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

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

Plaintiffs,

v.

CORD BYRD, in his official capacity as Florida Secretary of State, the FLORIDA SENATE, and the FLORIDA HOUSE OF REPRESENTATIVES,

Defendants.

Case No. 2026 CA 000914

PLAINTIFFS' RESPONSE IN OPPOSITION TO THE SECRETARY'S MOTION TO DISQUALIFY

As the Florida Supreme Court has recognized, Florida's disqualification rules are "vulnerable to the possibility of judge-shopping." *Brown v. St. George Island, Ltd.*, 561 So. 2d 253, 256 n.5 (Fla. 1990). And that is the only explanation for the Secretary's otherwise-inexplicable motion to disqualify. Indeed, the Secretary advances the—truly bizarre—theory that *he* might not receive a fair trial because of *his own* attorney's role in Judge Marsh's re-election campaign.[1]

Disqualification is warranted only if "[t]he facts alleged in the motion . . . show a well-grounded fear that *the movant* will not receive a fair trial at the hands of the judge." *MacKenzie v. Super Kids Bargain Store, Inc.*, 565 So. 2d 1332, 1334 (Fla. 1990) (emphasis added). In other words, the question is whether Mr. Jazil's involvement in the re-election campaign "give[s] rise to

[1] The motion alleges that Mr. Jazil "serves on Judge Marsh's current re-election committee. . . . 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 reelection effort." Mot. 1.

a reasonable fear" that the Secretary—not Plaintiffs—will not receive a fair trial. *Caleffe v. Vitale*, 488 So. 2d 627, 629 (Fla. 4th DCA 1986). Indeed, the Secretary's own cases repeatedly make this point. *See Rivera v. Bosque*, 188 So. 3d 889, 891 (Fla. 5th DCA 2016) (asking whether "a reasonable person in the movant's position" would "fear that he will not receive impartial, fair treatment"); *Caleffe*, 488 So. 2d at 629 (same); *Barber v. Mackenzie*, 562 So. 2d 755, 757 (Fla. 3d DCA 1990) (same); *Neiman-Marcus Grp., Inc. v. Robinson*, 829 So. 2d 967, 968 (Fla. 4th DCA 2002) (per curiam) (same); *see also* Fla. R. Gen. Prac. & Jud. Admin. 2.330(e)(1) (requiring that the movant "reasonably fears that he or she will not receive a fair trial or hearing because of specifically described prejudice or bias of the judge").

The Secretary's motion fails at the outset because "[t]he fear of judicial bias must be objectively reasonable." *Shuler v. Green Mountain Ventures, Inc.*, 791 So. 2d 1213, 1215 (Fla. 5th DCA 2001). And it is patently unreasonable to believe that one's own lawyer's contribution to, or participation in, a judge's re-election campaign would be held *against* them. Indeed, the Secretary has not identified, nor are Plaintiffs aware of, any case that has so held. To the contrary, in each of the cases the Secretary cites regarding disqualification in the context of a counsel's participation in the presiding judge's re-election campaign committee, the party seeking disqualification did so because its *opponent's* lawyer participated in the judge's campaign. *See, e.g.*, *Barber*, 562 So.2d at 757–58 (affirming disqualification because of reasonable fear that judge would "entertain a bias in favor of the side represented by her Committee members"). The Secretary has provided no countervailing authority, nor has he provided any specific factual basis to support his counterintuitive supposition of prejudice. Instead, he simply recites the existence of his position on the re-election committee without any explanation whatsoever of how this translates to reasonable fear of bias. *See* Fla. R. Gen. Prac. & Jud. Admin. 2.330(c)(2) (motion to disqualify

shall "allege *specifically* the *facts and reasons* upon which the movant relies as the grounds for disqualification") (emphasis added). For that reason alone, the motion should fail.

Even if the Secretary had an objectively reasonable ground to fear that he would not receive a fair trial because of his counsel's support of Judge Marsh's campaign—and he does not—Mr. Jazil's involvement in Judge Marsh's campaign does not rise to the level that would warrant disqualification. As the Judicial Ethics Advisory Committee has recognized, judges must designate many campaign activities to "committees of responsible persons," Jud. Ethics Advisory Comm. Op. 2014-09, and "[e]xperience tells us that attorneys are often among those designated." *Id.* Florida courts have expressly held that a lawyer's campaign contribution, service on a re-election committee, or even co-chairing a single fundraising event—the precise roles Mr. Jazil holds with respect to Judge Marsh's campaign—do *not* constitute legally sufficient grounds for disqualification. *See MacKenzie*, 565 So. 2d at 1335 (a "campaign contribution to the political campaign of the trial judge . . . is not a legally sufficient ground" for disqualification); *Zaias v. Kaye*, 643 So. 2d 687, 687 (Fla. 3d DCA 1994) ("serv[ice] on a judge's campaign committee" does not require disqualification); *Cini v. Cabezas*, 343 So. 3d 1282, 1285 (Fla. 3d DCA 2022) (allegation that law firm co-hosted single re-election fundraiser for judge was legally insufficient for disqualification). Thus, a motion to disqualify must typically allege something more than participation in, or donation to, a campaign. Jud. Ethics Advisory Comm. Op. 2014-09; *see also MacKenzie*, 565 So. 2d at 1338 n.5. For that reason, the Secretary' s invocation of the Third District Court of Appeals' decision in *Barber*, 562 So. 2d 755—which was decided prior to the Florida Supreme Court's decision in *MacKenzie*—offers little guidance here.

Rivera v. Bosque, too, explained that that "counsel's involvement of a significant nature in a current, ongoing, or recently concluded re-election campaign can"—not must—"constitute

sufficient legal grounds for granting a motion to disqualify," including when counsel is the "campaign treasurer," 188 So. 3d at 890–91 (citing *Neiman-Marcus*, 829 So. 2d at 968), or where counsel is the campaign co-chair, *id.* (citing *Caleffe*, 488 So. 2d at 628). The Secretary has not alleged Mr. Jazil holds any such role here. And as the concurrence in *Bosque* points out, the motion in *Bosque* alleged more than mere campaign participation—it "alleged specific acts of preferential treatment by the trial judge." *Id.* at 891 (Cohen, J., concurring specially). No such allegations are present here.

Caleffe is similarly distinguishable because the attorney in question was "actually running" the judge's campaign and had "requested a hearing before the judge on a motion for contempt, as opposed to the apparent customary hearing before a general master." 488 So. 2d at 629. In other words, the attorney was personally in charge of the judge's re-election campaign and had sought a procedurally unusual hearing before the judge. This case is not remotely comparable.

As an underdeveloped aside, the Secretary's motion also implies that *Plaintiffs* might not get a fair shake before this Court. *See* Mot. 1 (speculating that "the parties in the case might not receive a fair trial"). But Plaintiffs harbor no doubts that this Court can and will be fair and impartial. Nor would the public have any reason to doubt this Court's impartiality when the matter has been disclosed and Plaintiffs themselves have not objected to the issue. Indeed, the only prejudice Plaintiffs face is the delay imposed by the Secretary's baseless motion and any delay that might occur as a result of assignment to a new judge.

In short, there are no grounds for the Secretary to fear that he will not receive a fair trial here. And in fact, disqualification may prejudice Plaintiffs' ability to receive expeditious relief on their time-sensitive motion for temporary injunction. For all these reasons, this Court should deny the Secretary's motion.

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Respectfully submitted,

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** Pro hac vice application pending*
*** Pro hac vice application forthcoming*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 7, 2026 I electronically filed the foregoing using the State of Florida ePortal Filing System, which will serve an electronic copy to all counsel of record and counsel in the Service List below.

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