

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

CASE NO.: 50-2018-CA-002317

WALTER E. SAHM and
PATRICIA SAHM,
Plaintiffs,

EMERGENCY MOTION:
MANDATORY DISQUALIFICATION

-against-

BERNSTEIN FAMILY REALTY, LLC and
ALL UNKNOWN TENANTS.

Defendants.

AFFIDAVIT FOR
EMERGENCY MOTION:
MANDATORY DISQUALIFICATION

COMES NOW, Petitioner Kevin R. Hall, an Intervenor under law, proceeding pro se and being duly Sworn under oath and penalties of perjury to the contents of this motion and files this Emergency motion for Intervention and for a Third motion for Mandatory Disqualification of Judge Parnofello pursuant to Florida Statutes Sec. 38.10 and Florida Rules of Judicial Administration Rule 2.330, disqualification of

trial judges, and states that Circuit Judge Parnofello has demonstrated prejudicial conduct, and bias by objectively reasonable standards and committed other misconduct and violations of statutory authority, rules and duties such that the Petitioner has a reasonably objective fear that a fair trial can not be had before Judge Parnofiello who shall be mandatorily disqualified according to law based on the following:

1. I am an Intervenor person who has made multiple appearances in this case and filed a formal Notice of Appearance an an Intervenor under Florida Rule 1.230 on June 6, 2023 under DE No.209 and correction on June 7, 2023 DE No. 210 and now file this Sworn Statement and Affidavit under oath and penalties of perjury to both Intervene and file a Third Mandatory Disqualification of Judge Parnofiello under FS Sec. 38.10 and under Fl. R. Gen. Prac. Jud. Admin. 2.330 and applicable Judicial Rules and the US Constitution and Florida Constitution and will seek leave under Rule to Vacate all Orders and Decisions of Judge Parnofiello herein.
2. Kevin R. Hall, as an Intervenor, states that I will not receive a fair trial or hearing because of specifically described prejudice or bias of Judge Parnofiello and that this fear is both reasonable, objective and supported by other Witness Observers to the conduct of Judge Parnofiello.

3. I am a listed Manager of Bernstein Family Realty, LLC listed and active with the Florida Secretary of State and file in my individual capacity with rights as Manager affected by the proceedings and Judgment.
4. My rights as intervenor are immediate, direct and non-contingent as I have contractual rights as Manager to funds for my duties in the amount of \$75,000.00 where equity in the subject property now set for Sale by Judge Parnofiello are directly impacted.
5. Under Rule 1.230 of the Florida Rules of Civil Procedure , “anyone claiming an interest in pending litigation *may at any time be permitted to assert a right by intervention*[-].” .
6. “It is well-settled that leave to intervene shall be given freely when justice so requires and is greatly favored in Florida. See National Wildlife Fed’n Inc. v. Glisson, 531 So.2d 996, 997 (Fla. 1st DCA 1988) (“**Intervention should be liberally allowed.**”); Miracle House Corp. v. Haige, 96 So.2d 417, 418 (Fla. 1957). “**A proposed intervenor’s interest may be in the entire suit, or some part thereof.**” See Glisson, 531 So. 2d at 998.
7. “Intervention should be allowed when the intervenor claims an interest in the matter in litigation, and ““of such a direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment.”” Litvak v. Scylla Properties, LLC, 946 So. 2d 1165, 1172

(Fla. 1st DCA 2006)(quoting Union Cent. Life Ins. Co. v. Carlisle, 593 So.2d 505, 507 (Fla. 1992)).

8. In Miracle House, the Florida Supreme Court found “The determination of the rights of the appellees would have a direct effect on the rights of the appellant under its contract. All the parties and the res were before the court; and in view of the aim of the rules to allow liberal joinder of parties and claims and the policy of equity to grant complete relief and avoid a multiplicity of suits, we think the lower court had full authority to allow the intervention and decide the issue therein made.” *Miracle House Corporation v. Haige*, 96 So. 2d 417 (Fla. 1957).
9. Back on Nov. 21, 2023 I had filed an Emergency motion in this action under DE No. 220 seeking to Cancel or Continue an improperly scheduled UMC Hearing seeking to Substitute Charles Revard as Guardian as Plaintiff in the case and allowing Robert Sweetapple and his firm to litigate once again for the Plaintiff in this action.
10. Said motion showed by Intervenor status for this action and Interested party status from the Related GA-MH cases of Patricia Sahm, Sr. and specifically established grounds for Intervention as my rights to payment and equity in the subject property of the foreclosure as Manager of BFR, LLC herein were impacted by the ongoing fraud and bad faith litigation and such motion

further showed that no motion to strike or oppose my appearance as Intervenor had been made and no Order was issued striking or denying my appearance as Intervenor.

11. In fact, at the Nov. 21, 2023 appearance Judge Nutt who was presiding at that time was very courteous, polite, professional and addressed me in such manner on the Record as an Intervenor consistent with the obligations under the Judicial Canons and merely noted the last minute timing of my motion with a lot of information and proceeded to deny my motion yet at no time struck my appearance as an Intervenor or denied my right to intervene and in fact had me Served as by the Sweetapple firm for the Plaintiff.

12. In fact, the Official Docket of this case has it listed as **NOTICE OF SERVICE OF ORDER ON INTERVENOR/INTERESTED PARTY KEVIN R. HALL under DE No. 223 on December 1, 2023.**

13. Larrain Troncoso v. Ossandon Larrain, 273 So. 3d 1117 (Fla. 3d DCA 2019) (reversing an order entered without and hearing and without findings). See also Farese v. Palm Beach Partners, Ltd., 781 So. 2d 419 (Fla. 4th DCA 2001) (reversing denial of motion to intervene where court failed to conduct an evidentiary hearing to determine movant's interest in the litigation); Ownby v. Citrus Cty., 13 So. 3d 136 (Fla. 5th DCA 2009) (reversing order denying intervention where intervention appeared to be appropriate, trial

court gave no reason for denying intervention, and no valid reason was apparent on the existing record).

14. Because I have specific rights reasonably impacted by the illegal Orders of Judge Parnofiello dated March 6, 2025, March 7, 2025, March 18, 2025 and March 24, 2025 intervention is proper and shall be granted by a non-conflicted Judge as Judge Parnofiello should be mandatory Disqualified and has proceeded illegally since prior motions for Disqualification were legally sufficient and he has thus acted in excess of his jurisdiction.

MANDATORY DISQUALIFICATION

15. As intervenor I, Kevin Hall, state sworn under oath and in good faith that I will not receive a fair trial or hearing before Judge Parnofiello because of specifically described prejudice or bias of Judge Parnofiello and that this fear is both reasonable, objective and supported by other Witness Observers to the conduct of Judge Parnofiello.
16. The conduct and actions of Judge Parnofiella which support this mandatory Disqualification occurred on or about March 7, 2025 to the present including but not limited to actions under DE No. 316, 324 and No. 329 thus making this motion for mandatory Disqualification timely under the law as within 20 days.

17. This is a Third motion for mandatory Disqualification of Judge Parnofiello under FS 38.10 and Rule 2.330.

18. Under Florida Statutes Sec. 38.10, “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.”

19. This motion for mandatory disqualification is also filed under Florida Rules of Judicial Administration Rule 2.330, disqualification of trial judges,

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

21. Judge Parnofiello is a Circuit judge in the 15th Judicial Circuit and this rule thus applies to his office.

22. Petitioner further moves for mandatory disqualification and to otherwise disqualify Judge Parnofiello for mandatory grounds provided by the Florida rules, statutes, laws, Florida Code of Judicial Conduct and US Constitution and Florida Constitution.

23. The motion is legally sufficient as it is in writing, filed in good faith, is timely under the law, establishes reasonable grounds to believe I can not receive a fair trial before Judge Parnofiello and is certified in good faith and sworn to under oath and served properly and is legally sufficient in all respects.
24. Judge Parnofiello must now be immediately Disqualified from all matters herein.
25. In granting the Order of Sale under DE No. 316 Judge Parnofiello knows the Order is illegal as issued in the name of Deceased Walter Sahm and Deceased persons can not appear before the Court.
26. Judge Parnofiello knows Walter Sahm passed on or around January of 2021 and Robert Sweetapple never filed a required Suggestion of Death and in fact proceeded before Judge Kastranakes as if Walter Sahm was still alive committing fraud upon the court and parties.
27. In issuing the illegal Order of Sale Judge Parnofiello knows he prejudged matters on a Rule 1.540 without the motion being Heard and failed to act on the fraud alleged by licensed attorneys Sweetapple and Garcia in a manner consistent with due process specifically making prejudicial findings against me without ever calling me as a Witness or finding out why I was not called as a Witness after I attempted to be heard and intervene.

28. I have no knowledge of why Inger Garcia did not call me as a witness and generally have no knowledge of why she either did or didn't do most all things as there was no coordinated scheme contrary to false filings without allowing me to testify or be heard.
29. Judge Parnofiello knows the Final Judgment was falsely taken in the name of Deceased Walter Sahm and his action in trying to reset a Sale without a proper hearing or opportunity to be heard is prejudicial and biased when I as a Witness or Intervenor was available and trying to be heard.
30. Judge Parnofiello knows and should know his prior denials of my first and second motions mandatory disqualification exceed his authority under law and rule.
31. Judge Parnofiello illegally denied Disqualification and violated mandatory Court Rule and law of the Florida Supreme Court as follows: Fl. R. Gen. Prac. Jud. Admin. 2.330 DISQUALIFICATION OF TRIAL JUDGES (h) Determination - Initial Motion. Rule 2.330 -“The judge against whom an initial motion to disqualify under subdivision (e) is directed may determine only the legal sufficiency of the motion and shall not pass on the truth of the facts alleged. 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.”.

32. Judge Parnofiello knows and has reason to know if he reviewed the record there is no proof of Service of the Third Amended Complaint upon BFR, LLC in the Record and thus No Personal Jurisdiction and no proper Judgment while there is direct proof that the Sweetapple firm filed a False Clerk's default against BFR, LLC then used to take an improper Summary Judgment and Final Judgment in the name of deceased Walter Sahm without any Suggestion of Death file nor any Notice to the Court or motion for Substitution.
33. Judge Parnofiello knows by his own Order he granted improper charging lien against the company I manage as he knows Inger Garia did not prevail to grant any fees as Judge Parnofiello either right or wrong found her in fraud.
34. This knowing bias by the Judge has not been corrected despite Eliot Bernstein filing a motion to correct.
35. Judge Parnofiello who continues in actions showing bias, prejudice and either incompetence under law and US and Florida Constitution or in deliberate violation knows or should know sanctions previously issued were improper and without due process notice and further the Court has no jurisdiction over BFR, LLC and Judge Parnofiello continues to move and

issue Orders in the name of Deceased Walter Sahm and proper parties are not before the Court.

36. "But '[a] decision whether or not to vacate a void judgment is not within the ambit of a trial court's discretion; if a judgment previously entered is void, the trial court must vacate the judgment.'" Id. (quoting *Wiggins v. Tigrent, Inc.*, 147 So. 3d 76, 81 (Fla. 2d DCA 2014)). See *Fantauzzi v. Fleck*, 385 So. 3d 1098, 1102 (Fla. Dist. Ct. App. 2024).
37. Judge Pornofiello knows and should know he unlawfully took away rights of the company BFR, LLC on the rule 1.540 motion as an improper sanction and prejudged both the 1.540 and expressly prejudged a motion under Rule 1.530 before ever filed or heard all in violation of due process and showing bias and prejudice supporting a fair and reasonable and objective fear that a fair trial can not be had before Judge Pornofiello.
38. "A violation of the due process guarantee of notice and an opportunity to be heard renders a judgment void." *Viets v. Am. Recruiters Enters., Inc.*, 922 So. 2d 1090, 1095 (Fla. 4th DCA 2006). Under rule 1.540(b)(4), "On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, decree, order, or proceeding for the following reasons: ... that the judgment, decree, or order is void." A party is denied due process when a court determines matters not noticed for

hearing or awards relief not sought by the pleadings. See *Wanda I. Rufin, P.A. v. Barga*, 294 So. 3d 916, 918 (Fla. 4th DCA 2020) (concluding that the trial court denied an attorney due process when the court awarded attorney's fees against the attorney where "[n]othing in the notice of hearing put [the attorney] on notice that the court would consider attorney's fees as a sanction against her personally at the hearing"). See, *Fantauzzi v. Fleck*, 385 So. 3d 1098, 1102 (Fla. Dist. Ct. App. 2024).

39. "A trial court commits reversible error when it grants a motion for sanctions that fails to comply with the safe harbor provision in section 57.105(4). *Rivera Chiropractic, Inc. v. Rosello*, 336 So. 3d 409, 413 (Fla. 2d DCA 2022) (citing *Lago v. Kame By Design, LLC*, 120 So. 3d 73, 74-75 (Fla. 4th DCA 2013)). See *Fantauzzi v. Fleck*, 385 So. 3d 1098, 1103 (Fla. Dist. Ct. App. 2024).
40. Judge Parnofiello knows he did not ferret out conflicts of interest and uphold Judicial canons and must now be disqualified as he has acted illegally since denying my first motion to disqualify.

WHEREFORE, an immediate Order of Mandatory Disqualification of Judge Parnofiello should issue by Florida Statute 38.10 and for such other and further relief as may be just and proper.

CERTIFICATE OF GOOD FAITH

I, Kevin R. Hall, an Intervenor and interested person herein, hereby Certify that this motion is made in good faith and not frivolous under law.

VERIFICATION

I, Kevin R. Hall, an Intervenor, declares under oath and penalties of perjury that I have read the foregoing Petition for Mandatory Disqualification of Judge Parnofiello and that the facts stated therein are true to the best of my own knowledge except any matter stated upon information and belief and as to those matters to the best of my knowledge and belief, I believe the same to be true.

Dated: March 27, 2025

/s/ **Kevin R. Hall, Pro Se Intervenor**

Manager, BFR LLC

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that Judge Parnofiello was Served under law at CAD-DivisionAO@pbcgov.org and all parties requiring service were served electronically via the Florida ECourt filing portal on this 27th day of March, 2025.

Dated: March 27, 2025

/s/ Kevin R. Hall, Pro Se Intervenor

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