

CASE NO. _____

**IN THE DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA
FIFTH DISTRICT**

CASE NO. 2020-CA-001438

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT,
IN AND FOR LAKE COUNTY, FLORIDA

In re William M. Windsor

William M. Windsor,

Petitioner

v.

Coach Houses at Leesburg Condominium Association, Inc., Omar Nuseibeh, Vicki Hedrick,
Karen Bollinger, Shehneela Arshi, Isabel Campbell, Sergio Naumoff, Ed Broom, Jr., Marta
Carbajo, Sue Yokley, Wendy Krauss, Howard Solow, Sentry Management, Inc., Charlie Ann
Aldridge, Art Swanton, Brad Pomp, Clayton & McCulloh, P.A., Brian Hess, Neal McCulloh,
Russell Klemm, Florida Department of Business and Professional Regulation, Mahlon C.

Rhaney, Leah Simms, and Does 1-20,

Respondents.

PETITION FOR WRIT OF PROHIBITION

William M. Windsor, Petitioner

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TABLE OF CONTENTS

TABLE OF CONTENTS	2
INTRODUCTION	4
BASIS FOR INVOKING JURISDICTION	5
NATURE OF RELIEF SOUGHT	6
STATEMENT OF THE FACTS AND PROCEDURAL HISTORY	6
REASONS WHY THE WRIT SHOULD ISSUE	8

STANDARD OF REVIEW.....	10
ARGUMENTS	10
CONCLUSION	25
APPENDIX INDEX.....	26
CERTIFICATE OF COMPLIANCE	27
CERTIFICATE OF SERVICE	28
VERIFICATION	29

INTRODUCTION

1. Pursuant to Florida Rules of Appellate Procedure (“FRAP”) Rule 9.100 and this Court’s Inherent Power, Petitioner, WILLIAM M. WINDSOR (“Windsor”), respectfully petitions this Court for a writ of prohibition restraining Judge Dan R. Mosley, Judge of the Circuit Court of the Fifth Judicial Circuit, in and for Lake County Florida from presiding as a circuit judge in the matter of WILLIAM M. WINDSOR vs. Coach Houses at Leesburg Condominium Association, Inc., Omar Nuseibeh, Vicki Hedrick, Karen Bollinger, Shehneela Arshi, Isabel Campbell, Sergio Naumoff, Ed Broom, Jr., Marta Carbajo, Sue Yokley, Wendy Krauss, Howard Solow, Sentry Management, Inc., Charlie Ann Aldridge, Art Swanton, Brad Pomp, Clayton & McCulloh, P.A., Brian Hess, Neal McCulloh, Russell Klemm, Florida Department of Business and Professional Regulation, Mahlon C. Rhaney, Leah Simms, and Does 1-20 in Case No. 2020-CA-001438. Windsor also petitions this Court to declare that because leave was granted to amend Windsor’s Complaint, 20 days was not a sufficient amount of time to allow compliance with motions to authorize punitive damages pursuant to Florida Statute 768.72; declare that because leave was granted to amend Windsor’s Complaint, a sufficient amount of time must be allowed for amendment to comply with demands required pursuant to Section 617.07401(2) that require 90 days; and

order a newly-assigned judge to reconsider the orders of Judge Dan R. Mosley (“Judge Mosley”).

2. This Petition follows the denial of a timely-filed motion to disqualify [APPENDIX 1] in which Windsor established that he has an objectively reasonable fear that he has not received a fair trial from Judge Mosley. The Petition was premised on Florida Rules of Appellate Procedure (“FRAP”) 2.330, Florida Statutes, and the Florida Code of Judicial Conduct, all of which require that a judge disqualify himself once a party has established a reasonable fear that he will not obtain a fair hearing. See Florida Rules of Judicial Administration (“FRJA”) 2.160; Fla. Stat. §§ 38.02, 38.10; Florida Code of Judicial Conduct (“FCJC”), Canon 3-B (7) and E. 2 I.

BASIS FOR INVOKING JURISDICTION

3. Article V, section 4(b)(3) of the Florida Constitution authorizes district courts of appeal to issue writs of prohibition. See also FRAP 9.030(b)(3); FRAP 9.100. This is an original action under Rule 9.100(a) of the FRAP. This Court has original jurisdiction pursuant to FRAP and Article V, Section 3(b)(8) of the Florida Constitution. See *Bundy v. Rudd*, 366 So. 2d 440 (Fla. 1978) (granting writ where circuit court erroneously denied motion to recuse judge).

4. Judge Mosley’s Order of January 28, 2021 says this and nothing more:

“1. The Plaintiff’s Motion to Disqualify Circuit Court Judge Dan R. Mosley filed on January 28, 2021 is hereby DENIED.

“2. This Court retains jurisdiction to enter such Orders as may be required to enforce the provisions of this Order.”

NATURE OF RELIEF SOUGHT

5. The nature of the relief sought in this Petition is a Writ of Prohibition precluding Judge Mosley from conducting proceedings in this case. Windsor also seeks to have this Court declare that more than 20 days’ leave must be granted to amend Windsor’s Complaint to allow for a sufficient amount of time to comply with motions to authorize punitive damages pursuant to Florida Statute 768.72; declare that leave must be granted to amend Windsor’s Complaint to allow for a sufficient amount of time to comply with demands pursuant to Section 617.07401(2) that require 90 days; and order a newly-assigned judge to reconsider the orders of Judge Dan R. Mosley (“Judge Mosley”).

STATEMENT OF THE FACTS AND PROCEDURAL HISTORY

6. This case was instituted in the Fifth Judicial Circuit in Lake County, Florida on 9/4/2020. It was filed by William M. Windsor, Pro Se. [APPENDIX 2.] The case was assigned to Judge Mosley.

7. Windsor sought leave to amend the Complaint needed to add specificity that the Defendants requested. On November 30, 2020, the SECOND

AMENDED COMPLAINT [APPENDIX 3] was filed. It was granted by order on 12/3/2020. [APPENDIX 4.]

8. Windsor is not an attorney, but he has independently studied law and has represented himself in various actions for over 20 years, including several petitions to the United States Supreme Court.

9. This is far from a simple case. There are 43 DEFENDANTS, 32 owners of the ASSOCIATION, 10 Causes of Action, 6 Petitions to the Florida Department of Business and Professional Regulation ("DBPR"), 3 Trial De Novos in Lake County courts, violations of at least 21 Florida Statutes and Rules, violations of at least 28 provisions in governing documents of the ASSOCIATION, 185 violations of the governing documents of the ASSOCIATION, and at least 86 notices sent to DEFENDANTS in an effort to resolve matters. Meeting the requirement to present ultimate facts showing entitlement to relief took Windsor 181 pages in the verified SECOND AMENDED COMPLAINT.

10. Windsor came to the realization at the hearing on 1/27/2021 that Judge Mosley was prejudiced and biased. Windsor sent a notice by email to Judge Mosley's judicial assistant advising that he was filing a motion to disqualify Judge Mosley; this was sent on 1/27/2021 not long after the hearing. [APPENDIX 5.]

11. On 1/28/2021, Windsor filed a Verified Motion to Disqualify Judge Mosley. [APPENDIX 6.]

12. On 1/28/2021 at 9:42 a.m., Windsor sent an email to Judge Mosley's judicial assistant with a copy of the Verified Motion to Disqualify Judge Mosley.

[APPENDIX 7.]

13. On 1/28/2021 at 3:19 p.m., Windsor sent an email to Judge Mosley's judicial assistant to advise that the Petition for Writ of Prohibition would be filed this evening. [APPENDIX 8.]

14. 1/28/2021, Judge Mosley entered an Order denying Windsor's Motion to Disqualify. [APPENDIX 1.] Judge Mosley did not address legal sufficiency whatsoever.

REASONS WHY THE WRIT SHOULD ISSUE

15. Windsor's Affidavit of Prejudice attached to the Motion to Disqualify stated very clearly the facts and reasons for the belief that bias and prejudice exists. Dates, times, places, circumstances, and statements are itemized. The reasons for the belief are material and stated with particularity. [APPENDIX 9.] A Certificate that the Motion to Disqualify was made in Good Faith was filed. [APPENDIX 10.]

16. An objective observer, lay observer, and/or disinterested observer must entertain significant doubt of the impartiality of Judge Mosley. A reasonably prudent person will be in fear of not receiving a fair and impartial trial.

17. Judge Mosley's Order denying the Motion to Disqualify fails to address the legal sufficiency of the Motion. This mandates granting this Petition.

18. Oral decisions of Judge Mosley on 1/27/2021 demonstrated significant prejudice and bias, and he has ignored the law and the rules. Judge Mosley has made it clear; he is moving forward as the purported judge. The Plaintiff anticipates he will be issuing orders and continuing to abuse the Plaintiff until this Petition is granted.

19. Judge Mosley established a clearly fixed view about substantive pending trial matters, so this must raise concerns about the "appearance of impropriety," a standard that must be safeguarded under applicable recusal law.

20. Judge Mosley has effectively denied Windsor's rights of the equal protection under the law under Article VI of the Constitution.

21. Judge Mosley's actions prove that he has exercised his power in this civil action for his own personal purposes rather than the will of the law.

22. Windsor has not received fair and impartial treatment with Judge Mosley. He is prejudiced against Windsor.

23. All Windsor wants is to have someone fair and impartial with an open mind to listen to the facts and review as much of the evidence as is needed to prove each of his claims. It is obvious to Windsor that Judge Mosley doesn't care about the facts and doesn't want to apply the law.

24. The United States Constitution guarantees an unbiased judge who will always provide litigants with full protection of ALL RIGHTS. Judge Mosley is biased against Windsor. He has demonstrated this repeatedly on 1/27/2021.

25. Windsor's motion, affidavit, certificates of good faith, and memorandum of authorities meet the requirements for a motion to disqualify.

[APPENDIX 6, 9, 10.]

26. Windsor has a well-grounded fear that he will not receive a fair trial. He hasn't received a fair trial.

27. Judge Mosley established a clearly fixed view about substantive pending trial matters, so this must raise concerns about the "appearance of impropriety," a standard that must be safeguarded under applicable recusal law.

STANDARD OF REVIEW

28. The denial of a motion to disqualify a circuit judge is reviewed de novo. *Parker v. State*, 3 So.3d 974, 982 (Sup. Ct. Fla. 2009).

LEGAL ARGUMENT

29. The test to be used by the trial court in reviewing a motion for disqualification has been determined by the Florida Supreme Court. In *MacKenzie v. Super Kids Bargain Store, Inc.*, 565 So.2d 1332 (Fla.1990), the Supreme Court held that the facts alleged in a motion to disqualify need only show a movant's

well-grounded fear that the movant will not receive a fair trial. The test to be utilized is whether the facts alleged would place a reasonably prudent person in fear of not receiving a fair and impartial trial. *MacKenzie*, 565 So.2d at 1335; see also *Fischer v. Knuck*, 497 So.2d 240 (Fla.1986).

30. In reviewing the legal sufficiency of a motion for disqualification, i.e. whether the movant has alleged facts giving rise to a well-founded fear that the movant will not receive a fair trial, the facts must be taken as true and must be viewed from the movant's perspective. See *Livingston*, 441 So.2d 1083 ("The question of disqualification focuses on those matters from which a litigant may reasonably question a judge's impartiality rather than the judge's perception of the judge's ability to act fairly and impartially.").

31. In order to decide whether the motion is legally sufficient, Windsor must only show: 'a well-grounded fear that he will not receive a fair [hearing] at the hands of the judge. It is not a question of how the judge feels; it is a question of what feeling resides in the affiant's mind and the basis for such feeling.' *State ex rel. Brown v. Dewell*, 131 Fla. 566, 573, 179 So. 695, 697- 98 (1938). See also *Hayslip v. Douglas*, 400 So. 2d 553 (Fla. 4th DCA 1981). The question of disqualification focuses on those matters from which a litigant may reasonably question a judge's impartiality rather than the judge's perception of his ability to act fairly and impartially. *State v. Livingston*, 441 So. 2d 1083, 1086 (Fla. 1983)

32. The prejudice of a judge is a delicate question for a litigant to raise but when raised as a bar to the trial of a cause, if predicated on grounds with a modicum of reason, the judge in question should be prompt to recuse himself. No judge under any circumstances is warranted in sitting in the trial of a cause whose neutrality is shadowed or even questioned. *Dickenson v. Parks*, 104 Fla. 577, 140 So. 459 (1932); *State ex rel. Aguiar v. Chappell*, 344 So.2d 925 (Fla. 3d DCA 1977). *State v. Steele*, 348 So. 2d 398, 401 (Fla. 3rd DCA 1977).

33. The United States Supreme Court has explained that in deciding whether a particular judge cannot preside over a litigant's trial: the inquiry must be not only whether there was actual bias on respondent's part, but also whether there was 'such a likelihood of bias or an appearance of bias that the judge was unable to hold the balance between vindicating the interests of the court and the interests of the accused.' *Ungar v. Sarafite*, 376 U.S. 575, 588 (1964). 'Such a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties,' but due process of law requires no less. *In re Murchison*, 349 U.S. 133, 136, 75 S.Ct. 623, 625, 99 L.Ed. 942 (1955). *Taylor v. Hayes*, 418 U.S. 488, 501 (1974) (emphasis added).

34. The appearance of impropriety violates state and federal constitutional rights to due process. A fair hearing before an impartial tribunal is a basic

requirement of due process. See *In re Murchison*, 349 U.S. 133 (1955). "Every litigant[] is entitled to nothing less than the cold neutrality of an impartial judge." *State ex rel. Mickle v. Rowe*, 131 So. 331, 332 (Fla. 1930). Absent a fair tribunal, there can be no full and fair hearing.

35. Once again, the test for determining the legal sufficiency of a motion for disqualification is an objective one which asks whether the facts alleged in the motion would place a reasonably prudent person in fear of not receiving a fair and impartial hearing. See *Livingston v. State*, at 1087. "When the judge enters into the proceedings and becomes a participant, a shadow is cast upon judicial neutrality so that disqualification [of the circuit] is required." *Chastine v. Broome*, at 295.

A. WINDSOR SHOWED THAT ANY REASONABLY PRUDENT PERSON WOULD BE IN FEAR OF NOT RECEIVING A FAIR TRIAL.

36. There are a host of reasons why any reasonable prudent person would be in fear of not receiving a fair trial in the case. The evidence in this case is overwhelming, and the only evidence is Windsor's evidence.

37. Hundreds of pages of affidavits sworn under penalty of perjury before a notary are within the four corners as well as 2,000 exhibits. ALL of this evidence is for the Plaintiff. The DEFENDANTS don't have a single document, not even an affidavit.

38. A reasonably prudent person would be in fear of receiving a fair trial.
Make that terror.

**B. JUDGE MOSLEY DID NOT MAKE THE REQUIRED FINDING ON
THE LEGAL SUFFICIENCY OF THE MOTION.**

39. Judge Mosley gave no explanation [APPENDIX 1 -- ORDER, P. 1.]
It will be simple for this Court to determine that Judge Mosley was simply
inflicting his bias and prejudice yet again.

40. Judge Mosley made this Court's job easy. He violated
Disqualification Rule 1. Massive case law support the statutes and provide that
Judge Mosley must be sent packing.

41. A Motion to Disqualify is governed by Florida Statute 38.10 and
FRJA 2.330, and Windsor met all requirements. [APPENDIX 11 and 12.]

42. Florida Statute 38.10 provides:

"Whenever a party to any action or proceeding makes and files an affidavit
stating fear that he or she will not receive a fair trial in the court where the
suit is pending on account of the prejudice of the judge of that court against
the applicant or in favor of the adverse party, the judge shall proceed no
further, but another judge shall be designated in the manner prescribed by
the laws of this state for the substitution of judges for the trial of causes in
which the presiding judge is disqualified."

"A motion to disqualify is governed substantively by section 38.10, Florida
Statutes . . . and procedurally by Florida Rule of Judicial Administration
2.330." *Gregory v. State*, 118 So.3d 770, 778 (Fla. 2013) (quoting *Gore v.
State*, 964 So.2d 1257, 1268 (Fla. 2007)). "The statute requires that the
moving party file an affidavit in good faith 'stating fear that he or she will
not receive a fair trial . . . on account of the prejudice of the judge' as well as

‘the facts and the reasons for the belief that any such bias or prejudice exists.’” *Peterson v. State*, 221 So.3d 571, 581 (Fla. 2017) (quoting § 38.10, Fla. Stat. (2014)).

43. **MOTION AND AFFIDAVIT:** The Motion to Disqualify was in writing. Windsor filed an Affidavit of Prejudice stating his fear that he would not receive a fair trial due to the prejudice of Judge Mosley. It provided the facts and the reasons for the belief that such bias and prejudice exist. This Motion was signed under oath. A Certificate of Good Faith was also filed [APPENDIX 10]. The Motion to Disqualify was filed with the Clerk, and a copy was sent by email to Judge Mosley c/o his assistant, Andrea Coluccio. [APPENDIX 7.] (On the evening of 1/27/2021, Windsor also sent Ms. Coluccio an email asking her to advise Judge Mosley that the Motion to Disqualify would be sent as soon as Windsor could obtain a notary.) [APPENDIX 8.]

44. **GROUND:** The Motion to Disqualify showed that the Plaintiff fears he will not receive a fair trial because of specifically described prejudice or bias of Judge Mosley. The Plaintiff feels quite certain that the unrestrained actions of Judge Mosley will send Windsor to an early grave.

45. **TIME:** The Motion to Disqualify was filed within a reasonable time not to exceed 10 days after discovery of the facts constituting the grounds for the Motion and was promptly presented to the Court for an immediate ruling. It was filed within 1 day.

46. FRJA 2.330 (f) Determination — Initial Motion requires:

“**The judge** against whom an initial motion to disqualify under subdivision (d)(1) is directed **shall determine only the legal sufficiency of the motion** and shall not pass on the truth of the facts alleged. If the motion is legally sufficient, the judge shall immediately enter an order granting disqualification and proceed no further in the action. If any motion is legally insufficient, an order denying the motion shall immediately be entered. No other reason for denial shall be stated, and an order of denial shall not take issue with the motion” **[emphasis added.]**

47. Judge Mosley violated Rule 2.330 despite the fact that Windsor’s Motion told him what the law and rules require. [APPENDIX 12.]

C. **JUDGE MOSLEY IGNORED THE RULES AND HIS ORDERS IN FAVOR OF THE DEFENDANTS**

48. Judge Mosley has a propensity for ignoring the Rules, ignoring the law, and ignoring the facts.

“The motion is legally sufficient if it shows the party’s well-grounded fear that the party will not receive a fair trial. See *Livingston v. State*, 441 So.2d 1083, 1087 (Fla.1983). In other words, would the facts (which must be taken as true in a motion to disqualify) prompt a reasonably prudent person to fear that he could not get a fair and impartial trial. See e.g., *Peterson v. Asklepious*, 833 So. 2d 262 (Fla. 4th DCA 2002).”

“The facts alleged in the motion need only show that “the party making it has a well grounded fear that he will not receive a fair trial at the hands of the judge.” *Dewell*, 131 Fla. at 573, 179 So. at 697. “If the attested facts supporting the suggestion are reasonably sufficient to create such a fear, it is not for the trial judge to say that it is not there.” *Parks*, 141 Fla. at 518, 194 So. at 614. Further, “it is a question of what feeling resides in the affiant’s mind and the basis for such feeling.” *Dewell*, 131 Fla. at 573, 179 So. at 697-98. (*Livingston v. State*, 441 So.2d 1083 (Fla. 10/27/1983).)”

49. In determining the legal sufficiency of a motion to disqualify, a court looks to see whether the facts alleged would place a reasonably prudent person in fear of not receiving fair and impartial treatment from the trial judge. *See, e.g., Johnson v. State*, 769 So. 2d 990 (Fla. 2000). In the instant case, a reasonably prudent person, would be in fear that Judge Mosley, because of his prejudice or bias, deprived him of fair and impartial treatment. A prudent person would KNOW he or she is (pardon the French) screwed.

50. Judge Mosley was obligated to accept the truth of Windsor's statements, and he was obligated only to pass on the sufficiency of the motion. He failed to do so.

"When a party seeks to disqualify a judge under section 38.10, the judge cannot pass on the truth of the statements of fact set forth in the affidavit. *State v. Dewell*, 131 Fla. 566, 179 So. 695 (1938). The facts and reasons for the belief of prejudice must be taken as true, and **the judge may only pass on the legal sufficiency of the motion and supporting affidavits to invoke the statute.** *Raybon v. Burnette*, 135 So.2d 228 (Fla. 2d DCA 1961). Section 38.10 creates a substantive right to seek the disqualification of a trial judge, but the process of the disqualification is procedural. *Livingston v. State*, 441 So.2d 1083 (Fla.1983)." [emphasis added.]

51. So says the Florida Supreme Court:

"When a party seeks to disqualify a judge under section 38.10, the judge cannot pass on the truth of the statements of fact set forth in the affidavit. *State v. Dewell*, 131 Fla. 566, 179 So. 695 (1938). The facts and reasons for the belief of prejudice must be taken as true, and the judge may only pass on the legal sufficiency of the motion and supporting affidavits to invoke the statute. *Raybon v. Burnette*, 135 So.2d 228 (Fla. 2d DCA 1961). Section 38.10 creates a substantive right to seek the disqualification of a trial judge, but the process of the disqualification is procedural. *Livingston v. State*, 441

So.2d 1083 (Fla.1983).” (*Brown v. St. George Island, Ltd.*, 561 So.2d 253, 15 Fla. L. Weekly S231 (Fla. 04/19/1990).)

(See also *Rogers v. State*, 630 So.2d 513, 18 Fla. L. Weekly S413 (Fla. 07/01/1993).)

(From the 5th DCA, see *Novo v. State*, 5D19-2290 (Fla.App. Dist.5 08/28/2019); *Dura-Stress, Inc. v. Law*, 634 So.2d 769, 19 Fla. L. Weekly D729 (Fla.App. Dist.5 03/31/1994); *Scholz v. Hauser*, 657 So.2d 950, 20 Fla. L. Weekly D1633 (Fla.App. Dist.5 07/13/1995); *Robinson v. State*, 5D19-2372 (Fla.App. Dist.5 08/28/2019); *Lake v. Edwards*, 501 So.2d 759, 12 Fla. L. Weekly 444 (Fla.App. Dist.5 02/05/1987).)

52. On 1/27/2021, Judge Mosley allowed 17 Defendants to violate his Order, without justification. [APPENDIX 13]. The Defendants had received as many as 25 notices from Judge Mosley’s Judicial Assistant identifying this Order. [APPENDIX 14.] Judge Mosley refused to indicate why he was allowing the Defendants to thumb their noses at his order. It was interesting to note that four of the Defendants did comply; one (Attorney Joseph Kovecses) did so after Windsor raised this issue on the first round of motions to dismiss. He also SIGNED his motion to dismiss after Windsor called out the 17 Defendants for failure to comply with this most fundamental requirement of Rule 2.515 of the Florida Rules of Judicial Administration. Windsor’s motions to strike all of the improperly filed motions on these issues were denied without explanation or justification. Judge Mosley doesn’t even respect or comply with his own orders. APPENDIX 15 is one of these motions.

D. THE IMPARTIALITY OF JUDGE MOSLEY MUST BE QUESTIONED.

53. An objective observer, lay observer, and/or disinterested observer must entertain significant doubt of the impartiality of Judge Mosley.

54. The Code of Judicial Conduct required that Judge Mosley disqualify himself.

The Code of Judicial Conduct sets forth basic principles of how judges should conduct themselves in carrying out their judicial duties. Canon 3-C(1) states that “[a] judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned” This is totally consistent with the case law of this Court, which holds that a party seeking to disqualify a judge need only show “a well grounded fear that he will not receive a fair trial at the hands of the judge. It is not a question of how the judge feels; it is a question of what feeling resides in the affiant’s mind and the basis for such feeling.” *State ex rel. Brown v. Dewell*, 131 Fla. 566, 573, 179 So. 695, 697-98 (1938). See also *Hayslip v. Douglas*, 400 So.2d 553 (Fla. 4th DCA 1981). The question of disqualification focuses on those matters from which a litigant may reasonably question a judge’s impartiality rather than the judge’s perception of his ability to act fairly and impartially.

E. JUDGE MOSLEY FAILED TO ADDRESS ALL OF THE LEGAL GROUNDS FOR DISQUALIFICATION.

55. The Motion to Disqualify [APPENDIX 6, Page 1] asked:

“...that Judge Mosley be disqualified from the above entitled matter under Florida Statute 38.10, Florida Rule of Judicial Administration 2.330, the Code of Judicial Conduct, all other relevant statutory and state and federal case law, as well as the U.S. Constitution and the Constitution of the State of Florida.”

56. Judge Mosley did not identify if he considered any of the legal grounds. [APPENDIX 1, P.1.]

57. Judge Mosley did not consider Canon 2, other sections of Canon 3 of the Code of Judicial Conduct, other relevant statutory and state and federal case law, as well as the First, Fifth, Sixth, Eighth, and Fourteenth Amendments to the U.S. Constitution, the Due Process Clause of the Fifth Amendment to the Constitution, the Constitution of the State of Florida, and the Court's inherent powers,

58. Canon 2 of the Code of Conduct for United States Judges tells judges to "avoid impropriety and the appearance of impropriety in all activities, on the bench and off." Judge Mosley has demonstrated his prejudice by violating Canon 2.

F. WINDSOR IS ENTITLED TO THE COLD NEUTRALITY OF AN IMPARTIAL JUDGE.

59. Windsor is entitled to an impartial judge, and that isn't Judge Mosley. On 1/27/2021, Windsor had to pinch himself to realize he wasn't dreaming or being punked. Sadly, Allen Funt was nowhere to be found on Zoom.

"Every litigant is entitled to nothing less than the cold neutrality of an impartial judge. It is the duty of Courts to scrupulously guard this right and to refrain from attempting to exercise jurisdiction in any matter where his qualification to do so is seriously brought in question. *Hayslip v. Douglas*, 400 So.2d at 557 (quoting *State ex rel. Davis v. Parks*, 141 Fla. 516, 194 So. 613, 615 (1939)).

"We find that the motion and supporting affidavits were legally sufficient, and the proper procedure, in light of the serious allegation of bias, was for the judge to grant the motion. (*James v. Theobald*, 557 So.2d 591, 15 Fla. L. Weekly D215 (Fla.App. Dist.3 01/16/1990).)

“Where there is any legally sufficient basis, whether factually accurate or not, for a founded fear of possible prejudice to exist in the mind of a defendant, recusal is mandated.” See, e.g., *Management Corporation of America, Inc. v. Grossman*, 396 So.2d 1169 (Fla. 3rd DCA 1981).

G. JUDGE MOSLEY FAILED TO PROVIDE DUE PROCESS AND EQUAL PROTECTION TO WINDSOR.

60. Judge Mosley has violated Windsor’s civil and constitutional rights under color of law.

“...[t]rial before an ‘unbiased judge’ is essential to due process.” *Johnson v. Mississippi*, 403 U.S. 212, 216 (1971); accord *Concrete Pipe & Prods. V. Constr. Laborers Pension Trust*, 508 U.S. 602, 617 (1993) (citation omitted). (See also *Levine v. United States*, 362 U.S. 610, 80 S.Ct. 1038 (1960), citing *Offutt v. United States*, 348 U.S. 11, 14, 75 S. Ct. 11, 13 (1954); *Mathews v. Eldridge*, 424 U.S. 319, 344 (1976); *Peters v. Kiff*, 407, U.S. 493, 502 (1972)

61. Windsor has just cause to believe that he cannot be given a fair trial. That’s as polite as Windsor can ACT as he bites a hole in his lip.

62. The due process clauses of both the Florida and the United States Constitutions guarantee a party an impartial and disinterested tribunal in civil cases. *Marshall v. Jerico, Inc.*, 446 U.S. 238, 242, 100 S.Ct. 1610, 1613 (1980).

Partiality in favor of the government may raise a defendant’s due process concerns.” *In re United States of America*, 441 F.3d at 66 (citing *In re Murchison*, 349 U.S. 133 (1955)).

28 U.S.C. 155 may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties, but due process of law requires no less.” *Taylor v. Hayes*, 418 U.S. 488, 501 (1974) (citations and quotation marks omitted). See also *Murchison*, 349 U.S. at 136.

63. Judge Mosley has effectively denied Windsor's rights of the equal protection under the law under Article VI of the Constitution.

H. JUDGE MOSLEY VIOLATED THE CONSTITUTIONAL RIGHTS OF WINDSOR.

64. Judge Mosley has violated Windsor's Constitutional rights.

65. The Sixth Amendment provides the Constitutional right to self-representation. That right should be enjoyed without fear of harassment or judicial prejudice. Furthermore, no law, regulation, or policy should exist to abridge or surreptitiously extinguish that right. *Pro Se* Litigants allegedly have no less of a right to effective due process as those who utilize an attorney. I'm sorry to report that's a myth.

66. The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decision-making process. See *Carey v. Piphus*, 435 U.S. 247, 259-262, 266-267 (1978). The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law. See *Matthews v. Eldridge*, 424 U.S. 319, 344 (1976). At the same time, it preserves

both the appearance and reality of fairness, 'generating the feeling, so important to a popular government, that justice has been done,' *Joint Anti-Fascist Committee v. McGrath*, 341 U.S. 123, 172, (1951) (Frankfurter, J., concurring), by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980).

67. Canon 3E, Fla. Code Jud. Conduct, and Rule 2.160, Fla. R. Jud. Admin., mandate that a judge disqualify himself in a proceeding "in which the judge's impartiality might reasonably be questioned." The disqualification rules require judges to avoid even the appearance of impropriety: It is the established law of this State that every litigant is entitled to nothing less than the cold neutrality of an impartial judge. It is the duty of the court to scrupulously guard this right of the litigant and to refrain from attempting to exercise jurisdiction in any manner where his qualification to do so is seriously brought into question. The exercise of any other policy tends to discredit and place the judiciary in a compromising attitude which is bad for the administration of justice. *Crosby v. State*, 97 So.2d 181 (Fla. 1957); *State ex rel. Davis v. Parks*, 141 Fla. 516, 194 So. 613 (1939); *Dickenson v. Parks*, 104 Fla. 577, 140 So. 459 (1932); *State ex rel. Mickle v. Rowe*, 100 Fla. 1382, 131 So. 3331 (1930). * *

68. For due process and to secure the Constitutional rights of Windsor,

judges may not take the law into their own hands. But this is precisely what Judge Mosley has done. He has ignored the law, ignored the facts, and claimed laws and rules provide something that they do not provide, while abusing and disadvantaging Windsor.

69. For due process to be secured, the laws must operate alike upon all and not subject the individual to the arbitrary exercise of governmental power. (*Marchant v. Pennsylvania R.R.*, 153 U.S. 380, 386 (1894).) Judge Mosley has violated Windsor's rights by using his power to inflict his bias.

70. For due process, Windsor has the right to protections expressly created in statute and case law. Due process allegedly ensures that the government will respect all of a person's legal rights and guarantee fundamental fairness.

71. Due process requires an established course for judicial proceedings designed to safeguard the legal rights of the individual. Action denying the process that is "due" is unconstitutional. Inherent in the expectation of due process is that the judge will abide by the rules. Judge Mosley has interfered with the process and violated rules for the purpose of damaging Windsor.

72. An inherent Constitutional right is the honesty of the judge. Judge Mosley has not been honest. Judge Mosley has violated Canon 2 and other Canons of the Code of Judicial Conduct.

73. Due process guarantees basic fairness and to make people feel that

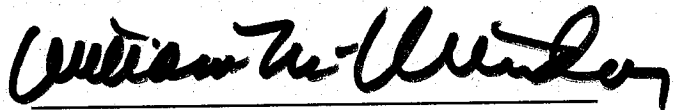
they have been treated fairly. Windsor has not been treated fairly.

74. Judge Mosley has effectively denied Windsor's rights of equal protection under the law.

CONCLUSION

WHEREFORE, Petitioner, WILLIAM M. WINDSOR, respectfully urges the Court to order a stay; enter a writ prohibiting Judge Dan R. Mosley from proceedings in this case; declare that because leave was granted to amend Windsor's Complaint, the Court must allow sufficient time for motions to authorize punitive damages pursuant to Florida Statute 768.72; declare that because leave was granted to amend Windsor's Complaint, a sufficient amount of time must be allowed for amendment to comply with demands required pursuant to Section 617.07401(2) that require 90 days; and order a newly-assigned judge to reconsider the orders of Judge Mosley.

This 28th day of January, 2021.

A handwritten signature in black ink, appearing to read "William M. Windsor", written over a horizontal line.

William M. Windsor

APPENDIX INDEX

APPENDIX 1 – Order Denying Motion to Disqualify dated 1/28/2021.

APPENDIX 2 – Complaint filed 9/4/2020 to begin case. A First Amended Complaint was filed immediately to correct a typo.

APPENDIX 3 – Second Amended Complaint effective 11/30/2020.

APPENDIX 4 – Order dated 12/3/2020 granting the filing of the Second Amended Complaint.

APPENDIX 5 – Email dated 1/27/2021 advising Judge Mosley of intent to file a Motion to Disqualify.

APPENDIX 6 – Verified Motion to Disqualify Judge Mosley filed 1/28/2021.

APPENDIX 7 – Email dated 1/28/2021 at 9:42 a.m. with a copy of the advising Judge Mosley of the filing of the Motion to Disqualify.

APPENDIX 8 – Email dated 1/28/2021 at 3:15 p.m. advising Judge Mosley that the Petition for Writ of Prohibition will be filed the evening of 1/28/2021.

APPENDIX 9 – Affidavit of Prejudice filed 1/28/2021.

APPENDIX 10 – Certificate of Good Faith filed 1/28/2021.

APPENDIX 11 – Florida Statute 38.10.

APPENDIX 12 – Florida Rules of Judicial Administration Rule 2.330.

APPENDIX 13 – Order that Judge Mosley allowed Defendants to violate.

APPENDIX 14 – 25 Notices of Judge Mosley's Order sent to the attorneys for all the Defendants.

APPENDIX 15 – Motion to Strike the Motion to Dismiss - Example.

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this Petition complies with the font requirements of Rule 9.100(l) of the Florida Rules of Appellate Procedure.

This 28th day of January, 2021.

A handwritten signature in black ink, appearing to read "William M. Windsor", written over a horizontal line.

William M. Windsor

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing by Electronic Mail:

Vicki Hedrick, Karen Bollinger, Shehneela Arshi, Ed Broom, Jr., Marta Carbajo, Sue Yokley, Wendy Krauss, Howard Solow, Omar Nuseibeh, Isabel Campbell, Sergio Naumoff, Coach Houses at Leesburg Condominium Association, Inc., Sentry Management, Inc., Art Swanton, Charlie Ann Aldridge, and Brad Pomp:

c/o Christina Bredahl Gierke
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Judge Dan R. Mosley
c/o Ms. Coluccio - Judicial Assistant to Judge Mosley
acoluccio@circuit5.org

This 28th day of January, 2021.



William M. Windsor
100 East Oak Terrace Drive, Unit B3
Leesburg, Florida 34748
352-577-9988
billwindsor1@outlook.com - bill@billwindsor.com

VERIFICATION

Personally appeared before me, the undersigned Notary Public duly authorized to administer oaths, William M. Windsor, who after being duly sworn deposes and states that he is authorized to make this verification and that the facts alleged in the foregoing are true and correct based upon his personal knowledge, except as to the matters herein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

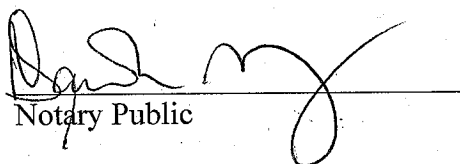
I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge.

This 28th day of January, 2021,



William M. Windsor

Sworn and subscribed before me this 28th day of January, 2021, by means of physical presence.



Notary Public

