influenced by the defendant's legal counsel.

B. Failure to Provide Fair Treatment to Pro Se Plaintiff

7. I was aware that Christopher Gleason was representing himself as a pro se litigant, and I observed that Judge Muscarella did not extend the same level of consideration or assistance to him as she did to the defense counsel. While Mr. Kahn was given ample opportunity to present his arguments and legal positions, Judge Muscarella frequently interrupted or dismissed Mr. Gleason's attempts to raise legal points or address issues related to the case.

8. There were several instances where Judge Muscarella appeared impatient or dismissive when Mr. Gleason tried to present his arguments, whereas she showed deference and attentiveness to defense counsel's submissions. This unequal treatment gave me the impression that Judge Muscarella was biased against Mr.

Gleason and was not providing him with the fair and equal opportunity to present his case.

9. I am aware, based on my knowledge of the law, that judges have a duty to ensure that pro se litigants are treated fairly and are not disadvantaged simply because they do not have legal representation. In this case, Judge Muscarella failed to uphold this duty, which raised concerns about her ability to preside impartially over the proceedings.

C. Unjustified Prohibition on Recording Court Proceedings

10. During the proceedings, Judge Muscarella issued an order prohibiting the recording of the hearings, without providing a valid legal basis or compelling justification for this restriction. I found this decision troubling, as it limited the transparency of the court proceedings and prevented Mr. Gleason from maintaining an accurate record of what transpired, which is crucial for a pro se litigant who may need to rely on such a record for appeals or further legal action.

11. The prohibition on recording was not consistent with the principles of open and public judicial proceedings as established by the Florida Supreme Court in **In re Petition of Post-Newsweek Stations, Florida, Inc.**, 370 So. 2d 764 (Fla. 1979), which emphasizes the importance of transparency and the public's right to access court proceedings. Judge Muscarella's decision to prevent recording appeared to serve no purpose other than to limit scrutiny, reinforcing my perception that Mr. Gleason was not being treated fairly.

D. Appearance of Impropriety and Bias

12. Based on my observations, it is my belief that Judge Muscarella's conduct throughout the proceedings demonstrated a clear appearance of bias and impropriety. The combination of her reliance on defense counsel's legal

interpretations, her disregard for Mr. Gleason's rights as a pro se litigant, and her decision to prohibit recordings created an environment where it was evident that the Plaintiff was not receiving a fair trial.

13. In my opinion, a reasonably prudent person observing the proceedings would have serious concerns about Judge Muscarella's impartiality and would fear that Christopher Gleason could not receive a fair and impartial trial. The judge's conduct violated the principles of judicial fairness and impartiality and was inconsistent with the standards expected of a judge as articulated in *MacKenzie v. Super Kids Bargain Store, Inc.*, 565 So. 2d 1332 (Fla. 1990), which emphasizes that even the appearance of bias or impropriety is sufficient to warrant a judge's disqualification.

E. Statement of Good Faith

14. I make this affidavit in good faith and not for any improper purpose. I am providing this testimony to support the Plaintiff's efforts to seek a fair and impartial trial before a judge who can objectively and fairly adjudicate this matter.

FURTHER AFFIANT SAYETH NAUGHT.

Regina Hansen
Witness Name Regina Hansen
Address 2427 Finlandia Ln, Apt 41, Clearwater, FL 33763
Phone Number 727-788-2772

Sworn to and subscribed before me this 29th day of Sept, 2024.

Personally known OR Produced Identification

Type of Identification Produced: _____

Christine Peters
Notary Public, State of Florida



CHRISTINE PETERS
Commission # HH 496853
Expires February 26, 2028

My Commission Expires: _____



CHRISTINE PETERS
Commission # HH 496853
Expires February 26, 2028



CHRISTINE PETERS
Commission # HH 496853
Expires February 26, 2028

AFFIDAVIT OF RICHARD GREENWOOD
REGARDING JUDGE MUSCARELLA'S IMPARTIALITY

STATE OF FLORIDA

COUNTY OF PINELLAS

BEFORE ME, the undersigned authority, personally appeared RICHARD GREENWOOD who, being first duly sworn, deposes and states as follows:

1. My name is RICHARD GREENWOOD, and I am over the age of 18, competent to testify, and make this affidavit based on my personal knowledge and observations.

2. I am not a party to the above-captioned case involving Plaintiff Christopher Gleason and Defendant Julie Marcus, nor do I have any personal interest in the outcome of this litigation. I attended the court proceedings involving this case as an observer on 9/19/24, and my observations are based on what I personally witnessed during these proceedings.

3. I observed the conduct and demeanor of Judge Patricia Muscarella during the court proceedings, and I have a well-founded belief that she did not act impartially and that Plaintiff Christopher Gleason was not treated fairly due to the judge's demonstrated bias and favoritism toward the defendant and their legal counsel, Mr. Jared Kahn.

A. Judge Muscarella's Reliance on Defense Counsel's Legal Guidance

4. During the proceedings, I witnessed Judge Muscarella repeatedly seek guidance and clarification from defense counsel, Mr. Jared Kahn, regarding legal procedures

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