

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

EQUAL GROUND EDUCATION FUND, INC.,
et al.,

Plaintiffs,

v.

Case No. 2026-CA-000914

CORD BYRD, in his official capacity as
Florida Secretary of State, *et al.*,

Defendants.

_____ /

VERIFIED MOTION FOR DISQUALIFICATION OF JUDGE

The Secretary moves to disqualify the Honorable J. Lee Marsh from this case under Florida Rule of Judicial Administration 2.330(e). That rule provides for the disqualification of a judge when “the judge’s impartiality might reasonably be questioned.” Fla. R. J. Admin. 2.330(e). Code of Judicial Conduct Canon 3E(1) similarly provides that “[a] judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned.” The Secretary “reasonably fears” that he and the parties in the case might not receive a fair trial or hearing given the relationship between his counsel and Judge Marsh. Fla. R. J. Admin. 2.330(e)(1).

On May 6, 2026, the Secretary became personally aware that Mohammad O. Jazil, his lead counsel in this case, serves on Judge Marsh’s current re-election committee. He further learned that Mr. Jazil contributed to Judge Marsh’s re-election, co-hosted a fundraiser with one other person for the campaign on March 24, 2026, and participated in discussions related to the ongoing re-election effort.

“In order to decide whether th[is] motion is legally sufficient, ‘[a] determination must be made as to whether the facts alleged would place a reasonably prudent person in fear of not

receiving a fair and impartial trial.” *Mackenzie v. Super Kids Bargain Store*, 565 So. 2d 1332, 1334-35 (Fla. 1990) (quoting *Livingston v. State*, 441 So. 2d 1083, 1087 (Fla. 1983)). “The judicial inquiry should focus on the reasonableness of the affiant’s belief that the judge may be biased, and not the judge’s own perception of his or her ability to act fairly.” *Caleffe v. Vitale*, 488 So. 2d 627, 628 (Fla. 4th DCA 1986) (citing *Livingston*, 441 So. 2d at 1087). “The legal sufficiency of the motion is purely a question of law.” *Mackenzie*, 565 So. 2d at 1335.

The legal sufficiency question turns on several factors. In *Mackenzie*, the Florida Supreme Court explained that “[a]lthough a motion for disqualification based *solely* upon a legal campaign contribution is not legally sufficient, it may well be that such a contribution, in conjunction with some additional factor, would constitute legally sufficient grounds for disqualification upon motion.” 565 So. 2d at 1338 n.5. “The timing, nature, and extent of participation in a judge’s campaign are relevant factors to be evaluated when considering whether a motion for disqualification based on counsel’s campaign-related activities are legally sufficient or not.” *Rivera v. Bosque*, 188 So. 3d 889, 890 (Fla. 5th DCA 2016).

Of note, courts considering judicial disqualification have found it significant that an election campaign is ongoing during the case that the judge is presiding over. In *Caleffe*, for example, the court granted the petition to disqualify the circuit judge where “the wife’s attorney [was] actually running the judge’s *ongoing reelection campaign*.” 488 So. 2d at 629 (emphasis added). Per the Fourth District, “[c]ommon sense tells us that this alone would give rise to a reasonable fear on the petitioner’s part that a conflict of interest may exist.” *Id.*

Barber v. Mackenzie similarly quashed orders denying disqualification of the circuit judge. The Third District explained that “[i]n the present case the campaign committee is *currently active*” and so “[d]isqualification is required.” 562 So. 2d 755, 758 (Fla. 3d DCA 1990) (emphasis added).

Neiman-Marcus Group, Inc. v. Robinson also granted the petition to disqualify the circuit court judge. There, the Fourth District explained that “[i]t’s been held that an attorney’s involvement with the reelection committee of a judge’s *ongoing* campaign may be grounds for disqualification of the judge.” 829 So. 2d 967, 968 (Fla. 4th DCA 2002).

Two other cases are instructive: *Rivera v. Bosque* and *Garcia v. American Income Life Insurance Co.* In *Rivera*, the Fifth District granted the petition to disqualify the circuit judge, explaining that “counsel’s involvement of a significant nature in a *current, ongoing, or recently concluded reelection campaign* can constitute sufficient legal grounds for granting a motion to disqualify.” 188 So. 3d at 890-91 (emphasis added). More specifically, the motion for disqualification in *Rivera* alleged that an attorney was not only “involved in the trial judge’s current, ongoing reelection campaign,” but also “was a member of the host committee for a reception in support of the judge’s reelection.” *Id.* at 890. Those allegations were found to be sufficient. *Id.* at 891. By contrast, the motion to disqualify in *Garcia* concerned a campaign that happened “four years prior to the motion to disqualify,” which the Third District found to be “too remote in time to engender a well-grounded fear” that the parties would not receive a fair trial or hearing. 664 So. 2d 301, 302 (Fla. 3d DCA 1995).

Here, there’s an ongoing campaign. There are also contributions and other support for that campaign.

Based on his assessment of the facts, review of the relevant rule, and consideration of the relevant cases, the Secretary files this motion to disqualify. The motion is timely under the circumstances. No other motions to disqualify have been filed in this proceeding under Rule 2.330, so the Court’s review of this motion is limited to whether it is “legally sufficient.” *Mackenzie*, 565 So. 2d at 1334. And this request is being made in good faith and not for purposes of delay, nor should

the request prejudice the parties or this Court. Indeed, the Secretary only recently accepted service of the complaint, which is one of three such complaints challenging Florida's adoption of its most recent congressional plan. Moreover, no scheduling order has been issued in any of the three cases.

WHEREFORE, the Secretary respectfully requests that Judge Marsh be disqualified from this matter and that a new trial judge be assigned to this case.

VERIFICATION

In accordance with Rule 2.330(c)(3) and pursuant to section 92.525, Florida Statutes (2026), I declare under penalty of perjury that I have read the foregoing motion and that the facts stated in it are true.

/s/ Cord Byrd
Cord Byrd
Florida Secretary of State

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CERTIFICATE OF GOOD FAITH

In accordance with Rule 2.330(c)(5), I certify that this motion and all of the statements herein are made in good faith.

/s/ Mohammad O. Jazil
Mohammad O. Jazil

CERTIFICATE OF CONFERRAL

Pursuant to Florida Rule of Civil Procedure 1.202 and this Court's Local Rule 2.3, I certify that on May 5, 2026, I conferred with Frederick S. Wermuth by telephone to inform him about the facts underlying this motion. On May 6, 2026, I conferred with Mr. Wermuth by telephone regarding his position on the motion. Counsel for Plaintiffs oppose the relief requested in this motion.

/s/ Mohammad O. Jazil
Mohammad O. Jazil

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Dated: May 6, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 6, 2026, a true and correct copy of the foregoing has been furnished to all counsel of record by electronic mail via the Florida Courts E-Filing Portal:

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Pursuant to Rule 2.330(d), I also certify that a true and correct copy of the foregoing will be served on the Court via chambers email concurrently with the filing of this motion.

/s/ Mohammad O. Jazil
Mohammad O. Jazil