

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF
FLORIDA, THIRD DISTRICT
CASE NO. 3D24_____**

Circuit Court Case 24-3037-CA01

JOSÉ YEYILLE

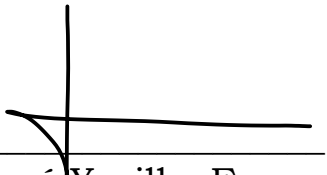
Petitioner,

v.

**THE FLORIDA BAR;
ALM GLOBAL LLC;
MICHAEL A. MORA**

Respondents

PETITION FOR WRIT OF PROHIBITION



José Yeyille, Esq.
Florida Bar 885444
joseyeyilleesq@yahoo.com
Attorney for Petitioner,
José Yeyille,
5505 SW 135th Court
Miami, FL 33175

I. BASIS FOR INVOKING THE JURISDICTION OF THIS COURT

This court has jurisdiction to issue writs of prohibition.

Florida Constitution, Article V, Section 7. Florida Rule of Appellate Procedure 9.030(b)(3). This court has “jurisdiction to review the denial of a motion to disqualify a trial judge on a timely petition for writ of prohibition.” *Castro v. Luce*, 650 Sp. 2d 1067, 1068 (Fla. 2d DCA 1995)(citing *Bundy v. Rudd*, 366 So. 2d 440 (Fla. 1978). “Every litigant...is entitled to nothing less than the cold neutrality of an impartial judge.” *State ex. rel. Mickle v. Rowe*, 100 Fla. 1382, 1385 (1930). “Prejudice of a judge is a delicate question to raise but when raised as a bar to the trial of a cause, if predicated on grounds with a **modicum of reason**, the judge against whom raised, should be prompt to recuse himself. No judge under any circumstances is warranted in sitting in the trial of a cause whose neutrality is shadowed or even questioned.” *Dickenson v. Parks*, 104 Fla. 577, 582 (Fla. 1932) (**emphasis**). “[T]he Due Process Clause has been implemented by objective standards that do not require proof

of actual bias.” *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 883 (2009)[emphasis].

NOTE: On June 26, 2024, Petitioner submitted to this court a Petition for Writ of Petition that was **denied** on July 10, 2024, (rehearing denied on July 25, 2024) concerning only **Respondents ALM Global Inc. and Michael Mora** regarding the hearing of June 10, 2024, for their *Anti-SLAPP Motion to Dismiss or Alternatively, for Summary Judgment*”. This **second** Petition for Writ of Prohibition submitted today to this court concerns **Respondent The Florida Bar** regarding the hearing of June 10, 2024, **and** the **combined hearings** of June 10, 2024, and July 11, 2024, for Respondent *The Florida Bar’s Motion to Dismiss Count I and II of the Amended Complaint*.

II. FACTS

1. On November 9, 2021, Petitioner submitted a Complaint for compensatory and punitive damages pursuant to the legal theories of Intentional Infliction of Emotional Distress (an **intentional tort**), Failure to supervise Arturo Pena, and Negligent Infliction of Emotional Distress, against Justin Cole

Speigel, a psychopathic doctor who intentionally **ordered** Arturo Pena, a psychopathic nurse, whom, several minutes before, he had seen and knew had mocked Petitioner's dying and dead mother, and Petitioner, while other nurses performed CPR attempting to resuscitate her, to perform CPR to Petitioner's deceased mother in a mocking manner, while mocking Petitioner. **(APPENDIX 1)**(Amended Complaint, March 22, 2024).

2. A proud former nurse ("Judge Manno-Schurr brings nursing background to courtroom". ***Law.com. DBR Daily Business Review***, June 19, 2015), judge Valerie Manno-Schurr dismissed Appellant's case and his **motions to disqualify her without opinions**. The Third District Court of Appeal twice dismissed his appeals also **without opinions** referred in the legal jargon as **"PCAs"**. *José Yeyille v. Justin Cole Speigel, M.D., in his individual capacity*. 2021-24767-CA01; Consolidated Cases 3D22-624 and 3D22-625; and Case 3D22-1125.

4. Since at least 1983, the district courts of appeals in

Florida, **and now the trial courts, too**, award these PCAs exclusively to indigents, and indigent PRO•SE Black and Hispanic parties. At every step in the litigation from the trial court to the Florida Supreme Court, Appellant prominently raised his constitutional challenges against PCAs and the judiciary of the state of Florida for deprivation of our First and Fourteenth Amendments protected by the Constitution of the United States. Predictably, this upset these judges. And the justices of the Florida Supreme Court love this STATVS•QVO because it allows them intentionally to discriminate against indigents, and indigent PRO•SE Black and Hispanic parties, and favor the law firms who choose and buy them. *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

5. On June 16, 2023, the **Daily Business Review-Law.com** published an article authored by Michael A. Mora titled: “**Third DCA Sanctions Miami Lawyer But Avoids Underpinning Issues**”. This article refers to Appellant’s case as “a medical malpractice lawsuit” asserting in pertinent part: “Florida’s Third District Court of Appeal entered a per curiam

opinion that sanctioned José Yeyille, a self-represented attorney litigant in a medical malpractice suit...In the matter, Yeyille was having no luck in his lawsuit.”

6. The Florida Bar **republished** the Daily Business Review’s article in its Daily News Summary, Legal Discipline section, asserting in pertinent part: “Florida’s Third District Court of Appeal entered a per curiam opinion that sanctioned José Yeyille, a self-represented attorney litigant in a medical malpractice suit...In the matter, Yeyille was having no luck in his lawsuit.”

7. **No court orders issued either by the trial court or the Third District Court of Appeal made any reference to Appellant’s lawsuit as a medical malpractice lawsuit because it was not, and it has never been, a medical malpractice lawsuit.** (Emphasis in the original *Amended Complaint*).

8. As the result of Daily Business Review-Law.com’s publication of that article, and the Florida Bar’s republication of that article, Petitioner suffered mental anguish, and

irreparable reputational damage both as a common citizen, and as attorney.

9. Notice condition precedent to action or prosecution for libel or slander pursuant to Florida Statute §770.01 have been met.

RELEVANT PROCEDURAL HISTORY

10. On **March 27, 2024**, The Florida Bar submitted its “Defendant, The Florida Bar’s Motion to Dismiss Counts I and II of the Amended Complaint.”

11. On **April 7, 2024**, Plaintiff submitted his “Response to Defendant The Florida Bar’s Motion to Dismiss Counts I and II of the Amended Complaint. Plaintiff requests that that this Court deny it and order Defendant The Florida Bar to submit its Answer to Plaintiff’s Amended Complaint. In the Alternative, I request that the court dismiss it without prejudice to allow me to amend it.”

12. On **April 15, 2024**, The Florida Bar submitted “Defendant, The Florida Bar’s Combined Reply to Plaintiff’s Responses...to Motions to Dismiss.”

13. On **April 18, 2024**, The Florida Bar’s attorney, Ricky Polston, of the Law firm Shutts & Bowen, scheduled a Special Sets Hearing for his Motion to Dismiss for Improper Venue, and Motion to Dismiss Counts I and II of the Amended Complaint **for July 11, 2024, at 11:00AM.**

14. On **May 11, 2024**, Plaintiff submitted “Plaintiff’s Motion for Court’s Ruling on the Papers without an Oral Hearing. Plaintiff and Defendants ALM Global, LLC’s and Michael Mora’s Attorney Brendan Everman Agree to Have this Court Rule on the Papers without an Oral Hearing.”

15. On **May 13, 2024**, Defendants ALM Global, LLC’s and Michael Mora submitted “Zoom/Virtual Notice of Special Set Hearing” for **“Defendants ALM Global, LLC and Michael Mora’s Anti-SLAPP Motion to Dismiss or, Alternatively, for Summary Judgment.”** Defendants’ attorney Brendan Everman’s Anti-SLAPP argument is bogus; but they are still entitled to “a hearing on the motion, which shall be held at the earliest possible time.” Fla. Stat. 768.295(4).

16. On **May 17, 2024**, Plaintiff’s attorney, José Yeyille,

Esq., submitted his Notice of Appearance.

17. The Hearing took place on **June 10, 2024**, without a court reporter. **(APPENDIX 2: “AFFIDAVIT of Hearing of June 10, 2024, for Special Sets Hearing for Defendants ALM Global, LLC and Michael Mora’s Anti-SLAPP Motion to Dismiss or Alternatively, for Summary Judgment.”** (Hereinafter “AFFIDAVIT of Hearing of June 10, 2024”).

18. It is a mystery how he obtained, and who provided him a Zoom-link for the Hearing. Somehow, Defendant The Florida Bar’s counsel, Ricky Polston, managed to obtain a Zoom link to the Hearing of **June 10, 2024**, for Defendant Alm Global Inc. and Michael Mora’s *Motion to Dismiss Anti-SLAPP Motion to Dismiss or, Alternatively, for Summary Judgment*. **Plaintiff objects to his presence. Judge Valerie Manno-Schurr denies Petitioner’s objection, welcomes Ricky Polston (ATTACHMENT 2, AFFIDAVIT of Hearing of June 10, 2024, page 7, ¶51), and allowed “former justice Polston” to participate in the Hearing (Id. AFFIDAVIT, page 11, ¶99).**

19. At the Hearing, judge Valerie Manno-Schurr granted

“Defendants ALM Global, LLC and Michael Mora’s Anti-SLAPP Motion to Dismiss or Alternatively, for Summary Judgment” and ordered their attorney Brendan Everman “to prepare an order for me that wherein I grant his motion to dismiss based on the arguments that were presented to the court today.” *Ibid.*

(AFFIDAVIT of the Hearing of June 10, 2024, p. 9, ¶79).

20. That same day at **3:13PM**, attorney Brendan Everman sent through email his Proposed Order to Petitioner’s private email.

21. On **June 11, 2024**, at **10:54PM** Petitioner sends an email to attorney Brendan Everman objecting to his Proposed Order, and submits them, along with Brenan Everman’s “Proposed Order” to the court at **11:50PM** *“Plaintiff’s Objections to Proposed Order on Defendants ALM Global, LLC and Michael Mora’s Anti-SLAPP Motion to Dismiss or Alternatively, for Summary Judgment”*. **(ATTACHMENT 4)**. Petitioner objected and objects to opposing counsel’s Order because

1). It does not include the facts of the case.

- 2) It does not include any binding legal authority (e.g. no case law, statute, etc).
- 3). It does not include any analysis.
- 4) It does not include any semblance of judicial labor: the court outsourced its judicial duty to Defendants, the adverse parties.

22. On **June 12, 2024, at 3:22PM**, Brendan Everman uploaded to judge Valerie Manno-Schurr his draft of his “Proposed Order”

23. On **June 12, 2024**, at **10:07PM**, Petitioner submitted his “*Motion for Disqualification of Trial Court Judge Pursuant to Florida Statute Section 38.10, Florida Rule of General Practice and Judicial Administration 2.330; and the First Amendment; and Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States. MEMORANDVM of Law.*”

24. On **June 13, 2024**, at **6:42AM**, judge Valerie Manno-Schurr hastened to copy, paste, and plagiarize Respondents’ “Proposed Order” and issued it as her own after necessitating all of sixteen hours (16) hours of arduous judicial labor to sign

her name to Respondent's order without opinion.

25. On **June 18, 2024**, at **11:50AM**, judge Valerie Manno-Schurr denied "as legally insufficient" Petitioner's first Motion for Disqualification.

26. On **June 18, 2024**, at **12:03PM**, judge Valerie Manno-Schurr denied Petitioner's Motion for Rehearing without opinion.

27. On **July 1, 2024**, Respondent The Florida Bar submitted notice to the court to withdraw its "*Motion to Dismiss for Improper Venue Or, Alternatively, Motion To Transfer Venue*"; and "*Notice of Supplemental Authority in Support of Its Motion to Dismiss Counts I and II of the Amended Complaint*" including the court's order dismissing Petitioner's Amended Complaint and denying his Motion for Rehearing."

28. On **July 8, 2024**, Petitioner submitted his Second Motion for Judicial Disqualification.

29. On **July 9, 2024**, judge Valerie Manno-Schurr denies it "as legally insufficient".

30. The Hearing for Respondent The Florida Bar's "*Motion to Dismiss Counts I and II of the Amended Complaint*" took place

on **July 11, 2024**, **with a court reporter hired by The Florida Bar**. (**APPENDIX 3: AFFIDAVIT of the Hearing of July 11, 2024**) (hereinafter “AFFIDAVIT of the Hearing of July 11, 2024”).

The Florida Bar’s attorney Ricky Polston recapitulated the legal arguments and case law contained in his filings. Petitioner requested that the court rule on the filings submitted by both parties. Whereupon judge Valerie Manno-Schurr granted The Florida Bar’s motion and bade attorney Ricky Polston thus: “**Justice Polston**, can you please prepare an order for all the reasons stated on the record your Motion is granted.”

(**emphasis**). (**AFFIDAVIT of The Hearing of July 11, 2024**, page 4, ¶17). When “**Justice Polston**” reminded judge Valerie Manno-Schurr that his co-Defendants ALM Global Inc. and Michael Mora “have a pending Motion for Attorney’s Fees pursuant to the anti-SLAPP statute”, judge Valerie Manno-Schurr remarked: “**Oh, perfect. Ok. Ok.**” (**AFFIDAVIT of the Hearing of July 11, 2024**, page 5, ¶¶26-27).

31. On **July 12, 2024**, “Justice Polston” sent his Final Order” to Petitioner’s counsel’s email. (**APPENDIX 4**). That

same day Petitioner's counsel submitted his "Plaintiff's Objections" on account that "it does not include the facts of the case...any binding legal authority...any legal analysis...any semblance or hint of judicial labor other than Justice Ricky Polston's...and that "[f]ederal trial courts issue written opinions even to the poorest parties." **(APPENDIX 5).**

32. On **July 15, 2024**, at **2:42 PM**, Justice Polston uploaded his draft of the "Final Order" to judge Valerie Manno-Schurr. Judge Valerie Manno-Schurr copied and pasted it, plagiarized it, signed it and issued it as her own on **July 16, 2024** at **6:32 AM**. after eighteen hours (18) hours of excruciating judicial labor. **(APPENDIX 6).**

33. On **July 18, 2024**, Petitioner submitted his "Third Motion for Disqualification of Trial Judge."

34. On **July 23, 2024**, judge Valerie Manno-Schurr denied Plaintiff's "Third Motion for Disqualification of Trial Judge."
(APPENDIX 7).

III. NATURE OF RELIEF SOUGHT

35. Petitioner requests that this court accept jurisdiction pursuant to Article V, § 4(b)(3) of the Constitution of the State of the state of Florida and Florida Rule of Appellate Procedure 9.030(b)(3) and issue a writ of prohibition disqualifying judge Valerie Manno-Schurr, and prohibiting judge Valerie Manno-Schurr from exercising any jurisdiction over Petitioner's case 2024-3037-CA01.

IV. ARGUMENT **MEMORANDVM OF LAW OF BINDING LEGAL** **AUTHORITY FOR JUDICIAL DISQUALIFICATION:** **STATE OF FLORIDA AND THE UNITED STATES**

A. Florida Law.

36. Florida Statute §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.

37. Florida Rule of General Practice and Judicial Administration

2.330—Disqualification of Trial Judges.

(b) Parties. Any party, including the state, may move to disqualify the judge assigned to the case on grounds provided by rule, statute, Code of Judicial Conduct, or general law, and in accordance with the procedural provisions of this rule.

(e)(4) The judge has prior personal knowledge of or bias regarding disputed evidentiary facts concerning the proceeding.

38. Code of Judicial Conduct for the State of Florida.

CANON 3. A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently.

CANON 3(B)(5). A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status...

CANON 3(E)(1). A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:
(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.

COMMENTARY.

CANON 3(B)(5). A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.

CANON 3E(1). Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific rules in Section 3E(1) apply.

Timeliness

39. The Third Motion for Disqualification of Trial Court was filed within 20 days after discovery of the facts constituting the grounds for the motion. Fla. R. Gen. Prac. Jud. Admin. 2.330(b).

40. Two motions for disqualification of judge Valerie Manno-Schurr have been previously submitted by Petitioner. The first Motion for Disqualification referred to the **Hearing of June 10, 2024**, was filed in this case on June 12, 2024, addressed to Respondents ALM Global Inc. and Michael Mora.

This court denied it on June 18, 2024. The second one, also referring to the **Hearing of June 10, 2024**, but addressed to Defendant The Florida Bar was denied by this court on July 9, 2024. The present Motion for Disqualification refers to **both Hearings**: “*Defendants ALM Global, LLC and Michael Mora’s Anti-SLAPP Motion to Dismiss or Alternatively, for Summary Judgment*” (**AFFIDAVIT of Hearing of June 10, 2024**) and Defendant The Florida Bar’s “*Motion to Dismiss Counts I and II of the Amended Complaint*” (**AFFIDAVIT of Hearing of July 11, 2024**) and **is addressed to both Defendants: The Florida Bar and ALM Global Inc. and Michael Mora.**

FACTS ON WHICH THE PETITIONER RELIES

41. “Prejudice of a judge is a delicate question to raise but when raised as a bar to the trial of a cause, if predicated on grounds with a ***modicum of reason***, the judge against whom raised, should be prompt to recuse himself. No judge under any circumstances is warranted in sitting in the trial of a cause whose neutrality is shadowed or even questioned.” ***Dickenson***

v. Parks, 104 Fla. 577, 582 (Fla. 1932) (*emphasis*).

42. *Livingston v. State*, 441 So. 2d 1083, 1086-1087

(Fla. 1984):

[A] party seeking to disqualify a judge need only show “a well grounded fear that he will not receive a fair trial at the hands of the judge. It is not a question of how the judge feels; it is a question of what feeling resides in the affiant's mind and the basis for such feeling.” *State ex rel. Brown v. Dewell*, 131 Fla. 566, 573, 179 So. 695, 697-698 (1938)...The question of disqualification focuses on those matters from which a litigant may reasonably question a judge’s impartiality rather than the judge's perception of his ability to act fairly and impartially...First, there must be a verified statement of the specific facts which indicate a bias or prejudice requiring disqualification. Second, the application must be timely made. Third, the judge with respect to whom the motion is made may only determine whether the motion is legally sufficient and is not allowed to pass on the truth of the allegations....“If the attested facts supporting the suggestion are reasonably sufficient to create such a fear, it is not for the judge to say that [the fear] is not there.” (quoting *State v. Ex Rel. v. Parks*, 141 Fla. 516, 518, 194 So. 613, 614 (1939).

43. Judge Valerie Manno-Schurr’s disqualification is predicated on **four grounds** with an abundance of offending and prejudicial remarks that went far beyond mental impressions that justifies any reasonable person, even one with the most unjaundiced view of human nature and

government officials, like judges, to have ““a well grounded fear that he will not receive a fair trial at the hands of the judge.”” ***Livingston v. State*, 441 So. 2d 1083, 1086-1087 (Fla. 1984).**

44. FIRST. The Hearing of June 10, 2024, concerned **“Defendants ALM Global, LLC and Michael Mora’s Anti-SLAPP Motion to Dismiss or, Alternatively, for Summary Judgment.”** Judge Valerie Manno-Schurr prejudged the case by improperly making a **finding of material fact** in Plaintiff’s Amended Complaint, which error she compounded by overtly **disputing its truthfulness** and **advocating in favor of Defendants**. **(APPENDIX 2). AFFIDAVIT of the Hearing of June 10, 2024, page 5:**

25. Brendan Everman, Esq.: “...Here the article is not defamatory for two distinct reasons. First, the underlying lawsuit given the allegations against doctor Spiegel it could be properly characterized as a medical malpractice...”
26. José Yeyille, Esq.: “Objection. Objection. **That wasn’t a malpractice suit**. Objection. It was not a malpractice suit.”

27. Judge Valerie Manno-Schurr: “**That’s why it was dismissed. Because it was a malpractice suit. That was the basis of the motion to dismiss. You didn’t go through the medical malpractice the steps that needed to be taken. That was my recollection. It was while back but I think that was it. That is why I dismissed it.**”
28. José Yeyille, Esq.: “Respectfully...”
29. Judge Valerie Manno-Schurr: “And it was affirmed on appeal.”
30. José Yeyille, Esq.: “Respectfully, the order doesn’t say anything about malpractice suit.”
31. Judge Valerie Manno-Schurr: “OK.”

45. “A motion to dismiss tests the legal sufficiency of the complaint and **does not determine factual issues.**” *Thomas v. Trench Training Sys.*, 377 So. 3d 198, 202 (Fla. 2d DCA 2023). (**emphasis**). “When ruling on a motion to dismiss for failure to state a cause of action, the trial court **must accept the allegations of the complaint as true.**” *Thomas v. Hickory Foods*, 145 So. 3d 203, 204 (Fla. 1st DCA 2014).

46. Judicial disqualification is warranted when the judge questions the credibility of a party. **Brown v. St. George**

Island, Ltd., 561 So. 2d 253 (Fla. 1990). “[J]udicial comments revealing a determination to rule a particular way prior to hearing any evidence or argument have been found to be sufficient grounds for disqualification.” ***Hompson v. State*, 990 So. 2d 482, 490 (Fla. 2008).**

47. Constitution of the State of Florida. Article I, Section 22. Trial by Jury.—The right of trial by jury shall be secure to all and remain inviolate. In his Amended Complaint Plaintiff demands a **jury trial**. “The Founders of our Nation considered the right of trial by jury in civil cases an important bulwark against **tyranny and corruption...of the judiciary**.” (**emphasis added**). *Parklane Hosiery Co. v. Shore*, 439 US 322, 343 (1979), United States Supreme Court Justice William Rehnquist, dissenting. “The controlling distinction between the power of the court and that of the jury is that the former is the power to determine the law and the latter to **determine the facts**.” *Dimick v. Schiedt*, 293 U.S. 474, 450 (1935)(**emphasis**).

48. “Treating issues of intent as factual matters for the

trier of fact is commonplace.” *Pullman-Standard v. Swint*, 456 U.S. 273, 288 (1982). “[F]indings as to the design, motive and intent with which men act” as peculiarly factual issues for the trier of fact and therefore subject to appellate review...” (quoting *United States v. Yellow Cab Co.*, 338 U.S. 338, 341 (1949). *Ibid.*

49. “This Court has held that the Declaration of Rights of the Constitution of the state of Florida does apply to **State government** and to the Legislature. *Spafford et al. v. Brevard County, Florida*, 92 Fla. 617, 110 So. 451 (1926).” *Kluger v. White*, 281 So. 2d 1, 4 (Fla. 1973)(**emphasis**). The judiciary is the government. (See *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680 (1930), *infra.*). “The jury system is the foundation stone of our whole judicial concept. It is designed to provide all persons with a fair **factual determination** before judgment.” *Florida Power Corp. v. Smith*, 202 So. 2d 872, 882 (Fla. 2d DCA 1967) (**emphasis**). **Petitioner demands a jury trial in his Amended Complaint.** In *Firestone Financial Corp. v. Meyer*, 796 F.3d 822, 827 (7th Cir. 2015) the court reversed

a trial court that had dismissed a case on account that it had determined that a litigant's factual allegations that "that somehow Firestone committed orally to provide a half million dollars unsecured to what was essentially a comparative startup business" were not true. Thus, judge Valerie Manno-Schurr violated Plaintiff's right to a jury trial protected by Article I, Section 22 of the Constitution of the state of Florida.

50. Judicial disqualification is warranted when the judge questions the credibility of a party to the proceeding. ***Brown v. St. George Island, Ltd.*, 561 So. 2d 253 (Fla. 1990).**

"[J]udicial comments revealing a determination to rule a particular way prior to hearing any evidence or argument have been found to be sufficient grounds for disqualification."

***Hompson v. State*, 990 So. 2d 482, 490 (Fla. 2008).** S.S.

Department v. Department of Children & Families, 298 So. 3d 1184 (Fla. 3d DCA 2020):

The judge's commentary concerning the credibility of the petitioner and family members, before the completion of the petitioner's direct examination or presentation of any witnesses in support of her case, is sufficient to create in a reasonably prudent person

a well-founded fear that she would not receive a fair hearing before this judge.

51. “[D]isqualification is required where the trial judge’s comments suggested that she had prejudged the case.”

Miami-Dade Cnty. Expressway Auth. v. Elec. Transaction

Consultants Corp., 212 So. 3d 1059, 1060 (Fla. 3d DCA 2017)

[emphasis]. “When a judge enters into the proceedings and

becomes a participant or advocate, a shadow is cast upon

judicial neutrality.” *R.O. v. State*, 36 So. 3d 124, 126 (Fla. 3d

DCA 2010). “Frankly, we do not see how the language could be

interpreted in any other way.” *Chmilarski Fire and Machine &*

Marine Ins. Co., 340 So.3d 563, 566 (Fla. 3d 2022).

“That’s why it was dismissed. Because it was a malpractice suit. That was the basis of the motion to dismiss. You didn’t go through the medical malpractice the steps that needed to be taken. That was my recollection. It was while back but I think that was it. That is why I dismissed it”

cannot be interpreted any other way than an improper finding of fact by a judge on ruling on a motion to dismiss that

questions a party's credibility. This was not a so-called "interim mental impression." *Shir L. Grp., P.A. Carnevale*, 314 So. 3d 523, 525 (Fla. 3d DCA 2020). Through this remark judge Valerie Manno-Schurr effectively ruled on the motion to dismiss before Petitioner's turn to respond to the motion. "[T]he difference between an actual recollection and no recollection is the difference between actual impropriety and the appearance of impropriety." *Russell v. Lane*, 890 F.2d 947, 948 (7th Cir. 1989).

52. SECOND. Judge Valerie Manno-Schurr was overtly **sympathetic**; nay, judge Valerie Manno-Schurr was star-struck by Ricky Polston, ci-devant justice of the Florida supreme court's, presence at the Hearing of June 10, 2024 **(APPENDIX 2)**, and the Hearing of July 11, 2024 **(APPENDIX 3)**.

53. As already stated, attorney Ricky Polston, somehow managed to obtain, or some mysterious party gave him a Zoom link to the Hearing of **June 10, 2024**, for *Defendant Alm Global Inc. and Michael Mora's Motion to Dismiss Anti-SLAPP*

Motion to Dismiss or, Alternatively, for Summary Judgment”.

Plaintiff objects to his presence. (AFFIDAVIT of the Hearing

of June 10, 2024, p.7, ¶50). **Judge Valerie Manno-Schurr**

denies Petitioner’s objection, welcomes Ricky Polston

(AFFIDAVIT of the Hearing of June 10, 2024, p.7, ¶51),

and allowed “former justice Polston” to participate in the

Hearing (AFFIDAVIT of the Hearing of June 10, 2024, page 11,

¶99). **Note: Numbers below refer to paragraph (¶ ¶) numbers.**

50. José Yeyille, Esq.: “Yes. Please, may I move the court kindly to rule on my filings on the papers all the filings relevant filings in this case. **I also notice that justice Polston is present, and he wasn’t to be included in this Hearing. His Hearing is for July. Justice Polston should not be present in this Hearing.**”

51. Judge Valerie Manno-Schurr: **“This is an open forum. He is welcome to be here if he wishes.”**

65. Judge Valerie Manno-Schurr: “Your motion is granted. The complaint is dismissed with prejudice...”

66. Richard Polston, Esq.: **“Your honor.”**

67. Judge Valerie Manno-Schurr: “against your clients.”

68. Richard Polston, Esq.: **“If I may on behalf of The Bar.”**
69. Judge Valerie Manno-Schurr: **“Yes. Yes.”**
70. Richard Polston, Esq.: **“We have a motion to dismiss based upon immunity and failure to state a cause of action scheduled for a hearing on July 11th.”**
71. Judge Valerie Manno-Schurr: **“OK.”**
72. Richard Polston, Esq.: **“The Plaintiff has said here, and I think he has said in other proceedings, he’s been involved in that he is willing to accept the court’s ruling on the papers rather than appearing at a hearing.”**
73. Judge Valerie Manno-Schurr: **“Oh, I saw that.”**
74. Richard Polston, Esq.: **“If he is willing to do that The Bar is willing to wave the motion to transfer venue and have your honor rule on the merits on the motion to dismiss if that is OK with your honor and the Plaintiff.”**
75. Judge Valerie Manno-Schurr: **“OK. Are you where are you are you in Tallahassee?”**
76. Richard Polston, Esq.: “I am.”
77. Judge Valerie Manno-Schurr: “OK.”
-

99. Judge Valerie Manno-Schurr: **“OK. So, let’s get back to what Mr. Polston said, former Justice Polston.”**
-

54. Then, at the Hearing of July 11, 2024, for Defendant The Florida Bar’s “*Motion to Dismiss Counts I and II of the Amended Complaint*” (**APPENDIX 3. AFFIDAVIT of the Hearing of July 11, 2024**):

Note: Numbers below refer to paragraph (§ §) numbers.

17. Judge Valerie Manno-Schurr: “Ok. The motion is granted. Count I and Count II is granted with prejudice. **Mr. Polston. Justice Polston, can you please prepare an order for all the reasons stated on the record your Motion is granted.”**
-

26. Ricky Polston, Esq.: “There is nothing from us, your honor. I think the co-Defendants have a pending Motion for Attorney’s Fees pursuant to the Anti-SLAPP statute.”

27. Judge Valerie Manno-Schurr: **“Oh, perfect. Ok. Ok.”**

55. By improperly allowing “**Justice Polston**” to participate at the **Hearing of June 10, 2024**, where he was not invited,

against Plaintiff's objection, judge Valerie Manno-Schurr prejudged Plaintiff's case, and openly advocated in Justice Polston's favor. And judge Valerie Manno-Schurr not only prejudged Plaintiff's case, but Justin Polston's presence also favored Brendan Braverman's case against Plaintiff. The uninvited illustrious interloper's presence in the **Hearing of June 10, 2024**, not only set the bench astir, but it also allowed Justice Polston to whip out his charisma and spill his considerable, and abundant, *gravitas* all over the judge and Braverman rendering opposite counsel's ineffectual delivery of his canned drone speech a masterful piece of rhetoric.

56. One month later, at the Hearing for Defendant The Florida Bar's "*Motion to Dismiss Counts I and II of the Amended Complaint*", judge Valerie Manno-Schurr again demonstrated that she was still awestruck and spellbound by Justice Polston's charisma, and ready for another dose of Justice Polston's *gravitas*. Whether Justice Polston was reading a phone book or delivering Lincoln's Gettysburg Address, it was inconsequential to judge Valerie Manno-Schurr: "**Justice**

Polston, can you please prepare an order for all the reasons stated on the record your Motion is granted.” In addition, judge Valerie Manno-Schurr found **“Oh, perfect”** The Florida Bar’s co-Defendants’ pending Motion for Attorney’s Fees pursuant to the Anti-SLAPP statute.”

57. Recently, in ***Tundidor v. State*, 361 So. 3d 775 (Fla. 2023)**, the Florida supreme court was persuaded that a trial judge who manifested sympathy, or the appearance of sympathy for one of the attorneys warranted her disqualification based on similar facts to those in the present Motion for Disqualification.

58. The offending manifestations of sympathy in *Tundidor* consisted merely of “exchang[ing] [emphasis added] hugs with ...members of the prosecution team, one of whom was Assistant State Attorney Steven Klinger” in a previous famous case “who is also the prosecutor in Tundidor's case”, and that during “a status hearing in Tundidor's case” the trial judge ““sympathetically”” asked “Klinger how he was doing” and ““Klinger responded to the effect that ‘words cannot describe’ how he felt”” and that ““he was doing better than his mother,””

‘who follows the news.’ which Tundidor believed it to refer to the trial judge “and Mr. Klinger...commiserating over their shared disappointment at the outcome of that case.”” *Id.* at 776.

59. The *Tundidor* court decided the case on the strength of *Livingston v. State*, 441 So 2d 1083 (1983). It held that “the combination of” those “allegations...would create in a reasonably prudent person a well-founded fear of not receiving a fair and impartial proceeding.” *Id.* at 778.

60. THIRD. Over Petitioner’s objections judge Valerie Manno-Schurr issued orders dismissing Plaintiff’s case against Defendants ALM Global Inc. and Michael Mora, and Respondent The Florida Bar **without opinions**. (**APPENDIX 5**). This contemptible practice is what initially caused Petitioner’s quarrel against judge Valerie Manno-Schurr and the Third District Court of Appeal, and now Petitioner’s ongoing quarrel against the Florida supreme court.

61. The fact that judge Valerie Manno-Schurr refused to bother to issue orders of dismissals without any reference to

the facts, binding legal authority, and analysis of the case—which she has shown to have the ability to do for other parties (see **APPENDIX 8**)—is objective proof that would cause any reasonable and prudent persons, to fear that he had never gotten, did not get, and was not going to get, a fair trial presided by judge Valerie Manno-Schurr.

62. Petitioner and Petitioner’s counsel have noticed that even the poorest, most destitute indigent parties and minorities, except cases brought before the Supreme Court of the United States, are afforded written opinions in the federal courts. (See Constitutional Challenges, *infra*).

63. Judge Valerie Manno-Schurr’s remarks at the hearings **June 10, 2024**, and **July 11, 2024**, went far beyond mental impressions to become Plaintiff’s adversary. Like a reasonable prudent man, any honest judge would not be able to detect in judge Valerie Manno-Schurr even the hint of “cold neutrality” required “of an impartial judge.” *Dickenson* at 584, quoting from ***State ex. rel. Mickler v. Rowe*, 100 Fla. 1382, 131 So. 331 (1930).**

64. Recently, Petitioner’s counsel had the distinct honor of beholding a Judge in this Circuit kindly granting his motion for disqualification upon a small fraction of the prejudicial comments made by judge Valerie Manno-Schurr in this case.

B. Judicial Disqualification pursuant to the Constitution of the United States. Federal Case Law.

65. United States Constitution, Article VI commands:

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; **and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding. (emphasis).**

66. The First Amendment to the Constitution of the United States states in relevant part: “Congress shall make no law abridging the right of the people...**to petition the government for a redress of grievances.**” (emphasis).

67. Section 1 of the Fourteenth Amendment of the United States Constitution states in pertinent part:

“No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of

the United States; nor shall any State deprive any person of...**liberty**, or **property**, without **due process of law**; nor deny to any person within its jurisdiction the **equal protection of the laws**.”
(**emphasis**).

68. The judiciary is the government. “The federal guaranty of **due process** [and **equal protection**] extends to **state action through its judicial** as well as through its legislative, executive or administrative branch of government.” *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680 (1930)(**emphasis**).

69. First Amendment—Right to Petition the Government for a redress of Grievances (Right to Access the Courts)¹. By plagiarizing Respondent The Florida Bar’s

¹ “[T]he right to petition extends to all departments of the Government. The right of access to the courts is indeed but one aspect of the right of petition.” ***California Transport v. Trucking Unlimited*, 404 U.S. 508, 510 (1972)**. “[T]he Petition Clause protects the right of individuals to appeal to courts...established by the government for resolution of legal disputes. “[T]he right of access to courts for redress of wrongs is an aspect of the First Amendment right to petition the government.”” ***Borough of Duryea v. Guarnieri*, 564 U.S. 379, 387 (2011)**. “Courts, too, are bound by the First Amendment.” ***Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 326 (2010)**.

Final Order, and refusing to issue an opinion addressing the facts and binding law of the case, judge Valerie Manno-Schurr violated Petitioner's rights to access the courts and to petition the Government (the judiciary) for a redress of grievances protected by the First Amendment to the Constitution of the United States.

70. Fourteenth Amendment—Fair Trial². Trial court

² **“[T]he Due Process Clause has been implemented by objective standards that do not require proof of actual bias.”** *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 883 (2009)(**emphasis**). “A fair trial in a fair tribunal is a basic requirement of due process.” *In re Murchison*, 349 U.S. 133, 136 (1955). “[T]he question is whether, ““under a realistic appraisal of psychological tendencies and human weakness,”” the interest ““poses such a risk of actual bias or prejudgment that the practice must be forbidden if the guarantee of due process is to be adequately implemented.”” *Caperton v. A.T. Massey Coal Co.*, 129 S. Ct. 2252, 2255 (2009). “The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases.” *Marshall v. Jerrieco, Inc.*, 446 U.S. 238, 242 (1980).

“[I]t is not merely of no importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done...The answer to that question

judge Valerie Manno-Schurr plagiarized verbatim Respondent The Florida Bar's "Final Order" that she requested from Respondent The Florida Bar's counsel "**Justice Polston**". This unlawful delegation of judicial function to Respondent The Florida Bar's counsel "**Justice Polston**" violated Petitioner's rights to petition the judiciary for a redress of grievances protected by the First Amendment, and his rights to due process, property, and equal protection of the laws protected by the Fourteenth Amendment to the Constitution of the United States. **Abdication of judicial labor has been consistently denounced by the courts and the Supreme Court of the United States.**³

depends not upon what actually was done but upon what might appear to be done." REX v. Sussex Justices, EX•PARTE McCarthy [1924] 1 King's Bench 256, 259.

³ Court remanded case because trial court judge "adopted verbatim approximately 54 out of 55 pages of Andre's post-trial brief...including footnotes, citations and spelling and typographical errors." ***Andre v. The Bendix Corporation*, 774 F. 2d 786, 800-801 (7th Cir. 1985).**

***Bright v. Westmoreland County*, 300 F.3d 729, 732 (3rd Cir. 2004):**

Here, however, we are not dealing with *findings of fact*. Instead, we are confronted with a District Court *opinion* that is essentially a verbatim copy of the appellees' proposed opinion. This fact, even standing alone, would be enough for us to distinguish the holdings in *Anderson* [*v. Bessemer City, N.C.*, 470 U.S. 564, 572 (1985)]...[emphasis added]. We agree with the Court of Appeals for the Fourth Circuit's observation that:

"There is authority for the submission to the court of proposed findings of fact and conclusions of law by the attorneys for the opposing parties in a case, and the adoption of such of the proposed findings and conclusions as the judge may find to be proper.... But there is no authority in the federal courts that countenances the preparation of the opinion by the attorney for either side. *That practice involves the failure of the trial judge to perform his judicial function.*" ***Chicopee Mfg. Corp. v. Kendall Co.*, 288 F.2d 719, 725 (4th Cir. 1961).**

Judicial opinions are the core work-product of judges. They are much more than findings of fact and conclusions of law; they constitute the logical and analytical explanations of why a judge arrived at a specific decision. They are tangible proof to the litigants that the judge actively wrestled with their claims and arguments and made a scholarly decision based on his or her own reason and logic. When a court adopts a party's proposed opinion as its own,

71. Judge Valerie Manno-Schurr rubberstamped and plagiarized Respondent The Florida Bar’s “Final Order” **without**

the court vitiates the vital purposes served by judicial opinions. We, therefore, cannot condone the practice used by the District Court in this case. (emphasis).

“‘[T]he greater the extent to which the court’s eventual decision reflects no independent work on its part, the more careful we are obliged to be in our review.’” ***Ramey Construction Company, Inc. v. The Apache Tribe of the Mescalero Reservation*, 616 F. 464, 467 (10th Cir. 1980) (quoting *In re Las Colinas, Inc.*, 426 F.2d 1005, 1010 (1st Cir. 1970). **“This court cannot determine what, if anything, was decided.”** (*Ibid.*)(emphasis).**

In ***Jefferson v. Upton*, 560 U.S. 284, 294 (2010)** the court remanded the case “for the lower courts to determine on remand whether the state court’s factual findings warrant a presumption of correctness, and to conduct any further proceedings as may be appropriate in light of their resolution of that issue” because Respondent drafted the state court’s final order at that court’s request and that the order was adopted verbatim... and ““did not seek a proposed order from Petitioner””.

“We, too, have criticized courts for their verbatim adoption of findings of fact prepared by prevailing parties, particularly when those findings have taken the form of conclusory statements unsupported by citation to the record.” ***Anderson v. City of Bessemer City, North Carolina*, 470 U.S. 564, 572 (1985).**

opinion that conspicuously omits **any** reference to the **facts** and the **binding legal authority** that supposedly decided this case. **“A litigant is therefore susceptible to being denied her due process right of having an opportunity to be heard on each issue of her case... unless the...court... identifies with specificity what the rendering court allegedly decided and determines it was, indeed, actually decided.”** *Graham v. R.J. Reynolds Tobacco Co.*, 857 F.3d 1169, 1216 (11th. Cir. 2017).

72. Fourteenth Amendment—Equal Protection.

“Central both to the idea of the rule of law and to our own Constitution’s guarantee of equal protection is the principle that government and each of its parts remain open on impartial terms to all who seek its assistance.” *Romer v. Evans*, 517 U.S. 620, 633 (1996). It is the third time that judge Valerie Manno-Schurr issues an order without written opinion against Petitioner. **(APPENDIX 6)**. Since judge Valerie Manno-Schurr is willing and able to issue orders with written opinions to other litigants including “Finding of Facts and Analysis” and

“Applicable Law and Conclusion” (**APPENDIX 8**) with such attention to judicial labor and detail that judges Fernandez, Logue, and Miller of the third district court of appeal were impressed by judge Valerie Manno-Schurr’s “thoughtful and complete analysis of the facts” in the appeal for that case. *Perez v. C. H. Robinson Co.*, 345 So. 3d 693 (Fla 3d DCA 2022), Petitioner can only conclude that Valerie Manno-Schurr harbors animosity and is prejudiced and biased against Petitioner and Petitioner’s counsel.

73. Thomas Jefferson accused judges who refused to write opinions of incompetence. *Letter from Thomas Jefferson to William Johnson, 27 October 1822*. Johnson was an Associate Justice of the US Supreme Court from 1804 to 1834 nominated by Jefferson. Petitioner has never been persuaded by the purported wisdom of the aphorism “never attribute to malice what can be explained by incompetence.” Judge Valerie Manno-Schurr’s refusal to furnish a written opinion, **for the third time**, can only be attributed to malice and prejudice.

74. Fourteenth Amendment—Property⁴. Judge Valerie Manno-Schurr deprived Petitioner of his property without due process of law. Petitioner’s lawsuit for defamation against Respondent The Florida Bar is property.

CONCLUSION

75. The facts set forth above establish that judge Valerie Manno-Schurr’s is biased, and conducted herself as an **adversary** instead of an impartial judge towards Petitioner. Therefore, judge Valerie Manno-Schurr violated Petitioner’s constitutional rights to access the courts and to petition the Government (the judiciary) for a redress of grievances protected

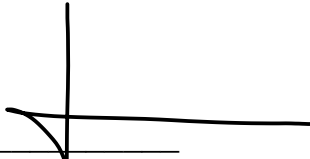
⁴ “[A] cause of action is a species of property protected by the Fourteenth Amendment’s Due Process Clause.” ***Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428 (1982)**. “[A] tort or a discrimination action” is “a property interest”. ***Logan*, n.5**. “A right of action to recover damages for an injury is **property**.” ***Angle v. Chicago, St. Paul, Minneapolis and Omaha Railway Co.* 151 U.S. 1, 19 (1894)**. (**emphasis**). “[W]e do not mean to suggest that transferability is essential to the existence of ““property”” or ““rights to property””. ***Drye v. United States*, 528 U.S. 49, 60 n.7 (1999)**.
to the Constitution of the United States.

by the First Amendment to the Constitution of the United States, and his right to due process, property, and equal protection of the laws protected by the Fourteenth Amendment to the Constitution of the United States, and his right to a jury trial protected by Article I, § 22 of the Constitution of the State of Florida.

76. Judge Valerie Manno-Schurr's impartiality might reasonably be questioned by Petitioner and any reasonable and prudent person. Petitioner is afraid that he did not receive, and will not receive a fair trial on account of the prejudice expressed by judge Valerie Manno-Schurr against Petitioner and Petitioner's counsel and in favor of the Respondent The Florida Bar.

77. Judge Valerie Manno-Schurr's conduct and remarks detailed in this Petition for Writ of Prohibition would lead a reasonably prudent person, and have indeed caused Petitioner to fear that Petitioner did not receive a fair trial, and will not receive a fair trial while judge Valerie Manno-Schurr presides over Petitioner's case. Therefore, for the foregoing reasons stated in

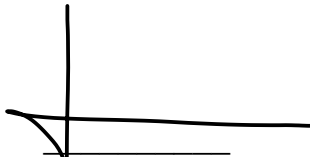
this Petition for Writ of Prohibition, Petitioner requests that
this court grant his Writ of Prohibition.



José Yeyille, Esq.
Florida Bar 885444
Attorney for Petitioner
joseyeyilleesq@yahoo.com
José Yeyille
5505 SW 135th Court
Miami, FL 33175

**CERTIFICATE OF SERVICE TO ATTORNEY FOR
RESPONDENT THE FLORIDA BAR, RICKY POLSTON,
OF THE LAW FIRM SHUTTS & BOWEN LLP
AND JUDGE VALERIE MANNO-SCHURR**

I, José Yeyille, Esq., counsel for Petitioner, hereby certify that on July 28, 2024, a true and correct copy of this Petition for Writ of Prohibition was sent to attorney for Respondent The Florida Bar, Ricky Polston, of the law firm Shutts & Bowen LLP, and judge Valerie Manno-Schurr through myfloridacourtaccess.com.



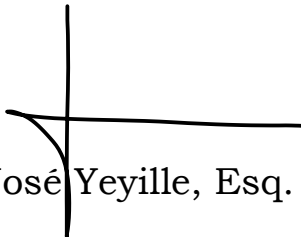
José Yeyille, Esq.
Florida Bar 885444
Attorney for Petitioner
joseyeyilleesq@yahoo.com
José Yeyille
5505 SW 135th Court
Miami, FL 33175

Ricky L. Polston
(FBN 648906)
SHUTTS & BOWEN LLP
215 S. Monroe St., Suite 804
Tallahassee, FL 32301-1858
(850) 241-1717
rpolston@shutts.com
Counsel for Defendant.
The Florida Bar

Judge Valerie Manno-Schurr
Dade County Courthouse
73 W. Flagler St.,
Room DCC 1111,
Miami, FL 33130-4763
vmannoschurr@jud11.flcourts.org
Flcourts.org

CERTIFICATE OF COMPLIANCE

I hereby certify that this petition complies with the
formatting requirements of Florida Rule of Appellate
Procedure 9.100(g) and Florida Rule of Appellate Procedure
P. 9.045(b). Font: Bookman Old Style. Words: 7803.



José Yeyille, Esq.