

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM
BEACH, FL 33401

CASE NO.: 4D16-2320

L.T. No.: 502010DR003810XXXXSB

JULIE M. GONZALEZ

v.

LLOYD G. WICKBOLDT

Appellant / Petitioner(s)

Appellee / Respondent(s)

PETITION FOR WRIT OF PROHIBITION

Petitioner-Appellant, Julia M. Gonzalez, respectfully petitions this Court for the issuance of a writ of prohibition seeking review of the order entered by Palm Beach County Circuit Judge David E. French on June 27th, 2016, denying Petitioner's Motion to Disqualify Judge French as the trial judge in all pending proceedings in my case. The grounds for this Petition are as follows:

BASIS FOR INVOKING JURISDICTION

This Court has original jurisdiction to issue a writ of prohibition directed to the circuit court. Fla. Const., Art. V, § 4(b)(3); Fla. R. App. P. 9.030(b)(3); Livingston v. State, 858 So. 2d 353, 354 (Fla. 1st DCA 2003). Prohibition is clearly recognized as the proper avenue for immediate review of whether a motion to disqualify a trial judge has been correctly denied. Bundy v. Rudd,

366 So. 2d 440 (Sup. Ct. of Fla. 1978); Pierce v. State, 873 So. 2d 618 (Fla. 2d DCA 2004); Rollins v. Baker, 683 So. 2d 1138 (Fla. 5th DCA 1996).

Sutton v. State, 975 So. 2d 1073, 1076-77 (Fla. 2008). See also Wal-Mart Stores, Inc. v. Carter, 768 So. 2d 21 (Fla. 1st DCA 2000) ("The traditional remedy for interlocutory review of an order denying judicial disqualification is prohibition.")

STATEMENT OF THE FACTS

Petitioner-Appellant e-filed a timely Sworn, Written Motion for Mandatory Disqualification of Judge David French on Friday, July 24, 2016 as shown by the electronic stamp as follows: Filing # 43226602 E-Filed 06/24/2016 09:00:16 PM.

See Appendix Exhibit A.

Judge French illegally denied the motion on the next business day, Monday, July 27, 2016, finding the motion "legally insufficient" (App. Exhibit 2). It is from this order that Petitioner-Appellant Julia M. Gonzalez, now respectfully seeks a writ of prohibition under this court's original jurisdiction under Fla. R. App. P. 9.100 and 9.030(b)(3). See Appendix Exhibit B.

The July 24, 2016 filing came after a series of events with Judge French which reinforced the reasonable belief that Petitioner could not receive a fair trial. The motion was timely on July 24, 2016 alleging specific facts in writing including actions of Judge French from June 14, 2016 and alleging "continuing" acts as a

result of Judge French's conduct and thus, having been filed within 10 days of such acts, the motion was timely and yet, still illegally denied by Judge French.

On June 14, 2016, instead of moving to voluntarily recuse and disqualify himself from the proceedings, Judge French had taken the act to put in writing an Order on Contempt allegedly from June 7th, 2016 in relation to forcing Petitioner to sign documents to give up her Homestead property protected by the Florida Constitution. The contempt proceedings came after Petitioner had filed a written motion on May 10, 2016 to Discharge her attorney which is Petitioner's absolute right to do at any time for any cause or no cause. See, Appendix Exhibit A-A3.

Petitioner's then attorney Craig Darr had also filed a Motion to Withdraw on May 18, 2016 (Appendix A-Exhibit 3) and Petitioner thereafter filed a written motion to Disqualify Judge French and Amended Motion to Disqualify Judge French on May 23, 2016. See Appendix Exhibit A-A2.

All of this came after Petitioner-Appellant had found out on or about April 28, 2016 by email from her attorney Darr that Judge French had again held a critical hearing in the case in her absence and without NOTICE to Petitioner who had no notice of this Hearing from her own attorney or the Court.

An excerpt of the email is as follows:

“The second hearing was this afternoon before Judge French. This was your objections to the ruling of the General Magistrate (from our hearing in November) that

said you could not claim the homestead exemption to prevent the sale of your house as the judge ordered in the final judgment in the divorce case. Unfortunately, the results of this hearing were not in your favor. The judge ruled consistently with the General Magistrate's ruling that because, at the trial, you said you were not living in the property, and Judge Harrison made a specific finding in the final judgment that the property was not your homestead, you were no longer able to make that claim now to prevent the sale. I am very sorry that the judge would not accept my arguments, which I still think are correct. Judge French certainly still has a recollection of this case and his comments made it clear to me that regardless of any merit to my arguments, he was not going to prevent the sale of your house.

I have been reluctant to raise this issue with you again, but I really no longer have a choice. I cannot continue to represent you in either of these cases when you are unable to not only pay my current fees, but when I have been carrying such a large balance on your account for a very long time.

Again, Julie, I regret terribly the need to make this decision, but I simply cannot afford to do this anymore. If you would like the name of a bankruptcy lawyer, please let me know and I will do what I can to make a referral for you.

Best regards,
Craig R. Darr, Esq." See, Full Email at Appendix Exhibit C.

To Petitioner-Appellant's shock and dismay, it was found out that not only was there another improper Hearing held in the case but this was all designed to take

away her Homestead property and ended up having her own attorney seeking to withdraw after a hearing where Petitioner had No Notice to be present.

This was not the first time such actions had happened in the case with Judge French. Petitioner had found out on or around June of 2013 only by her actions in calling the Clerk's Office on a Friday to find out about a Motion for Continuance that she had made, that in fact there was a Pre-Trial Hearing the following Monday. Upon arriving at the Courthouse that Monday, Petitioner was faced with a surprised opposing Counsel Aragona who even questioned "how" she found out about the hearing as Petitioner walked in while opposing Counsel Aragona was meeting Ex Parte with Judge French on her dissolution case. All of these matters were raised substantially in a prior Appeal to this Court under Case No. 13-4051. See Appendix Exhibit D.

Petitioner's Motion for Disqualification filed May 23, 2016 was also in writing, sworn to, and detailed facts created a reasonable fear of not getting a fair trial. The motion referenced current acts of Judge French but also again simply referenced prior acts which would not be timely for purposes of Disqualification but which again are relevant to the formation of a reasonable belief that Petitioner would not get a fair trial. As noted from the current motion for Disqualification of June 24, 2016 that is the subject of this Writ, one of the very due process problems caused by Judge French's actions in improperly denying her right to choose counsel and

force counsel upon her was the failure to have her attorney take certain actions to Appeal such as Appealing the denial of the Discharge Motion, Withdrawal motion and Disqualification motion and actions of June 2nd and 7th, 2016.

Just one of these prior acts was an indication by Magistrate Judge Harrison who had claimed “I was told Not to Grant A continuance at Trial” which is what occurred AFTER Petitioner had found Judge French having an Ex Parte “Pre-Trial” hearing in June of 2013 with Counsel Aragona and where Judge French would not “hear” Petitioner on this date but only stated her Motion for Continuance of the Dissolution trial was Denied. See, Appendix Exhibit A-A2. May 23, 2016 Amended Motion for Disqualification.

Thus, looking at Judge French’s actions as a whole, when it came time for Petitioner to truly need Counsel at a Trial in her Dissolution case, Judge French held an Ex Parte Hearing and denied her Motion for Continuance and influenced the Trial Judge to further Deny a Continuance and thus Petitioner had no counsel at Trial on the underlying case. Yet, when it came to Judge French wanting to “enforce” his Judgment against Petitioner as quickly as possible regardless of what legal rights Petitioner may be able to advance through counsel of her own choice, Judge French wrongfully denied Petitioner’s Motion for Discharge of her attorney and her attorney’s Motion for Withdrawal perhaps to give the illusion that some

semblance of due process was present so Judge French could use her attorney to force and coerce actions to get Petitioner to give up her Homestead property. Yet, to further reinforce the bad “process” throughout these proceedings, the July 24, 2016 Motion for Disqualification shows not only how her attorney was conflicted in what actions he should take because of the Discharge, but on July 14, 2016 the same attorney wrote to Petitioner by email saying Judge French HAD actually granted a Withdrawal as Counsel when in fact this was not true as instead, Judge French had held her in Contempt on this date issuing an Order knowing he should voluntarily disqualify after a proper Disqualification was denied on June 2, 2016, a proper attorney’s motion for withdrawal was denied, and Petitioner’s motion for Discharge was denied and Petitioner was denied being heard except through counsel who had been Discharged. Judge French was aware of all of these facts when denying the mandatory Disqualification on June 27, 2016.

NATURE OF RELIEF SOUGHT

Petitioner-Appellant Julia M. Gonzalez seeks the issuance of this court's writ of prohibition requiring the removal of Judge French from presiding over all of her cases.

ARGUMENT

Petitioner-Appellant Julia M. Gonzalez is entitled to a writ of prohibition because Judge French erred in denying its motion for disqualification. Judge French erred

in concluding the motion to disqualify was legally insufficient and has been and is proceeding in excess of his jurisdiction.

Petitioner-Appellant Julia M. Gonzalez's Sworn, Written Motion for Mandatory Disqualification was Legally Sufficient where it showed facts that a reasonably prudent person would fear not getting a Fair and Impartial Trial and showed Acts of Bias, Prejudice and improper Interference in the Right to Counsel of Choice

“The test for determining the legal sufficiency of a motion for disqualification is whether the factual allegations would prompt a reasonably prudent person to fear that he could not get a fair and impartial trial.” *Baez v. Koelemij*, 960 So.2d 918, 919 (Fla. 4th DCA 2007) (citations and internal quotation omitted). In reviewing the allegations in a motion for disqualification, “facts must be taken as true and must be viewed from the movant's perspective.” *Id.* See, *In Re Guardianship of O.A.M.*, 124 So.3d 1031 (Fla.3rd Dist. Ct. App. 2013)

Petitioner-Appellant Julia M. Gonzalez's sworn motion to Disqualify Judge French was legally sufficient to merit disqualification. Whether a motion for disqualification is legally sufficient is subject to a de novo standard of review. *Chamberlain v. State*, 881 So. 2d 1087, 1097 (Fla. 2004).

The test to determine the legal sufficiency of a motion to disqualify a trial judge is whether the motion demonstrates a well-founded fear on the part of the party that

he will not receive a fair trial. *Rivera v. State*, 717 So. 2d 477 (Fla. 1998); *Correll v. State*, 698 So. 2d 522, 524 (Fla. 1997); *Levine v. State*, 650 So. 2d 666, 667 (Fla. 4th DCA 1995).

Petitioner's motion was in writing, it was sworn, it alleged facts that occurred within 10 days of the filing of the motion and it alleged facts that were continuing and ongoing. The motion clearly stated and showed Petitioner had a reasonable fear of getting a fair and impartial trial. See, Appendix Exhibit A. These facts had to be accepted as true by Judge French.

Paragraph 6 of the Motion showed: "Judge David French is acting, has been acting and threatening to continue to act in excess and outside of his jurisdiction by illegally denying me First Amendment rights of expression, 5th and 14th Amendment due process including but not limited to the right to have counsel of my own choosing." This factual allegation shows Judge French's actions were of a current and continuing nature and thus had to be timely. See, Appendix Exhibit A.

Paragraphs 11 and 12 of the Motion for Disqualification showed:

"11. Judge David E. French has exceeded his jurisdiction and acted in a biased and prejudiced manner creating a reasonable fear that I can not get a fair trial (emphasis added) by denying my fundamental right to be heard regarding the counsel of my choice, striking my prior applications to discharge my former attorney Craig Dearr while using the Court system as a weapon to illegally coerce

me to give away rights and property by repeated threats against my liberty threatening incarceration and action by law enforcement to arrest me to coerce signatures on documents all in violation of fundamental US Constitutional rights and in violation of Florida laws, rules and statutes.

12. Said acts have occurred over an extended period of time including but not limited to June 2, 2016 and including up to June 14, 2016 by the Contempt Order herein as Exhibit 1 with threats of incarceration from the involved attorneys continuing to the present making this motion timely and sufficient.” See Appendix Exhibit A.

Clearly factual allegations were made showing acts as of June 14, 2016 within 10 days of June 24, 2016 and also alleging acts “continuing to the present” and thus clearly being timely.

Paragraph 14 further provided that: “Judge David E. French is furthering this abuse of discretion acting illegally in excess of jurisdiction by further wrongfully and illegally attempting to violate my rights under the Florida Constitution Homestead Act and using my attorney Craig Dearth who has been discharged by myself to further communications to violate these rights.” See Appendix A.

Thus the facts clearly alleged that Judge French was improperly using my Discharged attorney as a wrongful instrument of the Court to “further communications to violate these rights”. Paragraph 20 goes on to cite to a

Communication from Discharged attorney Derr on June 14, 2014, clearly within 10 days of June 24, 2016 and such Email communication in fact contained false and misleading information about what acts Judge French had taken by falsely claiming he had permitted Derr to withdraw when instead Judge French wrongfully issued Contempt on June 14, 2016 when in fact he should have recused and Disqualified on his own motion. All of these facts which had to be taken as true, clearly made the motion timely and created an objectively reasonable fear that a fair and impartial trial would not occur and prohibition must now issue.

The recent history “just outside” the 10 day period of the June 24, 2016 motion when Judge French had illegally denied Petitioner’s absolute right to counsel of her own choice was significantly relevant in forming a reasonable belief as of June 24, 2016 that Petitioner could not receive a fair and impartial trial. This is particularly so being in a civil (non-criminal) dissolution and property case yet where Discharged counsel itself was being used by the Court as an instrument to coerce Petitioner under threat of incarceration further creating an acrimonious nature and interference in the communications and actions with counsel who was acting under force to continue after being formally “Discharged”.

As shown in the June 24, 2016 Motion for Disqualification,

“Judge David French is acting, has been acting and threatening to continue to act in excess and outside of his jurisdiction by illegally denying me First Amendment

rights of expression, 5th and 14th Amendment due process including but not limited to the right to have counsel of my own choosing. , , , , , ,

Rule 4-1.16 of the Rules for CLIENT-LAWYER RELATIONSHIP DECLINING OR TERMINATING REPRESENTATION provides in part: “(a) When Lawyer Must Decline or Terminate Representation. Except as stated in subdivision (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: (1) the representation will result in violation of the Rules of Professional Conduct or law; (3) the lawyer is discharged; Discharge A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer's services. Where future dispute about the withdrawal may be anticipated, it may be advisable to prepare a written statement reciting the circumstances. “ 9. The Florida Supreme Court has made the issue of client’s rights and attorney’s fees one of exceptional importance and clearly implicates the operations of the State’s justice system. 10. The Florida Supreme Court has consistently upheld a client’s right to discharge counsel at any time, with or without cause, finding, “The attorney-client relationship is one of special trust and confidence. The client must rely entirely on the good faith efforts of the attorney in representing his interests. This reliance requires that the client have complete confidence in the integrity and ability of the attorney and that absolute fairness and candor characterize all dealings between them. These

considerations dictate that clients be given greater freedom to change legal representatives than might be tolerated in other employment relationships. We approve the philosophy that there is an overriding need to allow clients freedom to substitute attorneys without economic penalty as a means of accomplishing the broad objective of fostering public confidence in the legal profession.” See, ROSENBERG v. LEVIN, 409 So.2d 1016 (1982). 11. Judge David E. French has exceeded his jurisdiction and acted in a biased and prejudiced manner creating a reasonable fear that I can not get a fair trial by denying my fundamental right to be heard regarding the counsel of my choice, striking my prior applications to discharge my former attorney Craig Dearr while using the Court system as a weapon to illegally coerce me to give away rights and property by repeated threats against my liberty threatening incarceration and action by law enforcement to arrest me to coerce signatures on documents all in violation of fundamental US Constitutional rights and in violation of Florida laws, rules and statutes.”, See Appendix Exhibit A.

Prohibition must now issue.

JUDGE FRENCH MUST BE DISQUALIFIED SEPARATELY FOR
IMPROPERLY “ADJUDICATING” FACTS ON THE
DISQUALIFICATION MOTION

Judge French acted in excess of jurisdiction by denying the Motion and went beyond jurisdiction to the impermissible area of determining the facts in the Order

of Denial and prohibition must now issue. This occurred when Judge French cited in his Denial Order “The Court hereby determines only that the Motion is legally insufficient, *Pendelton v. State.*, 933 So.2d 1291 (Fla. 4th DCA 2006).” See Appendix Exhibit B.

Yet the case cited by Judge French talks about the lack of timeliness of a motion for disqualification when a lawyer has a prior relationship with the Judge finding that the lawyer must file for Disqualification within 10 days of being retained. Yet, none of these facts had any application to the Petitioner’s Motion before Judge French and shows Judge French going into and trying to hear and determine facts of the Motion which is grounds for Disqualification itself.

The Supreme Court of Florida has expressly rejected such action and found it grounds for Disqualification and a Prohibition Writ to be issued:

“Regardless of whether respondent ruled correctly in denying the motion for disqualification as legally insufficient, our rules clearly provide, and we have repeatedly held, that a judge who is presented with a motion for his disqualification "shall not pass on the truth of the facts alleged nor adjudicate the question of disqualification." Fla.R.Crim.P. 3.230(d); see, e.g., *Dickenson v. Parks*, 104 Fla. 577, 140 So. 459 (1932); *Suarez v. State*, 95 Fla. 42, 115 So. 519 (1928); *Theo. Hirsch Co. v. McDonald Furniture Co.*, 94 Fla. 185, 114 So. 517 (1927). When a judge has looked beyond the mere legal sufficiency of a suggestion of prejudice

and attempted to refute the charges of partiality, he has then exceeded the proper scope of his inquiry and on that basis alone established grounds for his disqualification. Our disqualification rule, which limits the trial judge to a bare determination of legal sufficiency, was expressly designed to prevent what occurred in this case the creation of "an intolerable adversary atmosphere" between the trial judge and the litigant. See *Department of Revenue v. Golder*, 322 So. 2d 1, 7 (Fla. 1975) (On Reconsideration).

Once a basis for disqualification has been established, prohibition is both an appropriate and necessary remedy. *Brown v. Rowe*, 96 Fla. 289, 118 So. 9 (1928). Accordingly, the writ of prohibition must issue directing respondent to disqualify himself in all proceedings presently pending against the petitioner. We assume, however, that the formal issuance of the writ will be unnecessary." See, *Bundy v. Rudd*, 366 So. 2d 440 (Fla. 1978).

Likewise, prohibition must now issue against Judge French who must be disqualified.

**PRIOR ACTS OF JUDGE FRENCH IMMEDIATELY OUTSIDE OF THE
10 DAY PERIOD WERE RELEVANT TO SHOW THE
REASONABLENESS OF PETITIONER'S FEAR OF NOT GETTING A
FAIR TRIAL**

“While it is well-settled that a judge may form mental impressions and opinions during the course of hearing evidence, he or she may not prejudge the

case. See *Wargo v. Wargo*, 669 So.2d 1123 (Fla. 4th DCA 1996); *LeBruno Aluminum Co., Inc. v. Lane*, 436 So.2d 1039 (Fla. 1st DCA 1983). Judicial actions cross the line when a judge becomes an active participant in the adversarial process, *i.e.*, giving “tips” to either side.

When the judge enters into the proceedings and becomes a participant, a shadow is cast upon judicial neutrality so that disqualification is required. See *Wayland v. Wayland*, 595 So.2d 234, 235 (Fla. 3d DCA 1992) (citing *Crosby v. State*, 97 So.2d 181 (Fla. 1957)). Obviously, the trial judge serves as the neutral arbiter in the proceedings and must not enter the fray by giving "tips" to either side. See *Chastine v. Broom*, 629 So.2d 293 (4th DCA 1993)

After having already improperly denied Petitioner’s Motion for Discharge of her Attorney, the Attorney’s withdrawal motion and Petitioner’s May 23, 2016 Disqualification and having Denied Petitioner an Opportunity to speak and present her case on June 2, 2016 striking anything Petitioner would do without attorney Darr in the case, Judge French proceeded on June 7th, 2016 to suggest and give a “tip” to Opposing Counsel Aragona of what his Attorney Bill should be for the Contempt proceeding despite no written motion before the court and no hearing having been scheduled yet. Counsel Aragona sought \$5000 (five-thousand) in fees at this time but Judge French provided the “tip” that his Bill should be \$2000 on June 7th, 2016. Again, while not timely for the

June 24th, 2016 filing, this cumulative prior act further reinforced the Petitioner's reasonable fear of not getting a fair trial making the filing legally sufficient and prohibition should now issue.

The facts in this case are strikingly similar to this Court's ruling in *Swida v Raventos*, where the Court noted:

“Our recent case of *Peterson v. Asklipious*, 833 So.2d 262 (Fla. 4th DCA 2002), is controlling. There, as here, the judge was hearing a motion for contempt against a former husband when he asked the contemnor's counsel why he expected the judge to believe that he had no money when the judge had not believed him in the past. Counsel responded, but the court cut him off and, without hearing evidence, held the husband in contempt. We held that the trial judge's comments gave the appellant a well-founded fear that he would not receive a fair hearing before the judge. *See* 833 So.2d at 264.

Here, the trial judge refused to permit the former husband to present any case with respect to the motion for contempt and instead determined that she knew more than the attorneys about what was transpiring, relying on prior hearings with the former husband, much as the court did in *Peterson*. This was sufficient to show that the trial court had prejudged the case. The judge did not give the former husband the opportunity to explain his conduct, even though that is his right and obligation when facing civil contempt. *See Bowen v. Bowen*, 471

So.2d 1274, 1278-79 (Fla.1985)” See, *Swida v Raventos*, 872 So.2d 413 (4th DCA 2004).

In this case, the conduct of Judge French in illegally denying Petitioner’s prior motion to Discharge her counsel and denying her Counsel’s motion to withdraw can reasonably be viewed as an impermissible “pre-judging” of the case by Judge French who simply created “the illusion” that Petitioner had proper counsel in order for Judge French to continue his pre-determined path to force Petitioner to sell her Homestead protected property using her own attorney against her to further the threats of incarceration. Like the *Swida* case above, Petitioner had been denied witnesses and the opportunity to present a case at multiple stages of proceedings including leading up to the Judgment the Court was trying to enforce and then the “contempt” of such Judgment where the Court, having **only had Petitioner on the stand for actual Testimony for the very first time ever in the history of the case in June 2016 improperly commented that “*your reputation follows you*” and proceeded to deny *Petitioner witnesses and fairly being heard.***

Clearly this was a comment showing bias and prejudice and “pre-judging” of the Petitioner’s potential Testimony by Judge French who instead should have been giving a due process opportunity to Petitioner to in fact Testify and do so in a US Constitutionally required neutral manner.

The denial of proper due process opportunity to be heard and the biased, prejudicial comments on June 7, 2016 were yet other cumulative events from the history of proceedings with Judge French reinforcing Petitioner's reasonable fear of not getting a fair or impartial trial and thus making the Motion for Disqualification legally sufficient.

As noted in the Appeal to this Court in the underlying dissolution case, Petitioner's prior counsel on Appeal showed in the Appellant's Answer Brief as follows:

"Furthermore, there is nothing in the trial transcript which would indicate that any opportunity was given to APPELLANT to present a defense or her case in chief. The only reference to what might have been considered an attempted defense of the claims made were the witness which the trial court excluded. Even in doing so, the trial court seemed to be rushing the APPELLANT, not giving her an adequate chance to present her defense and her 7 case. The trial court stated "[q]uickly, did you want these folks to testify" (T. (T. 243).

After the trial court excluded the witnesses, the final ruling was announced (T. 245) without any indication to APPELLANT that she could testify herself in support of her defense or her counterpetition.

At no time was APPELLANT given the right to be heard. Noticeably APPELLEE makes no reference to any statements by the trial court in the trial

transcript which would indicate that APPELLANT had an adequate opportunity to present her case. As this court held in *Slotnick v. Slotnick*, 8891 So.2d 1086 (Fla. 4th DCA 2004) the trial court commits reversible error when it summarily disposes of factual issues by informally discussing them. In this case the discussion was with a pro se litigant, not familiar with proper procedures, who was forced to represent herself when her motion for continuance was denied.”

See, Appendix Exhibit D, Appellant’s Reply Brief in Case No. CASE

NUMBER: 4DCA#: 13-4051 Lower Court Case No.: 2010DR003810XXXX .

This history from the underlying Trial proceedings combined with the timely acts occurring within 10 days of July 24, 2016 further made Petitioner’s fear reasonable as of the time of filing of the motion for Disqualification.

As this Court noted in *Williams v Blach*, “Disqualification is required when litigants demonstrate a reasonable, well-grounded fear that they will not receive a fair and impartial trial or that the judge has pre-judged the case”. See, *Williams v Balch*, 897 So. 2d 498 (4th DCA 2005).

In the case at hand, one of the many cumulative acts of Judge French requiring disqualification occurred on June 7th, 2016 at the “contempt” hearing when the opposing Counsel quickly moved for \$5,000.00 (five-thousand) in attorney’s fees that day and the Court, although not having a written motion before it and having not scheduled a hearing yet on attorney’s fees, “suggested” and made a

“tip” to opposing counsel Aragona that \$2,000.00 (two-thousand) was an appropriate number to submit. Disqualification is required when judicial comments are made about matters not yet before the court, or prior to an evidentiary presentation.

This Court has already determined that even when an earlier event cannot be used as a timely basis for disqualification, this Court has held that the event may still be relevant finding in *R.V. v State of Florida*, that “the prior comments cannot be used as a timely basis for disqualification, but we see no reason why they cannot inform a petitioner's understanding of the comments from which the motion for disqualification was timely filed.” See, *R.V. v State of Florida*, 44 So.3d 180 (4th DCA 2010).

Likewise in this case, Petitioner having alleged current and timely facts occurring and ongoing within 10 days of filing on June 24, 2016, the motion being in writing and sworn to and a reasonable basis for the fear of not getting a fair and impartial trial established, Prohibition must now issue.

CONCLUSION

For all the reasons stated above, this Court is requested to issue a Writ of Prohibition to the lower court and require the assignment of a successor judge to

preside over all proceedings of the Petitioner currently assigned to Judge French and for such other and further relief as to this Court may seem just and proper.

Dated: August 1, 2016

/s/ Julie M. Gonzalez
Julie M. Gonzalez
PO 8212911
Pembroke Pines, FL 33082
954-245-4653
juliegonzalez64@hotmail.com

CERTIFICATE OF SERVICE

Petitioner does hereby certify that the foregoing Petition was served on all parties below by e-file with the clerk of the court if available or via email this 1st day of August, 2016.

Craig Darr
9100 South Dadeland Boulevard
Suite 1701
Miami, Florida 33156-7817
305-670-1237
305-670-1238 fax
craig@dpmiamilaw.com
kelly@dpmiamilaw.com
www.dpmiamilaw.com

Anthony J. Aragona, III
Anthony J. Aragona III, P.A.
1036 Grove Park Circle
Boynton Beach, Florida 33436
Tel: (561) 649-1790
Fax: (561) 649-6767
anthony.aragona@att.net
www.anthonyaragona.com

David Ryder, Appointed Receiver
4613 University Drive No. 175
Coral Springs, Florida 33067
dr@courtreceivers.com

/s/ Julie M. Gonzalez
Julie M. Gonzalez
PO 8212911
Pembroke Pines, FL 33082
954-245-4653
juliegonzalez64@hotmail.com

APPENDIX

Exhibit A -June 24, 2016 Motion for Disqualification

A-2 May 23, 2016 Prior Motion For Disqualification

**A-3 May 10, 2016 Motion for Discharge and May 18, 2016 Attorney Motion
for Withdrawal**

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM
BEACH COUNTY, FLORIDA

IN RE: THE MARRIAGE OF

JULIA M. GONZALEZ,

PETITIONER-MOVANT,

,

CASE NO. 502010DR003810XXXXSB/ Div. FY

V.

**VERIFIED PETITION - MOTION FOR
MANDATORY DISQUALIFICATION OF
JUDGE DAVID E. FRENCH:**

LLOYD G. WICKBOLDT,

RESPONDENT-DEFENDANT.

_____/

**VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT OF JULIA M.
GONZALEZ FOR IMMEDIATE MANDATORY DISQUALIFICATION OF CIRCUIT
JUDGE DAVID E. FRENCH**

COMES NOW JULIA M. GONZALEZ, Petitioner and movant who files under information and belief this Verified Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Judge David E. French, pursuant to Fla R. Admin P. 2.330 and section 38.10, Florida Statutes, for the following grounds and reasons:

1. This rule applies to county and circuit judges in all matters in all divisions of Court.
2. Judge David French is a Circuit judge in the 15th Judicial Circuit.
3. Petitioner ,a party to the case, moves for mandatory disqualification and to otherwise disqualify Trial Judge David French for mandatory grounds provided by the Florida rules, statutes, laws, Florida Code of Judicial Conduct and US Constitution and Florida Constitution.
4. Judge David French has violated the following Judicial Canons,including but not limited to,
 - a. Canon one- A judge Shall Uphold the integrity and independence of the Judiciary

- b. Canon two- A Judge Shall avoid Impropriety and the Appearance of Impropriety In all of the Judge's Activities.
 - c. Canon three- A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently .
 - d. CANON 3E(1) - ...A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned.
 - e. CANON 3E(1)(a) - ...the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding.
5. This motion and petition is legally sufficient and timely.
 6. Judge David French is acting, has been acting and threatening to continue to act in excess and outside of his jurisdiction by illegally denying me First Amendment rights of expression, 5th and 14th Amendment due process including but not limited to the right to have counsel of my own choosing.
 7. Judge David French has consistently deprived my basic Constitutional right to be heard in Court. He has obstructed and denied my Due Process. He has been Prejudiced against me and has sheltered opposing counsel Anthony Aragona and his client Lloyd G.Wickboldt.

Judge David French has openly and also under the color of Law,denied me and obstructed my Due process, denied me my First and Fourteenth amendment rights. Consistently and maliciously ignoring my pleadings , witnesses testimony and factual evidence in my favor to prove my case.
 8. Rule 4-1.16 of the Rules for CLIENT-LAWYER RELATIONSHIP DECLINING OR TERMINATING REPRESENTATION provides in part:

“(a) When Lawyer Must Decline or Terminate Representation. Except as stated in subdivision (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (1) the representation will result in violation of the Rules of Professional Conduct or law;
- (3) the lawyer is discharged;

Discharge

A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer's services. Where future dispute about the withdrawal may be anticipated, it may be advisable to prepare a written statement reciting the circumstances. “

9. The Florida Supreme Court has made the issue of client’s rights and attorney’s fees one of exceptional importance and clearly implicates the operations of the State’s justice system.
10. The Florida Supreme Court has consistently upheld a client’s right to discharge counsel at any time, with or without cause, finding, “The attorney-client relationship is one of special trust and confidence. The client must rely entirely on the good faith efforts of the attorney in representing his interests. This reliance requires that the client have complete confidence in the integrity and ability of the attorney and that absolute fairness and candor characterize all dealings between them. These considerations dictate that clients be given greater freedom to change legal representatives than might be tolerated in other employment relationships. We approve the philosophy that there is an overriding need to allow clients freedom to substitute attorneys without economic penalty as a means of accomplishing the broad objective of fostering public confidence in the legal profession.” See, ROSENBERG v. LEVIN, 409 So.2d 1016 (1982).

11. Judge David E. French has exceeded his jurisdiction and acted in a biased and prejudiced manner creating a reasonable fear that I can not get a fair trial by denying my fundamental right to be heard regarding the counsel of my choice, striking my prior applications to discharge my former attorney Craig Derr while using the Court system as a weapon to illegally coerce me to give away rights and property by repeated threats against my liberty threatening incarceration and action by law enforcement to arrest me to coerce signatures on documents all in violation of fundamental US Constitutional rights and in violation of Florida laws, rules and statutes.
12. Said acts have occurred over an extended period of time including but not limited to June 2, 2016 and including up to June 14, 2016 by the Contempt Order herein as Exhibit 1 with threats of incarceration from the involved attorneys continuing to the present making this motion timely and sufficient.
13. I am a US Citizen and resident of Florida and under the protection of Florida statutes and laws as an abuse victim under the ACP Address Confidentiality Program administered by the State of Florida with all my registrations being current and up to date and yet Judge David French has violated said rights by the repeated conduct herein and upholding illegal Orders herein.
14. Judge David E. French is furthering this abuse of discretion acting illegally in excess of jurisdiction by further wrongfully and illegally attempting to violate my rights under the Florida Constitution Homestead Act and using my attorney Craig Derr who has been discharged by myself to further communications to violate these rights.
15. In addition to 2 separate filings by myself to Discharge attorney Derr, there is also a motion by attorney Derr himself to withdraw which has been improperly denied by Judge David French abusing his discretion and acting in a manner that is not only against the law but prejudiced and

biased and creating a reasonable fear that I can not receive a fair trial and thus Judge French must be Disqualified. See, Exhibit 2, Exhibit 3 motions for Discharge and Withdrawal.

16. Said biased, prejudiced and illegal conduct by Judge French has further created such a distorted state of affairs with attorney Dear that I have lost rights certain rights on appeal.
17. I have valid and meritorious rights on all claims herein and am entitled to retain the attorney of my choosing to pursue my claims properly according to law to undo the manifest injustice of financial and property awards issued without due process after being married for less than 2.5 years to a man later determined to have been so abusive as to have me qualified under the State's Address Confidentiality Program.
18. Judge David E. French has violated Statutes related to, including but not limited to;
 - a. Fraud by the Court and Fraud in the Court.
 - b. Obstruction of Justice through Denial of Due Process.
 - c. Inability to Obtain a Fair Trial and Due Process.
19. There have been proceedings in this case where it has been proven that I have not received proper notice and communications from my former attorney as well as multiple occasions where proper evidence and testimony has repeatedly been denied illegally in an abuse of discretion manner acting prejudicially and with bias again creating the reasonable fear that I will not receive a fair trial from Judge David E. French.
20. The illegally threats of incarceration continue despite the fact that attorney Dearth himself has advised me in writing as of June 14, 2016 that Judge David French has in fact issued an Order Discharging attorney Dearth although I have not received a copy as of yet, where attorney Dear notified me as follows:

From: craig dearr
Sent: 6/14/2016 5:05 PM

To: Anthony Aragona; Kelly Huerta
Subject: RE: Hearing on Motion to Appoint Receiver
Mr. Aragona,

Judge French signed an order permitting me to withdraw from this case. You should have received a copy last week as I did. I am attaching a copy for your reference. You should try to coordinate this hearing with Ms. Gonzalez until new counsel appears for her.

Craig R. Derr, Esq.
One Datran Center ~ Suite 1701
9100 South Dadeland Boulevard
Miami, Florida 33156-7817
Phone: 305-670-1237
Fax: 305-670-1238
craig@dpmiamilaw.com
www.dpmiamilaw.com

21. The following email shows Mr. Derr knows that he was Discharged and was trying to comply with the Rules of Discharge as follows:

Subject: RE: Wickboldt v. Gonzalez
Date: Mon, 23 May 2016 10:18:16 -0400
From: craig@dpmiamilaw.com
To: anthony.aragona@att.net; kelly@dpmiamilaw.com

Mr. Aragona,

Would you please tell me what things I have filed that you have not received? There has been nothing which I have filed that has not been properly served upon you as far as I am aware, including the fact that all documents are filed through the court's eportal for filing, which automatically serves documents on you. I have been discharged as Ms. Gonzalez' attorney, I cannot represent her once discharged. Rules of Professional Conduct 4-1.16(a)(3) specifically states "...a lawyer shall not represent a client, or where representation has commenced, shall withdraw from the representation of a client if...(3) the lawyer is discharged;". Of course I have to request permission from the court to withdraw, which I have done. I submitted the order because I was discharged. As with the other order in the civil case, I did not provide in the order for any delay to any proceeding, nor did I provide that she had any particular amount of time to obtain new counsel, just her contact information until she retains new counsel (if she does). Obviously you can object to whatever you want to object to, but to accuse me of some sort of conspiracy or imply an impropriety on my part is not only

false but completely unprofessional. My client has discharged me. I am required by the rules to ask the court to withdraw. Judge French's JA indicated that since I had been discharged I should submit a proposed order which I mailed to the judge but emailed to you so that you would have the order in advance of the judge receiving it. Other than not mentioning a hearing (as in the other case), this order is the same as the order I submitted in the civil case, which has already been entered.

Craig R. Darr, Esq.

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9100 South Dadeland Boulevard
Miami, Florida 33156-7817
Phone: 305-670-1237
Fax: 305-670-1238
craig@dpmiamilaw.com
www.dpmiamilaw.com

This email may contain legally privileged and confidential information intended only for the use of the addressee(s) named above. If you are not the intended recipient of this email, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination or copying of this email is strictly prohibited. If you have received this email in error, please immediately notify us by telephone (305-670-1237) so that we can arrange to have the original returned to us or forwarded to the intended recipient. Thank You.

22. Said illegal conduct by Judge French continues despite the fact that on June 9, 2016 Judge Richard L. Oftedal issued an Order on such date Discharging attorney Darr from the related and companion case where again I had been denied due process procedures before the Court. See Exhibit 4.
23. Other background to support the motion has been raised in prior applications showing Judge French, regardless of the unlimited proof provided; to show evidence that Lloyd Wickboldt is in fact an abuser, a Narcissist; that not only abused ME physically, psychologically and emotionally and should have been prosecuted by the law but also he has a record of Domestic abuse, of multiple restraining orders and has even been in jail for Domestic violence before in another State. Judge French has consistently has made negative recommendations" in my case, without even hearing me on the stand.

24. Further that an ultimate biased and prejudiced action from Judge French occurred when he did not even acknowledge my Motion for Continuance of Trial, after he had dismissed my attorney at her request, only a few weeks before Trial. He only responded verbally when I after many times of trying to reach him was able to verbally ask him and He only responded “your Motion is denied” with no explanation.
25. Further, Judge French has repeatedly spoken to me only in rude and condescending tone and manners throughout many of the proceedings which has been witnessed by many.
26. Rule 2.330 Grounds.

(f) Determination - Initial Motion.

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.

27. Petitioner states that the Motion is legally sufficient under Rule 2.330 as it fully complies with this code and whether Petitioner has filed a legally sufficient pleading would not negate the fact that Judge David E. French has to mandatorily disqualify under Judicial Canons, Attorney Conduct Codes and Law as stated herein.

Florida Statutes 38.10

Disqualification of judge for prejudice; application; affidavits; etc.—
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. Every such affidavit shall state the facts and the reasons for the belief that any such bias or prejudice exists and shall be accompanied by a certificate of counsel of record that such affidavit and application are made in good faith.

28. Petitioner seeks that upon Disqualification of Judge French, that all factual or legal rulings be vacated by the successor judge due to alleged criminal acts and civil torts against Petitioner. Furthermore Petitioner seeks a replacement Judge that is not from the 15 circuit court in Delray Beach, nor Magistrate.

WHEREFORE,

Petitioner Julie M. Gonzalez respectfully prays for an immediate Order of mandatory Disqualification of Judge David E. French from all matters herein and such all prior Orders, Decisions and Judgements being void herein and for such other and further relief as to this Court may be just and proper. Any denial of said motion as legally insufficient shall provide a full and specific written determination of the reasons why such motion is claimed insufficient.

“Under penalties of perjury, I declare that I have read the foregoing ‘VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT OF JULIA M. GONZALEZ FOR IMMEDIATE MANDATORY DISQUALIFICATION OF CIRCUIT JUDGE DAVID E. FRENCH’ and that the facts stated in it are true to the best of my knowledge and belief.”

Dated this 24th day of June, 2016

Respectfully Submitted,

/s/ Julie M. Gonzalez

Julie M. Gonzalez

PO 8212911

Pembroke Pines, FL 33082

954-245-4653

juliegonzalez64@hotmail.com

CERTIFICATE OF SERVICE

Petitioner does hereby certify that the foregoing Petition was served on all parties below
by e-file with the clerk of the court this 24th day of June, 2016.

Craig Dearr
9100 South Dadeland Boulevard
Suite 1701
Miami, Florida 33156-7817
305-670-1237
305-670-1238 fax
craig@dpmiamilaw.com
kelly@dpmiamilaw.com
www.dpmiamilaw.com

Anthony J. Aragona, III
Anthony J. Aragona III, P.A.
1036 Grove Park Circle
Boynton Beach, Florida 33436
Tel: (561) 649-1790
Fax: (561) 649-6767
anthony.aragona@att.net
www.anthonyaragona.com

/s/ Julie M. Gonzalez
Julie M. Gonzalez
PO 8212911
Pembroke Pines, FL 33082
954-245-4653
juliegonzalez64@hotmail.com

EXHIBIT 1 - June 14th 2016 Contempt Order

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

IN RE: The Marriage of

LLOYD G. WICKBOLDT,

Petitioner,

CASE NO. 502010DR003810XXXXSB/ Div. FY

and

JULIE M. GONZALEZ,

Respondent.

ORDER OF CIVIL CONTEMPT

THIS CAUSE came before the Court on June 7, 2016, upon the Court's Order to Show Cause entered May 13, 2016 (DE 259) and the undersigned Judge, having heard argument of counsel and testimony of Respondent, Julie M. Gonzalez, and being otherwise fully advised in the premises herein, it is,

ORDERED AND ADJUDGED as follows:

1. Petitioner's *ore tenus* Motion to Strike Respondent's Amended Residence and Homestead Affidavit (DE 275) is GRANTED and the Affidavit is hereby stricken. Respondent has been instructed by the Court both in its Order of May 18, 2016 and verbally that Respondent has legal counsel and shall not file anything with the Court on her own.

2. On May 10, 2016, Petitioner filed a Motion for an Order to Show Cause Why Defendant Should Not Be Held in Contempt, Sanctions and Enforcement of Judgment (DE 261) with an Affidavit of Petitioner's attorney setting forth Respondent's non-compliance with the Final Judgment of Dissolution (DE 181) and this Court's Order of May 2, 2016 (DE 258). The

Court entered the Order to Show Cause on May 13, 2016 (DE 259) setting this hearing for June 7, 2016.

3. Respondent, Julie Gonzalez is hereby adjudged to be in indirect civil contempt of Court for willfully failing to comply with the Final Judgment of Dissolution (DE 181) and this Court's Order of May 3, 2016 (DE 258). The Court finds that Respondent has not complied with Paragraph 9 of the Final Judgment of Dissolution, and this Court's Order of May 3, 2016 with regard to the sale of the Miramar property, located at 17103 SW 39th Court, Miramar, Florida 33027 ("Property"). Based upon Respondent's own testimony, her non-compliance has been willful and deliberate, and Respondent further testified that she will refuse to sign any papers in furtherance of completing the sale of the Miramar property, including the Listing Contract with the Court-appointed Realtor, David Rose, presented to her in Court by Petitioner's counsel.

4. Respondent shall sign the Listing Contract presented to her in Court by Petitioner's attorney within 24 hours of the conclusion of this hearing, by 12:00 p.m. on June 8, 2016. If the Respondent fails to properly execute the Listing Agreement, counsel for the Petitioner may file an Affidavit of Non-compliance. Upon receipt of the Affidavit of Non-compliance, the Court will review the Affidavit and the court file, and, under the Court's discretion, may issue a Writ of Bodily Attachment for the arrest and incarceration of Julie M. Gonzalez. If a Writ of Bodily Attachment is issued, Julie M. Gonzalez shall be taken into custody by the Sheriff of Palm Beach or Broward counties, and shall be confined in the county jail until such time as she purges herself of contempt by properly and legally executing the Listing Agreement, and serving the signed Listing Agreement upon counsel for the Petitioner, and filing with the Court.

5. Respondent shall thereafter fully comply with the Final Judgment of Dissolution and shall not hinder in any manner the sale of the Property, including allowing access to the Property for inspection by an appraiser, an inspector, the Court-appointed realtor, prospective purchasers, the Court appointed Receiver, and any other persons reasonably necessary to facilitate and finalize the sale of the Property with at least 3 hours' notice of the need to enter the Property. Respondent shall keep the Property clean and ready to show to prospective purchasers, and shall protect and preserve the value of the Property prior to sale. Respondent shall sign a Purchase Contract with purchasers who offer the appraised value of the Property or more, as determined by the appraisal, or a lesser amount if acceptable to Respondent. If the Respondent is not in full compliance with allowing access to the Property and executing such documents as necessary to finalize and close the sale of the Property, counsel for the Petitioner may file an Affidavit of Non-compliance. Upon receipt of the Affidavit of Non-compliance, the Court will review the Affidavit and the court file, and, under the Court's discretion, may issue a Writ of Bodily Attachment for the arrest and incarceration of Julie M. Gonzalez, or other relief. If a Writ of Bodily Attachment is issued, Julie M. Gonzalez shall be taken into custody by the Sheriff of Palm Beach or Broward counties, and shall be confined in the county jail until such time as she purges herself of contempt as directed by this Court.

6. The Court shall appoint a Receiver to facilitate, oversee and consummate the sale of the Property, under a separate Order, with the costs and fees incurred by the Receiver payable by Respondent, at closing, from Respondent's portion of the closing proceeds

7. Respondent shall pay Petitioner's attorneys' fees for the preparation for and attendance at the June 7, 2016 hearing, in the amount of \$1,400.00 (4 hours at \$350 per hour). If this amount is not paid to Petitioner's attorney, Anthony J. Aragona, III, prior to the closing of

the sale of the Property, any amounts outstanding shall be paid from Respondent's portion of the closing proceeds at closing.

8. It is further ORDERED AND ADJUDGED that this Court retains jurisdiction to tax attorneys' fees and costs and to enter such orders as are proper including a Writ of Bodily Attachment for the arrest of Respondent, Julie M. Gonzalez.

NOTICE TO RESPONDENT: FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN THE COURT ISSUING A WRIT OF BODILY ATTACHMENT FOR YOUR ARREST. IF YOU ARE ARRESTED, YOU MAY BE HELD IN JAIL UP TO 48 HOURS BEFORE A HEARING IS HELD.

DONE and ORDERED in Chambers at Palm Beach County, Florida this 14 day of

June, 2016.


DAVID E. FRENCH
CIRCUIT COURT JUDGE

Copies furnished to:

Anthony J. Aragona, III, Esq., (anthony.aragona@att.net), 1036 Grove Park Cir., Boynton Beach, FL 33436

Craig R. Dearr, Esq., Dearr Perdigon, (service@dplawmiami.com), One Dattran Center, Suite 1701, 9100 South Dadeland Blvd., Miami, FL 33456

Julie M. Gonzalez, (juliegonzalez64@hotmail.com), PO Box 821911, Pembroke Pines, FL 33082

EXHIBIT 2 - Prior Motions for Discharge

IN THE CIRCUIT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE # 2013 CA 006759 XXXX
M.B. AA

UNIFIED FAMILY COURT

CASE NO: 502010D003810 LSB/DIVFY
DIVISION: FY

IN RE:

Alays G Wickboldt
Petitioner,

and

Julie M Gonzalez
Respondent.

2016 MAY 23 PM 3:50
JULIE M GONZALEZ
SOUTH BEACH, FLORIDA

MOTION FOR: Amend Motion to Disqualify

I, (print your name) Julie M Gonzalez, the [check one] Petitioner
 Respondent, in the case am requesting the following Motion:

[the appropriate motion(s):]

- Continue the hearing on (matter being heard) JUDGE DAVID French
(date) _____ (time) _____ before Judge/Commissioner _____
- Dismiss (state action) _____
- Vacate the Court's Order which has been filed by the clerk as docket # _____
- Rehearing (check all that apply) of Paternity, Contempt, Commitment.
- Waive Parenting/Mediation Requirements(s) for _____
- Other _____

Amended Motion to Disqualify
JUDGE DAVID French

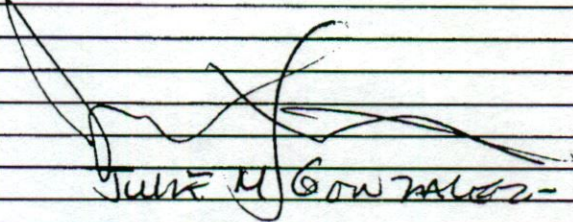
Comes Now Julie M Gonzalez and files under
information and belief this petition and affidavit
for the disqualification of JUDGE DAVID French - pursuant
to Florida R. Admin. P. 2-330 and Section 3810 Florida
Statutes for the following grounds and reasons:

SEE ATTACHED Amended Motion For Disqualification
of JUDGE DAVID French:

(4) Pages Attached Julie M Gonzalez

The following facts support the motion(s) checked above:

SEE ATTACHED Amended Motion For
Disqualification of Judge David French.

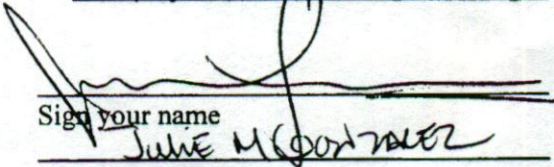

JULIE M. GONZALEZ

4 Pages ATTACHED

I HEREBY CERTIFY that a copy of this Motion has been mailed on (date) 5/23/2016,
2016, by regular mail , certified mail , hand delivered , e-mailed served to _____

Name of other party Hayden G. Wickboldt
Address _____

and to: Attorney (if any) ANTHONY ANGLONA
Address 5097 SANCENE CIRCLE
LAKE WORTH, FL 33463


Sign your name JULIE M. GONZALEZ
Print your name _____
Address PO Box 821911
Pembroke Pines FL 33082
Telephone (AU) 245-4653
E-mail Address(es): _____

IF A NON-LAWYER HELPED YOU FILL OUT THIS FORM, THEY MUST FILL IN THE BLANKS BELOW:

I, (name of non-lawyer) _____, a non-lawyer, located at
(street) _____ (city) _____ (state) _____,
(phone) _____, helped {name} _____,
who is the (check one) petitioner or respondent, fill out this form.

Standard Motion

Form 425 (rev. 08/2008)

Page 1

Amended Filing 05/19/2016. Case # 502010DR003810XXXXSB/ DIV FY

In the Circuit Court of the fifteen Judicial Circuit in and for Palm Beach County, Florida.

Lloyd G. Wickboldt

V.

Julie M. Gonzalez

Case # 502010DR003810XXXXsb/ Div FY

Defendant.

Other Applicable related cases this Disqualification of Judge David French Should apply to:

- * CASE # 502010DR3810XXXXSB/DIVFY
- * Case # 2013CA006759XXXXMBAA- Julie M. Gonzalez

Amended Motion for Immediate DISQUALIFICATION of Judge David French

Comes now Julie M. Gonzalez(Petitioner) and files under information and belief this Petition and Affidavit for Immediate Disqualification of Judge David French, Pursuant to Fla R. Admin P. 2.330 and section 38.10, Florida Statutes, for the following grounds and reasons:

Rule 2.330 (a) Application .

This rule applies only to county and circuit judges in all matters in all divisions of Court.

- 1- Judge David French is a Circuit judge in the 15th Judicial Circuit Probate Division
- 2- Petitioner, a party to the case moves for mandatory disqualification and to otherwise disqualify trial judge David French provided by rules, statutes and by the code of Judicial Conduct.

Judge David French has violated the following Judicial Canons, including but not limited to,

- a- **Canon one-** A judge Shall Uphold the integrity and independence of the Judiciary
- b- **Canon two-** A Judge Shall avoid Impropriety and the Appearance of Impropriety in all of the Judge's Activities.
- c- **Canon three-** A Judge Shall Perform the Duties of Judicial Office IMPARTIALLY and Diligently.

Judge David French has violated Statutes related to, including but not limited to;

Fraud by the Court. Fraud in the Court. Obstruction of Justice through Denial of Due Process. Prejudice. Aiding and Abetting and more.

Judge David French has consistently deprived my basic Constitutional right to be heard in Court. He has obstructed and denied my Due Process. He has been Prejudiced against me and has sheltered opposing council Anthony Aragona and his client Lloyd G. Wickboldt.

Judge David French, has openly and also under the color of Law, denied me and obstructed my Due process, denied me my First and Fourteen amendment rights. Consistently and maliciously ignoring my

Amended Motion to Disqualify Page 1

pleadings, witnesses testimony and factual evidence in my favor to prove my case. Judge French, Regardless of unlimited prove to show, first, to prove my case; to show evidence that Lloyd Wickboldt is in fact an abuser, a Narcissist; that not only abused ME physically, psychologically and emotional and should have been prosecuted by the law but also he has a record of Domestic abuse, of multiple restraining orders and has even been in jail for Domestic violence before in another State. Judge French has consistently has made negative "recommendations" in my case, without even hearing me on the stand. One of his favorite actions after his ruling is to have me attend a follow up Hearing with a General Magistrate, who knows nothing of the case and this Magistrate only signs His order against me. Again without even hearing me, without even knowing anything else contrary to my ex husband's and his attorney false allegations against me. This case is so disturbing to Justice, that even for me, who is experiencing these incredible acts of deception and injustice and corruption in a Court of Law, is hard to believe; I am in shock and despair for such disregard to decency and Justice.

Please read Motion from March of 2013. Where I, Petitioner, requested the return of her personal property stolen by husband Lloyd G. Wickboldt. Petitioner also asked the court for the legal use of the car Petitioner was driving since vehicle was purchased months before the marriage and given to Petitioner as a wedding gift (even though Petitioner had given her own car as a deposit for the new car) Petitioner wanting to help husband to be, who had no credit history after filing for bankruptcy 3 years earlier. (Petitioner had been led to believe at the time, it was 5 years earlier) the car was put under husband's name; husband had also contributed with a cash gift towards the purchase. Petitioner always drove this car, to work, for pleasure and it was kept in my garage of my own home where I lived before the marriage, as agreed with future husband. Nothing was ever mentioned or discussed about future husband having any claims in this car. Otherwise I would Not have given my car as a down payment for a car that it was not meant to be for me. The agreement was that it was a gift to me and that is the reason why I gave my own car as a deposit for the new vehicle. I never got my property back from the abuser; and my car had been falsely reported as stolen by my abuser and I was not able to drive it for I could not get insurance nor I could renew the auto sticker for the car when it was due. Judge French after verbally in court granting my motions; He changed his mind, and my ex never returned my property nor I was given the documents I needed to drive my car. Shortly after I filed a motion to have respondent found in contempt of court; I never received notification even though I repeatedly call Judge French Office for news or update. Again depriving me of my Due process and sheltering my ex-husband.

The ultimate appalling action from Judge French, is when he, did not even acknowledged my Motion for Continuance of Trial, after he had dismissed my attorney at her request, only a few weeks before Trial. He only responded verbally when I after many times of trying to reach him was able to verbally ask him and He only responded ' your Motion is denied.'

I was not represented in Court during my divorce Trial; I was in no condition to represent myself in court, I have no knowledge of the legal system and I had been under a lot of distress; I asked again in Court to please grant me a Continuance for the reasons I just described plus the fact that my Motion had never been acknowledged before; Judge Harrison, a retiree from Virginia, who I have never met before,

Amended Motion to Disqualify Page 3

was the sitting Judge this day. He responded to my pleading " I was told Not to Grant a Continuance of Trial" . Judge Harrison had been obviously briefed by Judge French Not to grant me a Continuance.

During the Trial I was not allowed to testify. My witnesses were not allowed to testify either. The court requested I reveal my living address, as requested by MR. Aragona,(opposing council). The court insisted I reveal my true address; I tried to give my ACP card with my pseudo address to the Judge, upon inspection and under Mr. Aragona's directions, Judge Harrison told me I was going to be held in contempt of Court if I did not reveal my true address (in front of my abuser) I tried to plead with the judge and told him I was afraid for my safety. (I attest that this is true and it was omitted from the Transcript)The Judge again said I was in contempt and I had 2 mins to reveal my address. I reported a different address to the court, for Fear my life was in danger; I could not reveal to my abuser where I had been hiding for the past 3 years(since 2011) when I came back home. Everything in my life has been changed, voters registration, mail, work, everything was changed and reported to the proper authorities including the Court. Judge David French, has never acknowledge the fact that I was bullied and put in a position NO victim should be put through in front of their abuser. After the Trial, He has denied every time my efforts to prove I live in my home, I have everything to prove that; including the paper work filed with the Attorney General where my living address is in record. My own Homestead exemption. Nothing has been able to stop Judge French in wanting to sell my property, insisting I do not live there, regardless of witnesses and clear and concise documentation to prove of my Homestead. Judge David French malicious wrong doing and lack of justice in my case, has caused me my health, my job ; knowingly and maliciously Judge French is determined to steal my house, my Homestead. My pre-marital home, where I have been hiding for the past five years of my live from a despicable man who abused me, who tried to kill me with his own bare hands, and destroyed my life. I have been through a lot of pain and suffering, I had been paralyzed by fear of this man who was supposed to be my life companion. Judge French was aware I had an ACP card issued by the State Attorney General and he knew exactly why I had that ID card with a pseudo address; because I had told him so. Yet he failed maliciously to recognized or even acknowledge the psychological trauma that having been bullied and verbally abused during divorce Trial by Mr. Aragona would cause. Mr Aragona bullied my in court, and demanded I provide my living address in front of my abuser. I tried to speak with the Judge and handed him my ACP card with my pseudo address; Mr Aragona demanded the Judge to force me to say where I lived or to held in contempt of court. (Later after Trial I learned that Mr. Aragona had filed a suit against me and I had not even been served) Based on this they are trying to take my home.

Mr. Aragona and corroborated by the Judge ; said that my ex husband and abuser, the man I have been hiding from for fear of my life, was given the right to sell my homestead with the blessing of the US Family Court. I could not believe this had happened , I had tried to prove time and time again with sworn affidavits, documentation to prove my Homestead is my own property , That I have been living there before and after I ran away from my abusive husband . I had brought witnesses, documents, and my sworn testimony that a huge injustice has been made. Judge French would not listen to any of my witnesses, or any prove presented. Mr Aragona insist that I must be lying and Judge French would not hear me. Judge French has violated all my rights, he has victimized me in court just as much as I was

Amended Motion to Disqualify Page 3

victimized by a cruel man who was my husband, or worse because Judge French represented Justice to me, the Victim. All of these information and more , much more can be easily found in my court file.

Judge French has been very bias and prejudiced against me! Ruling and making recommendations without not even allowed me to testify. I have reasons to believe Judge French will never be fair to me or my case. He has destroyed my life; and I fear he will not stop until he gets my Home and sees me on the streets, why..? Im not quite sure... Furthermore I fear I will not get a fair Trial or Hearing from any of the Judges or Magistrates is the 15th circuit court of Delray Beach. Please remove all my files from this Court.

Petitioner seeks that upon Disqualification of Judge French, that all factual or legal rulings be vacated by the successor judge due to alleged criminal acts and civil torts against Petitioner. Furthermore Petitioner seeks a replacement judge that is not from the 15 circuit court in Delray Beach, nor Magistrate.

Judge French should immediately voluntarily disqualify himself from my case.

All these information is made in god faith and are true to the best of my knowledge and belief,

Dated : May 20, 2016.

Respectfully submitted,

Julie M. Gonzalez.

PO BOX 821911

Pembroke Pines Fl 33082

PH 954 245-4653

Juliegonzalez64@hotmail.com

Julie M Gonzalez

Certificate of Service

All Parties involved have been served by mail of this **Amended Petition** and Motion and filed with the Clerk of Court in Delray Beach Court House.

May 20, 2016.

Julie M. Gonzalez

PO box 821911

Pembroke pines Fl 33082

*Amended Motion to Disqualify
Page 4*

Julie M Gonzalez

State of Florida County of Broward
The foregoing instrument was acknowledged before me this 23 day of May, 2016, by Julia M. Gonzalez who is personally known to me or who has produced Driver License as identification.

Diane M. Persten, Notary Public

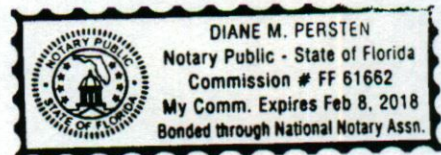


EXHIBIT 3 - Attorney Motion to Withdraw

IN RE: The Marriage of
LLOYD G. WICKBOLDT,

Petitioner,

vs.

JULIE M. GONZALEZ,

Respondent.

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

CASE NUMBER: 2010DR003810XXXXSB/Div.FY

MOTION TO WITHDRAW

Craig R. Darr, Esq. and Darr Perdigon, respectfully move this Court for the entry of an order permitting counsel and the firm to withdraw as attorneys for RESPONDENT, JULIE M. GONZALEZ, and as grounds states that counsel has been discharged by RESPONDENT and therefore can no longer represent RESPONDENT in this matter. A copy of the "Motion for Attorney Dismissal" filed by RESPONDENT on May 10, 2016 and received this date by undersigned counsel is attached hereto as Exhibit "A".

WHEREFORE, Craig R. Darr, Esq. and Darr Perdigon respectfully move this Court for the entry of an order permitting counsel and the firm to withdraw as attorneys for RESPONDENT, and further respectfully request that the Court permit undersigned counsel to appear by phone for the hearing on this motion as counsel has been discharged by the RESPONDENT.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by E-mail this 18th day of May, 2016 upon Anthony Joseph Aragona, III, Esquire, Anthony J. Aragona III, P.A., attorney for Petitioner, Anthony.aragona@att.net, and by Certified U.S. mail

and regular U.S. mail upon RESPONDENT, Julie M. Gonzalez at ACP #201127, P.O. Box 7297, Tallahassee, Florida 32314.

DEARR PERDIGON
Attorneys for Respondent
One Datran Center, Suite 1701
9100 South Dadeland Boulevard
Miami, Florida 33156-7817
Telephone: (305) 670-1237
Facsimile: (305) 670-1238
Service Email: service@dpmiamilaw.com
Email: craig@dpmiamilaw.com

By: 

CRAIG R. DEARR, ESQUIRE
FLORIDA BAR NUMBER: 328170
WENDY S. ROUNDS, ESQUIRE
FLORIDA BAR NUMBER: 746835

My
* COPIES -
J.M.G.

* DIVORCE CASE
CASE 2010 DR 003810
XXXX SB/DIV.F

UB A1

IN THE CIRCUIT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

UNIFIED FAMILY COURT

2013 CA 006759XXX

CASE NO: 502010 DR 003810 XXXX SB/D
DIVISION: _____

FLY

IN RE:

Julie M Gonzalez
~~Petitioner~~, Respondent

and

Hoyd G Wickboldt
Respondent/Petitioner

COPY
SOUTH COUNTY BRANCH OFFICE
ORIGINAL RECEIVED

MAY 10 2016

SHARON R. BOCK
CLERK & COMPTROLLER
PALM BEACH COUNTY

MOTION FOR: Attorney Dismissal

I, (print your name) Julie M Gonzalez, the [check one] Petitioner
 Respondent, in the case am requesting the following Motion:

[✓ the appropriate motion(s):]

- Continue the hearing on (matter being heard) _____
(date) 5/10/2013 (time) 3:25 PM before Judge/Commissioner Judge David French
- Dismiss (state action) Dismissal of Attorney Craig Deann
- Vacate the Court's Order which has been filed by the clerk as docket # _____
- Rehearing (check all that apply) of ___ Paternity, ___ Contempt, ___ Commitment.
- Waive Parenting/Mediation Requirements(s) for _____
- Other _____

Hereby I affirm that Julie M Gonzalez
moves to dismiss Attorney Craig Deann -
Any communication from now on is to be mailed
to me: Julie Gonzalez RL
ACP # 201127
PO Box 7297
TAMAHASSEE FL 32304



The following facts support the motion(s) checked above: Julie Monroze Moves for

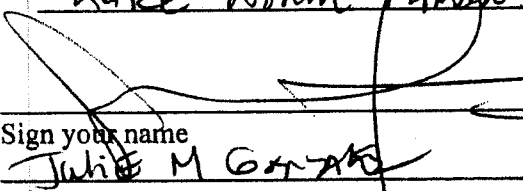
Dismissal of Attorney Craig Dear

Any further communication should be mailed to me Julie Monroze

I HEREBY CERTIFY that a copy of this Motion has been mailed on (date) 5/10/2016,
20____, by regular mail , certified mail _____, hand delivered _____, e-mailed _____ served to _____

Name of other party _____
Address _____

and to: Attorney (if any) Anthony Aragona
Address 5097 Sandcastle Circle
Lake Worth Florida 33463


Sign your name Julie M Monroze
Print your name _____
Address: PO Box 3297
Tallahassee FL 32314
Telephone () 954 245-4653
E-mail Address(es): _____

IF A NON-LAWYER HELPED YOU FILL OUT THIS FORM, THEY MUST FILL IN THE BLANKS BELOW:

I, (name of non-lawyer) _____, a non-lawyer, located at
(street) _____ (city) _____ (state) _____,
(phone) _____, helped {name} _____,
who is the (check one) _____ petitioner or _____ respondent, fill out this form.

Composite Exhibit "2"

From: [Kelly Huerta](#)
To: [Anthony Aragona](#)
Subject: Wickboldt v. Gonzalez
Date: Friday, May 20, 2016 5:54:50 PM
Attachments: [Ltr to Judge French sending proposed order to withdraw 5-20-16.pdf](#)

Dear Mr. Aragona,

Attached please find correspondence to Judge French.

If you have any questions or comments, please do not hesitate to contact our office.

Thank you,

Kelly Huerta

Paralegal



9100 South Dadeland Boulevard

Suite 1701

Miami, Florida 33156-7817

305-670-1237

305-670-1238 fax

Email: kelly@dpmiamilaw.com

www.dpmiamilaw.com

This email may contain legally privileged and confidential information intended only for the use of the addressee(s) named above. If you are not the intended recipient of this email, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination or copying of this email is strictly prohibited. If you have received this email in error, please immediately notify us by telephone (305-670-1237) so that we can arrange to have the original returned to us or forwarded to the intended recipient. Thank You.

 **DEARR PERDIGON**
Attorneys At Law
A Partnership including Professional Associations

Craig R. Darr
Scott J. Perdigon
Wendy S. Rounds

One Dattran Center
Penthouse 1, Suite 1701
9100 South Dadeland Boulevard
Miami, Florida 33156-7817

Ph. 305-670-1237
Fax 305-670-1238
craig@dpmiamilaw.com
www.dpmiamilaw.com

May 20, 2016

The Honorable David E. French
Main Courthouse
205 North Dixie Highway
Courtroom 2
West Palm Beach, Florida 33401

Re: Lloyd Wickboldt v. Julie M. Gonzalez
Case Number: 2010DR003810XXXXSB/Div.FY
Our File Number: 5471.4

Dear Judge French:

Enclosed is a proposed Order on Craig R. Darr, Esq. and Darr Perdigon's Motion to Withdraw as Counsel for Defendant, Julie M. Gonzalez. Copies of the proposed order and this letter have been sent to Anthony Aragona, Esq. and Julie Gonzalez via email. If the Order meets with your Honor's approval, please sign the Order and have your judicial assistant send the conformed copies in the enclosed self-addressed, stamped envelopes. If you require any changes, please have the judicial assistant contact me and they will be made promptly.

Respectfully,

DEARR PERDIGON



CRAIG R. DEARR
For the Firm

CRD/kh
Enclosure as stated.

c. Anthony Joseph Aragona, III, Esquire
Julie Gonzalez, *pro se*

IN RE: The Marriage of
LLOYD G. WICKBOLDT,

Petitioner,

vs.

JULIE M. GONZALEZ,

Respondent.

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

CASE NUMBER: 2010DR003810XXXXSB/Div.FY

**ORDER ON CRAIG R. DEARR, ESQ. AND DEARR PERDIGON'S MOTION TO
WITHDRAW AS COUNSEL FOR DEFENDANT JULIE M. GONZALEZ**

THIS CAUSE came before the Court on Craig R. Dearr, Esq. and Dearr Perdigon's Motion to Withdraw as counsel for Defendant, Julie M. Gonzalez. The Court having been advised that counsel has been discharged by Respondent by the Motion for Attorney Dismissal filed with the Court on May 10, 2015, a copy of which having been attached to counsel's motion to withdraw, having reviewed the file and being otherwise fully advised in the premises it is

ORDERED AND ADJUDGED that Craig R. Dearr, Esq. and Dearr Perdigon's Motion to Withdraw as Counsel for Defendant, Julie M. Gonzalez, is hereby granted. Until new counsel appears for Defendant, Julie M. Gonzalez, all papers shall be served upon Defendant by Email at juliegonzalez64@hotmail.com. Defendant shall be responsible to notify the Court and opposing counsel if her Email address changes.

DONE AND ORDERED at Palm Beach County, Florida this ____ day of May,
2016.

HONORABLE DAVID E. FRENCH
CIRCUIT COURT JUDGE

Copies Furnished to:
ANTHONY ARAGONA, ESQUIRE
CRAIG R. DEARR, ESQUIRE
JULIE M. GONZALEZ, *pro se*

EXHIBIT 4 - Order on Motion to Withdraw

LLOYD G. WICKBOLDT,
Plaintiff,

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

vs.

CASE NUMBER: 502013CA006759XXXMB AA

JULIE M. GONZALEZ and
AMTRUST BANK,

CIRCUIT CIVIL DIVISION

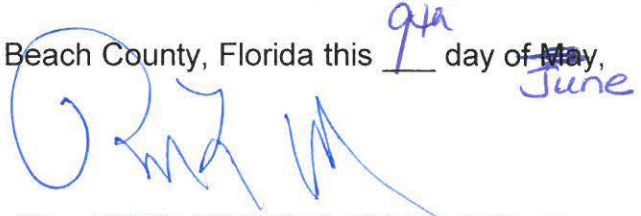
Defendants.

**ORDER ON CRAIG R. DEARR, ESQ. AND DEARR PERDIGON'S MOTION TO
WITHDRAW AS COUNSEL FOR DEFENDANT JULIE M. GONZALEZ**

THIS CAUSE came before the Court on May 19, 2016 at 8:45 a.m. on Craig R. Darr, Esq. and Darr Perdigon's Motion to Withdraw as counsel for Defendant, Julie M. Gonzalez, the Court having heard argument of counsel, having confirmed with Defendant Gonzalez in open court that she did not object to the granting of the motion permitting counsel to withdraw, having reviewed the file and being otherwise fully advised in the premises it is

ORDERED AND ADJUDGED that Craig R. Darr, Esq. and Darr Perdigon's Motion to Withdraw as Counsel for Defendant, Julie M. Gonzalez, is hereby granted. Until new counsel appears for Defendant, Julie M. Gonzalez, all papers shall be served upon Defendant by Email at juliegonzalez64@hotmail.com. Defendant shall be responsible to notify the Court and opposing counsel if her Email address changes.

DONE AND ORDERED at Palm Beach County, Florida this 19 day of ~~May~~ ^{June},
2016.



HONORABLE RICHARD OFTEDAL
CIRCUIT COURT JUDGE

Copies Furnished to:
ANTHONY ARAGONA, ESQUIRE
CRAIG R. DEARR, ESQUIRE
JULIE M. GONZALEZ, *pro se*

EXHIBIT B - Order Denying Disqualification June 27, 2016

RECEIVED, 7/8/2016 3:22 PM, Clerk, Fourth District Court of Appeal

IN RE: THE MARRIAGE OF
JULIE M. GONZALEZ,

APPELLANT-PETITIONER

V.

LLOYD G. WICKBOLDT,

APPELLEE-RESPONDENT

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

CASE No. 502010DR003810XXXXSB / FY

NOTICE OF APPEAL
OF ORDER DENYING MANDATORY DISQUALIFICATION

NOTICE IS GIVEN that Julia M. Gonzalez, Appellant-Petitioner, appeals to the Fourth (4th)
District Court of Appeals from the Order of Palm Beach County Judge David E. French dated

June 27, 2016 Order Denying Mandatory Disqualification and hereby appeals from each and every part of said Order.

Dated: July 7, 2016

/s/ Julie M. Gonzalez
Julie M. Gonzalez
PO 8212911
Pembroke Pines, FL 33082
954-245-4653
juliegonzalez64@hotmail.com

CERTIFICATE OF SERVICE

Petitioner does hereby certify that the foregoing Petition was served on all parties below by e-file with the clerk of the court this 7th day of July, 2016.

Craig Derr
9100 South Dadeland Boulevard
Suite 1701
Miami, Florida 33156-7817
305-670-1237
305-670-1238 fax
craig@dpmiamilaw.com
kelly@dpmiamilaw.com
www.dpmiamilaw.com

Anthony J. Aragona, III
Anthony J. Aragona III, P.A.
1036 Grove Park Circle
Boynton Beach, Florida 33436
Tel: (561) 649-1790
Fax: (561) 649-6767
anthony.aragona@att.net
www.anthonyaragona.com

David Ryder, Appointed Receiver
4613 University Drive No. 175
Coral Springs, Florida 33067
dr@courtreceivers.com

/s/ Julie M. Gonzalez
Julie M. Gonzalez
PO 8212911
Pembroke Pines, FL
33082
954-245-4653
[juliegonzalez64@hotmail.
com](mailto:juliegonzalez64@hotmail.com)

EXHIBIT 1 - June 27, 2016 Judge French Order Denying Mandatory
Disqualification

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

FAMILY DIVISION: FY
CASE NO.: 2010DR003810

IN RE: THE MARRIAGE OF:

LLOYD G. WICKBOLDT,
Petitioner,
And

JULIE M. GONZALEZ,
Respondent.

**ORDER DENYING JULIE M. GONZALEZ'S VERIFIED SWORN EMERGENCY
PETITION AND AFFIDAVIT FOR IMMEDIATE MANDATORY DISQUALIFICATION
OF CIRCUIT JUDGE DAVID E. FRENCH**

THIS CAUSE came before the Court on **JULIE M. GONZALEZ'S EMERGENCY
VERIFIED MOTION**

Upon review by the Court it is ORDERED AND ADJUDGED that:

The request for emergency hearing is DENIED. The Motion does not allege matters entitled to be heard on an emergency or expedited basis over other matters pending before the Court. *See* A.O. 11.108-09/08; 5.203.

It is further

ORDERED AND ADJUDGED that, JULIA M. GONZALEZ's, Verified Sworn Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Circuit Judge David E. French, docketed June 27, 2016, after having been carefully reviewed and considered by the Court pursuant to Fla. R. Jud. Admin. 2.330(f), and the Court being otherwise duly advised in the premises, finds:

1. Rule 2.330, Florida Rules of Judicial Administration, provides in relevant part:

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.

2. The Court hereby determines only that the Motion is *legally insufficient*, *Pendelton v. State.*, 933 So.2d 1291 (Fla. 4th DCA 2006).
3. Accordingly, said Motion is **DENIED**.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this 27th
day of **June, 2016**.



Circuit Court Judge

copies furnished:

Julie M. Gonzalez, P.O. Box 8212911, Pembroke Pine, FL 33082; juliegonzalez64@hotmail.com

Craig Darr, Esq., 9100 South Dadeland Boulevard, Suite 1701, Miami, FL 33156

craig@dpmiamilaw.com; kelly@dpmiamilaw.com

Anthony J. Aragona, III, Esq., 1036 Grove Park Circle, Boynton Beach, FL 33436; anthony.aragona@att.net

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

FAMILY DIVISION: FY
CASE NO.: 2010DR003810

IN RE: THE MARRIAGE OF:

LLOYD G. WICKBOLDT,
Petitioner,
And

JULIE M. GONZALEZ,
Respondent.

**ORDER DENYING JULIE M. GONZALEZ'S VERIFIED SWORN EMERGENCY
PETITION AND AFFIDAVIT FOR IMMEDIATE MANDATORY DISQUALIFICATION
OF CIRCUIT JUDGE DAVID E. FRENCH**

THIS CAUSE came before the Court on **JULIE M. GONZALEZ'S EMERGENCY
VERIFIED MOTION**

Upon review by the Court it is ORDERED AND ADJUDGED that:

The request for emergency hearing is DENIED. The Motion does not allege matters entitled to be heard on an emergency or expedited basis over other matters pending before the Court. *See* A.O. 11.108-09/08; 5.203.

It is further

ORDERED AND ADJUDGED that, JULIA M. GONZALEZ's, Verified Sworn Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Circuit Judge David E. French, docketed June 27, 2016, after having been carefully reviewed and considered by the Court pursuant to Fla. R. Jud. Admin. 2.330(f), and the Court being otherwise duly advised in the premises, finds:

1. Rule 2.330, Florida Rules of Judicial Administration, provides in relevant part:

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.

2. The Court hereby determines only that the Motion is *legally insufficient*, *Pendelton v. State.*, 933 So.2d 1291 (Fla. 4th DCA 2006).
3. Accordingly, said Motion is **DENIED**.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this 27th day of June, 2016.



Circuit Court Judge

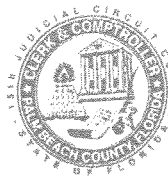
copies furnished:

Julie M. Gonzalez, P.O. Box 8212911, Pembroke Pine, FL 33082; juliegonzalez64@hotmail.com

Craig Darr, Esq., 9100 South Dadeland Boulevard, Suite 1701, Miami, FL 33156

craig@dpmiamilaw.com; kelly@dpmiamilaw.com

Anthony J. Aragona, III, Esq., 1036 Grove Park Circle, Boynton Beach, FL 33436; anthony.aragona@att.net



STATE OF FLORIDA • PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office with redactions, if any as required by law.

THIS 06 DAY OF July 2016

SHARON R. BOCK
CLERK & COMPTROLLER

By Ashley Williams
DEPUTY CLERK

EXHIBIT C - Email from Attorney Dearr on Secret Hearing April 28, 2016

From: craig dearr (craig@dpmiamilaw.com)

Sent: Thu 4/28/16 10:52 PM

To: juliegonzalez64@hotmail.com

1 attachment (666.6 KB)

5471 April 16.PDF

Hello Julie,

I am sorry I did not have a chance to give you a result from the hearing last week, the one which I had you sign the affidavit to file with the court. To remind you, that was Lloyd's motion for summary judgment in the separate civil suit where you have your counterclaim, basically saying that he was entitled to a judgment as a matter of law because any facts that had been in dispute were decided at the divorce trial, so he should just get his judgment. Based on his claim that you stole over \$230,000 by forging the checks, and his claim under the civil theft statute that, if he proves his allegation of theft to be true, would grant him treble damages (3 times the amount) that you allegedly stole, he was seeking a judgment against you of over \$730,000. I am sure it is troubling to you to hear the number he is seeking, but the good news is that the judge denied his motion. This does not mean you win the case, it just means he doesn't win at this point, and the judge is going to make him present his case (and yours) to a jury for them to decide. The trial in this case was supposed to be sometime in June (it is set for a trial period beginning at the end of June, but no exact date). However, Aragona has filed a motion for a continuance, to postpone the trial date for several different

reasons, including some health issues he (Aragona) has to take care of. In any event, I told him I did not object to his request for the continuance, but it is still up to the judge to decide. The judge indicated at the hearing he probably would grant that motion, but it had not officially been heard yet. I may know more by Monday, but my feeling is that it will be granted. I agreed for several reasons to the request for a continuance, but one of the main reasons is to give you time to try to find an attorney to take over the case.

The second hearing was this afternoon before Judge French. This was your objections to the ruling of the General Magistrate (from our hearing in November) that said you could not claim the homestead exemption to prevent the sale of your house as the judge ordered in the final judgment in the divorce case. Unfortunately, the results of this hearing were not in your favor. The judge ruled consistently with the General Magistrate's ruling that because, at the trial, you said you were not living in the property, and Judge Harrison made a specific finding in the final judgment that the property was not your homestead, you were no longer able to make that claim now to prevent the sale. I am very sorry that the judge would not accept my arguments, which I still think are correct. Judge French certainly still has a recollection of this case and his comments made it clear to me that regardless of any merit to my arguments, he was not going to prevent the sale of your house.

I have been reluctant to raise this issue with you again, but I really no longer have a choice. I cannot continue to represent you in either of these cases when you are unable to not only pay my current fees, but when I have been

carrying such a large balance on your account for a very long time.

Again, Julie, I regret terribly the need to make this decision, but I simply cannot afford to do this anymore. If you would like the name of a bankruptcy lawyer, please let me know and I will do what I can to make a referral for you.

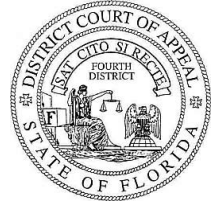
Best regards,

Craig R. Dearr, Esq.

End email

EXHIBIT D

Appellant's Reply Brief Case No. 13-4351



**IN THE DISTRICT COURT OF APPEAL OF FLORIDA
FOURTH DISTRICT**

JULIE M. GONZALEZ,

Appellant,

vs.

LLOYD G. WICKBOLDT,

Appellee.

CASE NUMBER: 4DCA#: 13-4051

Lower Court Case No.: 2010DR003810XXXX

SB/Div.FY

REPLY BRIEF OF APPELLANT

CRAIG R. DEARR, ESQ.

Florida Bar No. 328170

DEARR PERDIGON, Attorneys at Law

One Datran Center ~ Suite 1701

9100 South Dadeland Boulevard

Miami, Florida 33156-7817

Phone (305) 670-1237

Fax (305) 670-1238

Service Email: service@dpmiamilaw.com

Email: craig@dpmiamilaw.com

Attorneys for Appellant,

Julie M. Gonzalez

TABLE OF CITATIONS AND AUTHORITIES

<u>Cases</u>	<u>Page</u>
<i>Migliore v. Migliore</i> , 717 So.2d 1077 (Fla. 4 th DCA 1998).....	2
<i>Slotnick v. Slotnick</i> , 891 So.2d 1086 (Fla. 4 th DCA 2004).....	7
<i>Yan v. Byers</i> , 88 So.3d 392 (Fla. 4 th DCA 2012).....	4

INTRODUCTION

In this Reply Brief of APPELLANT, the APPELLANT, JULIE M. GONZALEZ, will be referred to by title (i.e. APPELLANT). APPELLEE, LLOYD G. WICKBOLDT, will be referred by title (i.e. APPELLEE). When referencing pages in the Initial Brief of Appellants it will be referred to as “IB ___” and pages in the Appellee’s Answer Brief will be referred to as “AB ___”. The symbol “T” will refer to the portions of the transcript of the trial testimony on June 28, 2013. Trial exhibits and other documents referred to in this reply brief were attached to the Initial Brief in Appendix 1 and will be referred to as “A1. All emphasis has been supplied by counsel unless indicated to the contrary.

ARGUMENT

I.

DUE PROCESS REQUIRED THAT APPELLANT’S MOTION FOR CONTINUANCE BE GRANTED WHEN THERE WAS CIRCUMSTANCES WHICH SUPPORTED HER REQUEST AND NO DEMONSTRABLE PREJUDICE TO APPELLEE

APPELLEE’S assertion in both his argument and his statement of the case and facts¹ is that APPELLANT had notice of her prior counsel’s motions to withdraw and the notices of hearing on the motion because both documents contain a certificate of service that APPELLANT was notified “via confidential e-mail.”

¹ Contrary to the requirements of Rule 9.210, APPELLEE unnecessarily injects argument into his statement of the case and facts.

(AB 15). APPELLEE presents no record evidence, other than the certificates of service on the motions and notices of hearing, to support the assertion that APPELLANT actually had notice of the motions and hearings. Additionally counsel for APPELLEE refers to his representation to the court that APPELLANT’S prior counsel “...stated that they notified her both verbally and sent her a copy of the Motions to Withdraw, the Notices of Hearing and The Order Granting Withdrawal.” (AB 15). Apparently counsel’s argument is based on the contention that the trial court (and therefore this court) should accept his assertion that he was “notified” by prior counsel that notice was **sent**, but APPELLANT’S direct statement to the trial court, which were otherwise unrebutted, that she had **not received** the motions, notices of hearing or order, should be disregarded.

Although the certificate of service presents a presumption of service, that presumption can be rebutted by competent evidence and testimony. *Migliore v Migliore*, 717 So.2d 1077 (Fla. 4th DCA 1998). Furthermore, in the instant case there is additional documentary evidence that APPELLANT did not receive the order of withdrawal.² In the Order Granting Motion to Withdraw (A1 2), the order states only that copies were furnished to Laura Schantz, Esq. (APPELLANT’S prior counsel) and Anthony J. Aragona, III, Esq. (APPELLEE’S counsel). Even

² In his statement of the case and facts, APPELLEE argues that APPELLANTS assertion that she did not receive notice of the hearing on the motion was not supported by the record. (AB 2) However, later in the same section of his brief APPELLEE acknowledges that in her motion for continuance APPELLANT stated that she had not received the notice of hearing nor the order on the motion to withdraw. (AB 4).

the body of the order itself, which incorrectly states that “**Petitioner’s Motion to Withdraw**” was granted (APPELLANT was the Respondent below), does not state that the order is to be served, by any means, on APPELLANT, only that “...this Court orders all further pleadings shall be sent to the Respondent, Julie M. Gonzalez, at 17103 SW 39th Court, Miramar, FL 33027.” (A1 2). While APPELLEE tries to place any blame for not receiving the documents on APPELLANT, by asking this court to note that “...Ms. Gonzalez refused to provide any address or even an e-mail address to the undersigned or to the court,...” APPELLEE fails to give any reason why the order granting the motion to withdraw did not provide that a copy of the order was to be served on APPELLANT at whatever address they had, including the address specifically stated in the order. While there may be a dispute as to whether APPELLANT was given proper notice of the hearing and the entry of the order granting the motion to withdraw, there is no dispute that APPELLANT was not present at the hearing when the motion was granted. APPELLEE attempts to emphasize what he perceives as a lack of cooperation by APPELLANT without addressing the question of why the court, counsel for APPELLEE and APPELLANT’S prior counsel, did not properly show that any attempt was made to insure that APPELLANT received the order stating that her counsel had withdrawn. There is nothing in the order to indicate that such notice was given to APPELLANT.

Furthermore, if APPELLEE'S contention was accurate that APPELLANT had refused to provide any address, the court, as well as counsel for APPELLEE, could have inquired of former counsel for APPELLANT, at the hearing on the motion to withdraw, if another address, whether email or otherwise, was available for APPELLANT. Nothing in the order, or in APPELLEE'S argument, indicates that such an attempt was made.

As stated in her initial brief, it is APPELLANT'S contention that she was denied due process because her request for a continuance was denied when she stated she did not have timely notice that her prior counsel had withdrawn and she needed additional time to retain new counsel. (IB 7). As cited in her initial brief, *Yan v Byers*, 88 So.3d 392 (Fla. 4th DCA 2012) defines procedural due process as requiring both reasonable notice and meaningful opportunity to be heard. How could either notice or opportunity to be heard regarding the withdrawal have been given to APPELLANT if she did not receive the order granting the motion to withdraw. Even if she had received the order, the order did not simply state that her attorney had withdrawn, but actually stated that Petitioner's (APPELLEE'S) attorney had withdrawn.

APPELLEE argues that there were no extenuating circumstances which would have justified granting the motion for continuance made the day of the trial. (AB 13). Surely the defect in the order, which purported to grant the

motion to withdraw of APPELLANT'S prior counsel, would constitute extenuating circumstances. The order neither indicated on its face that it was being effectively served, or sent in any fashion to APPELLANT, nor correctly stated that it was APPELLANT'S, not APPELLEE'S, counsel who was withdrawing. APPELLEE also attempts to argue that he would have been prejudiced if the motion for continuance had been granted. APPELLEE'S only support of such prejudice is the conclusory statement that "[c]ertainly on the day of trial, the granting of such Motion would have prejudiced the Appellee, ..." without stating what prejudice would have been suffered by APPELLEE. Apparently he attempts to argue that "extraordinary inconvenience" because of counsel's extensive preparation, and that the trial had been set for nine months, is the prejudice suffered by APPELLEE. (AB 13). Inconvenience or delay could possibly have justified an award of attorney's fees in the right circumstance, but would not constitute prejudice to APPELLEE in the circumstances of this case.

II

THE TRIAL COURT DID NOT GIVE ADEQUATE NOTICE TO APPELLANT, AS A *PRO SE* PARTY, THAT SHE HAD THE RIGHT OR OPPORTUNITY TO PRESENT HER DEFENSE OF APPELLEE'S CASE IN CHIEF NOR TESTIMONY OR EVIDENCE TO SUPPORT HER COUNTERPETITION

Although APPELLEE argues that APPELLANT was given adequate opportunity to testify (AB 21), there is no record support to show that she was given any opportunity to present testimony or evidence to defend the claims raised in the petition of APPELLEE or support her counterpetition filed in this case. The testimony of APPELLANT was her testimony in the case in chief of APPELLEE. The testimony which APPELLEE cites in his answer brief, which he attempts to use to support the proposition that APPELLANT was given “every opportunity to present testimony” (AB 17), only emphasizes the prejudice suffered by APPELLANT due to her lack of proper representation by counsel at the hearing. A trial court’s attempt to guide the *pro se* litigant is not meant to be a substitution for competent counsel. Furthermore, there is nothing in the trial transcript which would indicate that any opportunity was given to APPELLANT to present a defense or her case in chief. The only reference to what might have been considered an attempted defense of the claims made were the witness which the trial court excluded. Even in doing so, the trial court seemed to be rushing the APPELLANT, not giving her an adequate chance to present her defense and her

case. The trial court stated “[q]uickly, did you want these folks to testify” (T. 243). After the trial court excluded the witnesses, the final ruling was announced (T. 245) without any indication to APPELLANT that she could testify herself in support of her defense or her counterpetition.

At no time was APPELLANT given the right to be heard. Noticeably APPELLEE makes no reference to any statements by the trial court in the trial transcript which would indicate that APPELLANT had an adequate opportunity to present her case. As this court held in *Slotnick v. Slotnick*, 8891 So.2d 1086 (Fla. 4th DCA 2004) the trial court commits reversible error when it summarily disposes of factual issues by informally discussing them. In this case the discussion was with a *pro se* litigant, not familiar with proper procedures, who was forced to represent herself when her motion for continuance was denied. APPELLEE’S argument that the Final Judgment is based upon “competent, substantial evidence” (AB 21) ignores the fact that the competent and substantial evidence he is referring to is completely one sided without the adverse party being given the opportunity to present her defense or case in chief. The APPELLEE refers to the manner in which the trial court ended the case and made its ruling without affording APPELLANT the proper opportunity to present her defense or case in chief as “...somewhat non-traditional.” (AB 8). APPELLEE’S counsel failing to announce that he had rested his case in chief and APPELLANT not being

requested to present her defense and case in chief was much more than “non-tradition”, it was a denial of APPELLANTS due process and her right to be heard.

CONCLUSION

APPELLANT was denied due process by the lower court's denial of APPELLANT'S motion for continuance, by not affording APPELLANT the opportunity to put on her case in defense of APPELLEE'S claims, and present testimony and evidence in support of the claims raised in her counterpetition. There were no dilatory tactics by APPELLANT and there would have been no prejudice to APPELLEE if the Court had granted the continuance. Additionally it is fundamental to the concept of due process that the APPELLANT have the right to be heard. Being that APPELLANT was denied her due process rights, APPELLANT respectfully requests that this Court reverse the ruling of the trial court and remand this case to the trial court for a new trial.

Respectfully submitted,

CRAIG R. DEARR, ESQUIRE
DEARR PERDIGON, Attorneys at Law
One Datran Center, Suite 1701
9100 South Dadeland Boulevard
Miami, Florida 33156-7817
Telephone: (305) 670-1237
Facsimile: (305) 670-1238
Service Email: service@dpmiamilaw.com
Email: craig@dpmiamilaw.com

Attorneys for Appellant

By: 

Craig R. Dearr, Esquire
Wendy S. Rounds, Esquire

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that a true copy of the foregoing **Reply Brief** was served by email this 17th day of November, 2014 upon the following counsel of record:

Attorneys for Appellee

Anthony J. Aragona, III, Esquire
5097 Sancerre Cir.
Lake Worth, FL 33463
Anthony.aragona@att.net



Craig R. Darr
Wendy S. Rounds

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that the foregoing was prepared in accordance with the rule requiring the Times New Roman 14 point or Courier New 12 point.



Craig R. Darr
Wendy S. Rounds