VOLUME 1

FROM PAGE: 001

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NO. 25-_____ October Term, 2026

In The

Supreme Court of the United States

FRANK POLO (Pro Se),

Applicant,

v.

THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR MIAMI-DADE COUNTY, FLORIDA, and MERLIN HERNANDEZ,

Respondents.

APPENDIX

Frank Polo
1475 SW 8TH ST. APT 411,
MIAMI, FL. 33135
Frank.Polo@msn.com
PETITIONER

Fla. 3D DCA Case No. 12-17787

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APPENDIX A

Third DCA Order Denying Petition for Common Law Writ of Mandamus, April 7, 2026.

IN THE DISTRICT COURT OF

APPEAL

OF FLORIDA

THIRD DISTRICT

April 7, 2026

Frank E. Polo,

Petitioner(s),

v.

The Eleventh Judicial Circuit Court of Florida in and for Miami-Dade County, Florida, et al.,

Respondent(s).

3D2026-0507

Trial Court Case No. 12-17787-FC-04

Upon consideration of the pro se "Petition for Common Law Writ of Mandamus," and the Response and Reply thereto, it is ordered that said Petition is hereby denied.

SCALES, C.J., and MILLER and GOODEN, JJ., concur.

A True Copy
ATTEST

3D2026-0507 4/7/26
Mercedes M. Prieto, Clerk
District Court of Appeal
Third District

CC: Irech Marie Colon Morales
Patricia Lynn Gladson
Merlin Hernandez
Luis Gonzalo Montaldo
Hon. Spencer Multack
Frank E. Polo
Manuel A. Segarra, III

GD

APPENDIX B

Third DCA Order Denying Motion for Rehearing and Request for Written Opinion, April 23, 2026.

IN THE DISTRICT COURT OF

APPEAL

OF FLORIDA

THIRD DISTRICT

April 23, 2026

Frank E. Polo,

Petitioner(s),

v.

The Eleventh Judicial Circuit of Florida in and for Miami-Dade County, Florida, et al.,

Respondent(s).

3D2026-0507

Trial Court Case No. 12-17787-FC-04

Upon consideration, pro se Petitioner's "Motion for Rehearing and Request for Written Opinion" is hereby denied.

SCALES, C.J., and MILLER and GOODEN, JJ., concur.

A True Copy
ATTEST

3D2026-0507 4/23/26
Mercedes M. Prieto, Clerk
District Court of Appeal
Third District

CC: Irech Marie Colon Morales
Patricia Lynn Gladson
Merlin Hernandez
Luis Gonzalo Montaldo
Hon. Spencer Multack
Frank E. Polo
Manuel A. Segarra, III

NS

APPENDIX C

Amended Petition for Common Law Writ of Mandamus, filed March 27, 2026.

IN THE DISTRICT COURT OF APPEALS OF FLORIDA
THIRD DISTRICT

FRANK E. POLO
Petitioner, Pro-Se

v.

THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR MIAMI-DADE COUNTY, FLORIDA
Respondent

3d DCA Case No. 3D2026-0507

Lower Ct. Case No. 2012-017787-FC-04

§ I - PETITIONER'S MOTION FOR LEAVE TO FILE CORRECTED PETITION FOR WRIT OF MANDAMUS AND TO DEEM CORRECTED PETITION FILED NUNC PRO TUNC

Petitioner, Frank E. Polo, pro se, moves for leave to file a corrected Petition for Writ of Mandamus and to deem the corrected petition filed nunc pro tunc to the date of the original filing, and states:

1. On **March 10, 2026**, Petitioner filed the Petition for Writ of Mandamus in this proceeding.

2. After filing, Petitioner discovered that the filed petition inadvertently included erroneous text copied from an older, unrelated petition.

3. Specifically, the material appearing **before the section titled "PREFACE"** was mistakenly carried over from a prior petition and does not belong to the present proceeding.

IN THE DISTRICT COURT OF APPEALS OF FLORIDA
THIRD DISTRICT

EXHIBIT 1

FRANK E. POLO
Petitioner, Pro-Se

3d DCA Case No. 3D2026-0507

Lower Ct. Case No. 2012-017787-FC-04

v.

THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR MIAMI-DADE COUNTY, FLORIDA
Respondent

AMENDED PETITION FOR COMMON LAW WRIT OF MANDAMUS

Lower Tribunal Judge: Hon. Spencer Multack

PETITION FOR COMMON LAW WRIT OF MANDAMUS

§ I - PREFACE

This petition seeks a writ of mandamus directing the lower tribunal to implement the disqualification of the presiding judge pursuant to Florida Rule of General Practice and Judicial Administration 2.330.

Petitioner filed a verified motion to disqualify the presiding judge. The motion was served on January 5, 2026, but the clerk refused to docket the motion citing a filing-restriction order. No order denying the motion was entered within thirty days of service.

Under Rule 2.330, the motion therefore became deemed granted by operation of law, and reassignment of the case is required.

This petition does not seek review of a judicial ruling. Rather, it seeks to compel the implementation of the rule after the disqualification occurred automatically.

§ II - JURISDICTION

This Court has jurisdiction under *Fla. Const. Art. V, Sec.* 4(b)(3), Fla. R. App. P. 9.100, and pursuant to Fla. R. App. P. 9.030(b)(3);

Fla. R. App. P. 100 grants this Court Original Jurisdiction to issue writs of Mandamus.

Courts throughout Florida, including this Court, have traditionally grant writ of mandamus when public servants, as Judge Multack and The Clerk of Courts, breach their ministerial duties. *See Mattson v. Kolhage,* 569 SO. 2D 1358 (FLA. 3D DCA 1990). (finding that the "clerk is obliged to accept motions presented for filing in pending cases.").

In *Fischer v. Knuck, 497 SO. 2D 240 (FLA 1986)*, the Fla. Sup. Ct. has found a ministerial duty of a judge to reduce his oral ruling to writing.

> When a judge has heard the testimony and arguments and rendered an oral ruling in a proceeding, the judge retains the authority to perform the ministerial act of reducing that ruling to writing. [Citation Omitted]. However, any substantive change in the trial judge's ruling would not be a ministerial act.
>
> *Id* at 243.

§ III - STANDARD OF REVIEW

Mandamus is an "extraordinary remedy" used to compel a public official to perform a ministerial duty. ***Sutton v. State***, 975 So. 2d 1073, 1076 (Fla. 2008). To be entitled to a writ of mandamus, a petitioner must demonstrate: (1) a **clear legal right** to the requested relief; (2) an **indisputable legal duty** on the respondent to perform the requested act; and (3) the **absence of any other adequate remedy**. *See* ***Huffman v. State***, 813 So. 2d 10, 11 (Fla. 2000).

A duty is "ministerial" only when it is "positively imposed by law" and "defines it with such precision and certainty as to leave nothing to the exercise of discretion or judgment." ***Griffin Windows & Doors, LLC v. Pomeroy***, 344 So. 3d 527, 529 (Fla. 3d DCA 2022) (internal citations omitted). Mandamus may only be used to enforce a right that is already clearly established; it cannot be used to establish such a right in the first instance. **Ryzhov v. Morales**, 386 So. 3d 1024, 1027 (Fla. 3d DCA 2024).

The standard of review for a trial court's order dismissing a petition for writ of mandamus is ***de novo***. **Barnett v. Antonacci**, 122 So. 3d 400, 403 (Fla. 4th DCA 2013). De novo review is likewise appropriate where the entitlement to mandamus turns on an interpretation of law. ***See*** **Artivest Brokerage, LLC v. United States**, 559 F. Supp. 3d 1332, 1338 (CIT 2022); ***see also*** **Rosado v. State**, 129 So. 3d 1104, 1106 (Fla. 5th DCA 2013).

§ IV - THE PARTIES

1. The Petitioner, Frank E. Polo (hereinafter the “Father”, or the “Appellant.”)

1. The Respondent, Merlin Hernandez (hereinafter the “Mother”, or “Appellee”).

2. The Respondent, Hon. Spencer Multack, (hereinafter "Judge Multack").

3. The Respondent, Juan Fernandez-Barquin - MIAMI-DADE CLERK OF THE COURTS (hereinafter the "Clerk of the Courts" or the "Clerk").

§ V - STATEMENT OF THE CASE AND THE FACTS

FILING RESTRICTION ORDER

2. On October 24, 2017, the lower tribunal entered an order stating that Petitioner:

> "shall not file any further pleadings, motions or letters to the Court in this matter without having the same reviewed by a member of the Florida Bar."
>
> (App. Ex. K.)

3. The order does not direct the clerk to reject filings or block electronic submissions.

PETITIONER WAS PREVIOUSLY UNABLE TO FILE DOCUMENTS

4. For a prolonged period following entry of that order, Petitioner was not permitted to file documents in the case.

5. In the past month, the clerk began accepting limited filings such as notices. However, filings requesting judicial relief continued to be rejected, citing the filing-restriction order.

DISCOVERY OF GROUNDS FOR DISQUALIFICATION

6. Petitioner became aware of the facts supporting disqualification on December 19, 2025. (App. Ex. B.)

MOTION TO DISQUALIFY

7. On December 31, 2025, Petitioner filed a Verified Motion to Disqualify pursuant to Rule 2.330. (App. Ex. B.)

8. On January 2, 2026, the clerk refused to docket the motion through the electronic filing portal stating that the filing was:

9. “barred by order of court or otherwise incapable of being filed in the clerk’s case maintenance system.” (App. Ex. C.)

10. The motion was served on the judge’s chambers on January 5, 2026. (App. Ex. D.)

MOTION PLACED IN THE RECORD

11. On January 27, 2026, Petitioner filed a Notice of Clerk Rejection attaching the motion to disqualify. (App. Ex. E.)

12. The notice was docketed, placing the motion within the lower tribunal record.

ATTEMPTS TO OBTAIN REASSIGNMENT

13. On February 4, 2026, Petitioner filed a request for an order directing reassignment of the case. (App. Ex. F.)

14. The clerk rejected the filing citing the filing-restriction order.

15. On February 13, 2026, Petitioner again attempted to file a motion requesting implementation of disqualification. (App. Ex. H.)

16. The clerk again rejected the filing. (App. Ex. I.)

NO ORDER DENYING DISQUALIFICATION EXISTS

17. No order denying the motion to disqualify exists in the docket. (App. Ex. J.).

§ VI - THE ARGUMENT

Petitioner Has a Clear Legal Right to Reassignment Under the "Deemed Granted" Provision of Rule 2.330(j)

PETITIONER HAS A CLEAR LEGAL RIGHT TO REASSIGNMENT UNDER THE "DEEMED GRANTED" PROVISION OF RULE 2.330(J)

18. Florida law provides a substantive right to judicial disqualification upon a showing of legally sufficient prejudice. § 38.10, Fla. Stat. When a party files an affidavit stating a well-founded fear that they will not receive a

fair trial, the challenged judge "shall proceed no further, but another judge shall be designated." *Id*.

19. This substantive right is implemented procedurally by Florida Rule of General Practice and Judicial Administration 2.330. Under the 2021 amendments, the rule imposes a strict 30-day "ticking clock" on the trial court's jurisdiction to deny such a motion. The rule provides:

> "The judge against whom the motion for disqualification has been filed **shall** rule on the motion immediately, but **no later than 30 days** after the service of the motion. . . If the motion is not denied within 30 days of service, the motion is **deemed granted** and the moving party may seek an order from the court directing the clerk to reassign the case."

Fla. R. Gen. Prac. & Jud. Admin. 2.330(j) (emphasis added); *see also* **In re Amends. to Fla. Rules of Jud. Admin.—2020 Regular-Cycle Rep.**, 310 So. 3d 374, 379 (Fla. 2021).

20. In the instant case, Petitioner discovered the grounds for disqualification on December 19, 2025, and filed a verified motion on December 31, 2025 (App. Ex. B). Although the clerk initially refused to docket the motion on January 2, 2026 (App. Ex. C), the motion was successfully served on chambers on January 5, 2026 (App. Ex. D).

21. Because no order denying the motion was entered within thirty days of service—and no such denial appears on the docket (App. Ex. J)—

the motion was deemed granted by operation of law on February 4, 2026. Under Rule 2.330(j), the trial court's authority to deny the motion has expired, and Petitioner maintains an indisputable legal right to the ministerial act of reassignment.

A) PETITIONER'S RIGHT TO REASSIGNMENT IS NOT CONTINGENT ON A HEARING REQUEST

22. Any suggestion that Petitioner failed to "set a hearing" is a legal nullity. Rule 2.330(j) mandates a ruling within 30 days of service, not a hearing. Furthermore, because a trial judge's inquiry on an initial motion to disqualify is limited strictly to "legal sufficiency," a hearing is neither required nor appropriate. See Bundy v. Rudd, 366 So. 2d 440, 442 (Fla. 1978) (noting that the judge's role is purely to determine if the "papers are in order"). The 30-day clock began on January 5, 2026, the date of service, and expired by operation of law on February 4, 2026.

THE LOWER TRIBUNAL AND CLERK HAVE AN INDISPUTABLE, MINISTERIAL DUTY TO IMPLEMENT REASSIGNMENT

23. Once the 30-day window under Rule 2.330(j) expires without a denial, the trial court's discretion is extinguished. The rule is not suggestive; it is self-executing: "the motion **is deemed granted** and the moving party

may seek an order from the court directing the clerk to reassign the case." **Fla. R. Gen. Prac. & Jud. Admin. 2.330(j)** (emphasis added).

24. This rule-based right mirrors the statutory mandate that a challenged judge "shall proceed no further" once disqualification is triggered. **§ 38.10, Fla. Stat. (2025)**. Florida courts have consistently held that after the 30-day period, reassignment becomes a purely ministerial act. ***See* Schisler v. State**, 958 So. 2d 503, 504 (Fla. 3d DCA 2007) (holding that disqualification results by operation of law and the judge lacks authority to do anything other than grant the motion).

25. Furthermore, the Clerk's refusal to docket the reassignment requests based on a "Vexatious Litigant" order (App. Ex. C) is a misapplication of ministerial power. The October 24, 2017 Order states only that Petitioner "shall not file . . . without having the same reviewed by a member of the Florida Bar." It does not authorize the Clerk to act as a legal gatekeeper or to ignore the automatic operation of the Rules of General Practice and Judicial Administration. A clerk's duty is to receive and docket filings; they cannot "judicially determine the legal significance" of a document to defeat a court rule. **State ex rel. Kaufman v. Sutton**, 231 So. 2d 874, 875 (Fla. 3d DCA 1970).

THE MINISTERIAL DUTY WAS BREACHED BY OBSTRUCTION AND INACTION

A) THE DUTY WAS BREACHED IN TWO DISTINCT WAYS:

26. **Failure to Rule Within 30 Days:** The motion was served on chambers on January 5, 2026. (App. Ex. D). As of February 5, 2026, no order was entered. Under the "bright-line 30-day rule," the motion was deemed granted on that date. **Fuster-Escalona v. Wisotsky**, 781 So. 2d 1063 (Fla. 2000).

27. **Obstruction of the Record:** Unlike the petitioner in **Thomas v. Chase Manhattan Bank**, 857 So. 2d 989 (Fla. 4th DCA 2003), who merely served a motion without filing it, Petitioner here successfully transmitted the motion through the e-Portal. (App. Ex. B). The Clerk's subsequent "rejection" based on an erroneous legal interpretation of a 2017 order constitutes an obstruction of a valid filing attempt. Furthermore, the motion is effectively in the "court file" because it was attached to the Clerk's own Notice of Rejection. (App. Ex. E).

PETITIONER HAS NO OTHER ADEQUATE LEGAL REMEDY

28. Mandamus is the only available remedy. Because the motion is "deemed granted" by the silence of the court, there is no "Order Denying Disqualification" to appeal. Petitioner is trapped in a jurisdictional limbo

where the challenged judge remains on the case in violation of the rule, but refuses to sign the order of reassignment that the rule requires.

29. Absent a Writ of Mandamus to compel the ministerial act of reassignment, Petitioner is denied the "redress of injury" and "open courts" guaranteed by **Article I, Section 21 of the Florida Constitution**.

§ VII - CONCLUSION

30. Petitioner has shown all four elements for mandamus: a clear legal right to reassignment under section 38.10 and Rule 2.330, a clear ministerial duty to implement reassignment after the motion was not denied within thirty days of service, a breach of that duty, and no other adequate remedy. Huffman, 813 So. 2d at 11.

31. **WHEREFORE,** Petitioner respectfully requests that this Court issue a writ of mandamus directing implementation of the deemed-granted disqualification and reassignment of the case to a different judge.

32. This Court may enter any other relief this Court finds to be just and proper.

Respectfully submitted,

By: __/s/_____

Frank Polo Sr.

CERTIFICATE OF SERVICE

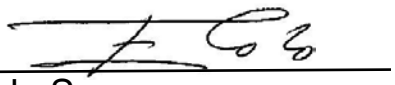
I HEREBY CERTIFY that a true and correct copy of the foregoing was forwarded pursuant to Fla. R. Jud. Admin. 2. 516, via e-portal to the Appellee/Respondent's counsels Manuel A. Segarra, III, Esq., at manny@segarralawfirm.com and service@segarralawfirm.com, to Irech M. Colon Morales at irech@segarralawfirm.com, to the Honorable Judge Spencer Multack at smultack@jud11.flcourts.org, and to Juan Fernandez-Barquin/Clerk of Courts at cocedca@miamidade.gov, on this day 27 day of March 2026. All other parties have been served as follows:

To: Merlin Hernandez
Appellee/Respondent
E-Mail: merlinh79@gmail.com

By: /s/ _____
Frank Polo Sr.
1475 SW 8th St Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENTS

I HEREBY CERTIFY that this Petition complies with the font requirements, Times New Roman 14-point font, and the total page number of 12, excluding signature block, certificate of service, and certificate of compliance pursuant to Florida Rule of Appellate Procedure 9.100(l).

By: /s/ 

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APPENDIX D

Respondent Merlin Hernandez's Response to Petition for Common Law Writ of Mandamus.

Filing # 244720638 E-Filed 03/26/2026 09:43:18 PM

IN THE DISTRICT COURT OF APPEAL OF FLORIDA THIRD DISTRICT

CASE : 3D26-0507

L.T.NO: 12-17787

FRANK E. POLO

Appellant/petitioner

vs.

THE ELEVENTH
JUDICIAL CIRCUIT OF
FLORIDA IN AND FOR
MIAMI-DADE COUNTY,
FLORIDA

MERLIN HERNANDEZ

_____

Appellee/ respondent

RESPONDENT'S RESPONSE TO PETITION FOR COMMOM LAW WRIT OF MANDAMUS

INTRODUCTION

1. Appellee/respondent (Merlin Hernandez, is the mother of appellant's two kids) despite having very limited knowledge of the law, has no other choice than to file this response on her own due to

the fact of being financially devastated from a non-stop litigation (14 years) from the petitioner and is not able to afford legal representation to file this response.

2. Abusing the benefit of the indigent status to avoid paying the required filling fees, this petition is the ten (10) **unsuccessful** pro-se case the petitioner has initiated in this Honorable court against the Respondent.

1. 3D 2016-0720 .....Frank E. Polo v. Merlin Hernandez
2. 3D 2017-2526.....Frank E. Polo v. Merlin Hernandez
3. 3D 2018- 0189.....Frank E. Polo v. Merlin Hernandez
4. 3D 2021-2179 .....Frank E. Polo v. Merlin Hernandez
5. 3D 2022-1475 .....Frank E. Polo v. Merlin Hernandez
6. 3D 2022-2071.....Frank E. Polo v. Merlin Hernandez
7. 3D 2022-2212 .....Frank E Polo v. Merlin Hernandez
8. 3D 2023-0249.....Frank E Polo v. Merlin Hernandez
9. 3D 2023-0681.....Frank E Polo v. Merlin Hernandez
10. 3D 2026-0507.....Ongoing case

3. Appellant also have initiated more than two dozen unsuccessful cases against the respondent in other courts, Civil Court, Federal Courts and Supreme Courts and has also filed unsuccessful appeals for all those respective cases.

4. The Appellant shows complete disregard to judicial economy and resources. While he does not pay anything for filling cases, he wastes the finite court resources as well as the respondent's resources on meritless and repetitive claims.

BACKGROUND FACTS

5. The lower court case 2012-017787-FC-04 should had been finalized on July 15, 2015 ...(11 years ago) where the respondent

agreed to settle with the petitioner to put a stop to the litigation for at least a period of five years. Yet, the petitioner after benefiting from the agreement had other ideas and without any change of circumstances reopened the case just months later to continue litigating. This Petition proves that the Appellant wants to continue litigating this 14 year old case.

6. Because of the non stop bad faith litigation and the bad faith fabrications of facts and claims from the Petitioner against previous judges , three judges has presided on this case. **Honorable Scott M. Bernstein, HonorableMarcia Del Rey** and currently **Honorable Spenser Multack.**

7. In the instant case, the Petitioner is requesting the removal of Honorable Spenser Multack based on an alleged letter delivered to

his chamber with an alleged motion of recusal inside an envelope.

8. The three judges in the lower court have many times instructed the petitioner (Frank Polo) to stop filling so many pleadings and has found many of them contradicting and frivolous.

9. The judges of the lower court have also found the petitioner to be abusing the legal system many times.

10. Honorable Judge Bernstein has also found the petitioner in contempt of court on February 2, 2016. Petitioner appealed (3D16-720) the order of contempt and he also appealed the agreement he agreed to. Said appeal was unsuccessful.

ARGUMENT

11. This Petition is just another repetitive Pleading as it is a very usual practice of the Petitioner because he pays no filling fees to file appeals, therefore has no financial impact on him.

12. The Petitioner asks this Honorable court to issue a writ of Mandamus compelling Harvey Ruvin (the clerk of Courts) to received and filed Mr. Polo's documents, including but not to limited pleadings, motions, notices, notice of appeals, affidavits, evidence, issue subpoena of witnesses, etc.

13. This Honorable Court denied the same exact request on case **3D 2022-2212** again on case **3D 2022-2071** and again on case **3D 2023-0681.**

Therefore this requests is repetitive, can not be considered and should be denied. The appellant is abusing the court system and this

Honorable Court by asking the same relieve previously denied more than three times.

14. The Petitioners asks this Honorable court to direct the lower court to rule on his "verified Motion to Dismiss the October 8, 2018 Motion titled ' Petitioner/Mother Motion for Attorney's fees and Cost to be paid by the Respondent/Father' Any other Motion filed After September 20, 2018 and to Vacate any Order Issued After September 20, 2018" before holding a final hearing.

15. This Honorable Court denied the same exact request on case **3D 2022-2212.**

Therefore this requests is repetitive, can not be considered and should be denied. The appellant is abusing the court system and this Honorable Court by asking the same relieve previously denied.

Furthermore, the appellants tries to mislead this court, there are NO pending motions in the lower court case.

16. Additionally, the appellant asks this Honorable court to stay the lower court proceeding at least in regard to subject matter under review in this court. There is no pending motion in the lower court, therefore this request is meritless and should not be considered.

17. The Petitioners asks this Honorable court to direct the Judge Spencer Multack to recluse himself pursuant to Florida Rule of General Practice and Judicial Administration 2.330.

18. It is usual practice of the Appellant to petition a judge to recuse himself when the rulings do not go his way. The Appellant had Honorable Judge Berstein and Honorable Judge Marcia Del Rey

recused themselves on bad faith misreprentations and false claims made by the appellant.

19. This Honorable Court is no stranger to the litigation tactics of the appellant . It has seen a similar pattern by the Appellant against this Honorable Court. Please refer to case **3D 2023-0681.**

20. On case **3D 2023-0681** on 03/19/2024, the Appellant filed a Verify motion for Recusal and to stay. These are just a few of the contents of said motion.

Paragraph 1. "Respondent Frank E. Polo Sr. respectfully moves this Court to recuse JUDGES THOMAS LOGUE, ERIC Wm HENDON, ALEXANDER S. BOKOR, IVAN F. FERNANDEZ, MONICA GORDO, FLEUR J. LOBREE, NORMA S. LINDSEY, KEVIN EMAS, EDWIN A. SCALES III, and BRONWYN C. MILLER from proceeding further in this action. "

Paragraph 4. "Mr. Polo has a reasonable belief, based on the history of this case and the fact exposed herein, that these judges Mr. Polo seeks to recuse, have engaged in violation of the cannons of judicial conduct, and of U.S.C. § 242. Therefore, Mr. Polo respectfully asks for those judges to recuse themselves and for this court to put a stay on this case until the federal case Mr. Polo filed against those Judges is resolved in Federal Court."

Paragraph 5. "JUDGES LOGUE, HENDON, AND BOKOR continued the retaliation started by Judge Bernstein, by falsely claiming that the Amended Final Judgment of Paternity, in MR. POLO'S case, was affirmed on appeal, which was a false argument previously presented by Mr. Segarra (Hernandez Attorney) and by members of STU's Management and the Honor Council with whom Judge Logue had professional ties (2) the court conclusively, irrelevantly, maliciously, and without evidence on the record supporting a finding of vexatious, claimed that Mr. Polo was precluded from filing for excessive and frivolous post-judgment filings and history of vexatious conduct, which was not supported by factual findings."

Paragraph 6. "It's relevant to point out that Judge LOGUE is an adjunct Professor at STU. Therefore, it is reasonable to infer that Judge LOGUE influenced the other judges to build a case against Mr. Polo with false allegations obtained from STU, which STU had obtained from opposing counsel Mr. Segarra. "

Paragraph 9. “MR. POLO requested the Judges to treat the appeal as a writ of Prohibition to avoid having to file another appeal; however, the Judges intentionally and maliciously ignored the petition and failed to address MR. POLO’S constitutional challenges to the jurisdiction of the trial court. “

Paragraph 19. “The Judges SCALES, HENDON, and MILLER, continued the retaliation initiated by Bernstein by intentionally failing to apply the correct principles of law to the admitted facts of Mr. Polo’s case by ignoring the facts that the Mother and her attorney moved for attorney’s fees after the trial court (1) issued a final judgment on August 20, 2018, (2) without reserving jurisdiction to adjudicate attorney’s fees, and (3) the time to file for rehearing had lapsed. “

21. In this case the appellant relies on a mail certified envelope that allegedly he sent to the judges chambers and a motion that he allegedly attempted or filled in violation of the court order that he admits on this petition that is in full force.

22. This Honorable court should take notice of the past and continued lack of respect and non-compliance with Court Orders and indifference to Court rulings by the Appellant.

23. This Honorable court should take notice that the Appellant has continue to file pleadings in the lower Court without being reviewed by a member of the Florida Bar and in violation of the court orders and in bad faith.

24. The alleged certified letter sent to the judge chamber containing an alleged motion to recuse the judge is not a proper vehicle to request disqualification. Moreover based on the Appellant past and present conduct, it would not surprise anyone if the envelope was empty or had no contents inside. Therefore this allegation should not

be considered in relation to General Practice and Judicial Administration 2.330 and should be denied.

25. The alleged filed motion in the lower court filed was not filed in the lower court, instead and in violation of the lower court order, the appellant as a vexatious litigant and in violation of court orders, filled it improperly attaching it as a notice. This filling was improper, was in violation of the court order and did not trigger judicial review, Therefore this allegation can not be considered in relation to General Practice and Judicial Administration 2.330 and should be denied.

THE HONORABLE JUGDE SPENCER MULTACK IS AUTHORIZED TO IMPOSED SANCTIONS ON A VEXATIOUS LITIGANT

26. The Honorable Judge Spencer Multack has wide discretion under the law to impose sanctions upon vexatious litigants. " Courts may, upon a demonstration of egregious abuse of judicial process, restrict parties from filling pro se pleadings with the court." **State v. Spencer** (FLA. 1999). When a Court finds that an action is frivolous or was brought primarily to harass the adverse party, we find the court has discretion to deny a request for attorney's fees to the party bringing or defending the suit. **Rosen v. Rosen** (Fla. 1997).

27. Judge Multack was well within his discretion by using his " inherent authority and duty to limit abuses of judicial process by pro by pro se litigants." **Golden v. Buss** (Fla. 1st DCA 2011); **Jackson**

v. Fla. Dept of Corr., (Fla.2001)(noting that the Supreme Court has inherent power to regulate and sanction a disruptive litigant); **Mc Cutcheon v. State,**(Fla 4th DCA 2010)(concluding that the litigants appeals were frivolous, malicious and not filed in good faith).

28. The fillings of frivolous materials in court systems causes a "needless consumption of resources by the court system and needless expenses to the respondent". **Sibley v. Sibley,** (Fla 3d DCA 2004). Due to this it is "the court's recognized right and duty in both Federal and Florida State Courts, to protect their jurisdiction from vexatious litigants and abuse of the judicial system". " A citizen abuses the right to pro se access by filling repetitious and frivolous pleadings, thereby diminishing the ability of the courts to devote their finite resources to

the considerations of legitimate claims." **Rivera v. State,** (Fla. 1998)

Attwood v. Singletary,(Fla. 1995).

29. It is within judicial discretion to required a litigant to seek additional support from a member of the Florida Bar before filing anything with the court as well as to prohibit litigants from further self-representation in their court system entirely. **Sibley v. Sibley.** Limitations on "ability to file would further the constitutional right of access because it would permit this Court to devote its finite resources to the consideration of legitimate claims filed by others. **Sibley v. Sibley.** Because of this, The Honorable Spencer Multack was able to call the petitioner a vexatious litigant and to restrict his access to the court system.

PETITIONER/FATHER, FRANK POLO IS A VEXATIOUS LITIGANT.

30. The Honorable Multack made a factual determination that PETITIONER/ Father FRANK POLO is a vexatious litigant. The evidence was clear the petitioner should be restricted in his access to the court system.

31. After the August 11, 2014 Final Judgement of Paternity, the Petitioner have pro se filed about 60 pleadings and/or motions in the lower court, NONE have been granted, The Lower court has found most of them to be contradicting and frivolous.

32. " In determining whether or not to restrict a litigant's future access to the courts, {a court} should consider the following factors:

(1) the litigant history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the

litigants motive in pursuing the litigation, e.g. does the litigant have an objective good faith expectation of prevailing? (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expenses to other parties or has posed an unnecessary burden on the courts and their personal;(5) whether other sanctions would be adequate to protect the courts and other parties. **Safir v. United States Lines, Inc.** (2d Cir. 1986).

33. This description has been used in Florida Family courts to make the determination of wether or not a litigant should be deemed as vexatious. Based on the court record , petitioner is clearly a vexatious litigant under the Law of Florida.

34. Furthermore, the specific filling relief that the Petitioner is seeking has been previously denied in all the cases mentioned and should be denied again.

35. The Petitioner's past conduct, and even more recent actions,

indicate a continue intent to engage in a pattern of vexatious and bad faith behavior at the expense of the Mother's resources and attorney's fees, which provides a concrete justification for limiting the Petitioner's access to Court fillings based on clear findings of inequitable conduct.

PETITIONER's CLAIM THAT HE HAS NO OTHER ADEQUATE LEGAL REMEDY IS FALSE

36. Petitioner claims that Mandamus is the only available remedy he has is false. The lower case has no open motions and the case was close until a couple of months ago that the Appellant decided to start his filings in violation of the court orders and to restart the litigation again after 14 years.

37. The Appellant has many remedy option including complying with the Court orders and having his pleadings review by a member of the Florida Bar before filling them. This will guarantee proper and timely review by the lower Court.

38. Appellant does not see this option or another as viable because he rather have the Mother wastes the resources that could be used for their children and the court finite resources wasted on meritless claims and not his own.

CONCLUSION

39. For the foregoing reasons, the Appellant's Petition for Common Law writ of Mandamus should be deny.

40. There are no pending motions in the lower case.

41. It is within judicial discretion to required a litigant to seek additional support from a member of the Florida Bar before filing anything with the court as well as to prohibit litigants from further self-representation in their court system entirely. **Sibley v. Sibley.** Limitations on "ability to file would further the constitutional right of access because it would permit this Court to devote its finite resources to the consideration of legitimate claims filed by others. **Sibley v. Sibley.** Because of this, The lower court judges were able to call the petitioner a vexatious litigant and to restrict his access to the court system.

WHEREFORE, The Respondent, respectfully request that this Honorable Court .

1. Dismiss the Appellant's Petition for Common Law Writ of Mandamus.

2. Order Appellant to not file any more pleadings, motions or letters to this Honorable Court without having the same review by a member of the Florida Bar. This will put a stop to the meritless and repetitive cases filed by the Appellant

3. Do not allow the Appellant to continue abusing the Indigent Status to avoid paying the required filing fees to file cases with this Honorable court. Appellant is a business owner and has a very high degree of education but falsely has claimed to be indigent for years.

APPENDIX E

Petitioner's Reply to Respondent's Response to Petition for Common Law Writ of Mandamus.

IN THE DISTRICT COURT OF APPEALS OF FLORIDA
THIRD DISTRICT

FRANK E. POLO
Petitioner, Pro-Se

v.

THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR MIAMI-DADE COUNTY, FLORIDA
Respondent

3d DCA Case No. 3D26-0507

Lower Ct. Case No. 2012-017787-FC-04

REPLY TO RESPONDENT'S RESPONSE TO PETITION FOR WRIT OF MANDAMUS

I. INTRODUCTION

1. Respondent's response avoids the controlling issue and instead relies on conclusory assertions, prior litigation history, and speculation regarding service. None of those arguments address the dispositive question:

2. **Whether Petitioner's Verified Motion to Disqualify, once timely discovered, attempted to be filed, filed as an attachment, served, presented to chambers, and not denied within 30 days, triggered Rule 2.330's deemed-granted mechanism requiring reassignment**.

3. Because Respondent does not rebut the operative facts or the rule's requirements, the petition should be granted.

II. THIS IS NOT A "SERVICE-ONLY" CASE; THE MOTION WAS ELECTRONICALLY SUBMITTED, SERVED, PRESENTED, AND PLACED IN THE RECORD

4. Respondent attempts to characterize this case as involving a motion that was never filed and merely served. That characterization is contradicted by the record.

5. First, Petitioner electronically submitted the Verified Motion to Disqualify through the Florida Courts E-Filing Portal as **Filing # 238652687** at **8:26:22 PM on December 31, 2025 (Appx. B; Supp. Appx. C).** The portal confirmation reflects that the motion and appendix were uploaded and transmitted through the official filing system **(Supp. Appx. C)**.

6. Second, the Clerk's subsequent rejection of the filing occurred after the electronic submission and does not negate the fact that the motion was timely presented for filing **(Appx. C; Supp. Appx. C)**. The rejection message itself confirms that the motion was blocked based on an alleged filing restriction, not because it was untimely or improperly submitted **(Appx. C)**.

7. Third, Petitioner served the motion on chambers by U.S. Mail, with delivery confirmed **(Appx. D)**.

8. Fourth, Petitioner later filed a **Notice of Clerk Rejection**, which attached the same Verified Motion to Disqualify, thereby placing the motion

into the lower tribunal record notwithstanding the Clerk's refusal to docket it as a standalone motion **(Appx. E)**.

9. Fifth, Petitioner transmitted the motion directly to chambers by email, attaching the motion and supporting documentation and copying opposing counsel **(Supp. Appx. A)**. Chambers issued an automatic reply confirming receipt **(Supp. Appx. B)**.

10. Under these circumstances, the motion was not merely "served." It was:

A) electronically submitted through the e-filing system,

B) blocked by the Clerk for reasons unrelated to timeliness,

C) served on chambers with confirmed delivery,

D) transmitted directly to chambers by email with proof of receipt, and

E) placed into the lower tribunal record as an attachment.

11. Respondent's attempt to reduce this procedural history to a "non-filed" motion ignores the record evidence demonstrating presentment, notice, and inclusion in the case file **(Appx. B, C, D, E; Supp. Appx. C; Supp. Appx. A, B)**.

III. RESPONDENT'S ASSERTIONS REGARDING LACK OF NOTICE ARE CONTRADICTED BY THE RECORD

12. Respondent's argument depends on the premise that the motion was not properly before the court and that Respondent lacked notice. The record establishes the opposite.

13. The filing portal confirmation shows that, at the time of electronic submission, Merlin Hernandez and multiple attorneys associated with Respondent were selected for e-service of the motion, including merlinh79@gmail.com, manny@segarralawfirm.com, service@segarralawfirm.com, info@segarralawfirm.com, irech@segarralawfirm.com, and serena@segarralawfirm.com **(Supp. Appx. C)**.

14. In addition, Petitioner transmitted the motion directly to chambers by email and copied opposing counsel on that communication. **(Appx. N.)** Chambers issued an automatic reply confirming receipt of the transmission. **(Appx. O.)**

15. Petitioner also served the motion by U.S. Mail, with delivery confirmed. **(Appx. D.)**

16. Accordingly, the record demonstrates:

A) electronic submission of the motion through the e-filing portal,

B) selection of Respondent and her counsel for e-service at the time of submission,

C) direct email transmission of the motion to chambers with opposing counsel copied,

D) confirmation of receipt by chambers, and

E) service by U.S. Mail with delivery confirmation.

17. Under these circumstances, Respondent had actual notice of the motion and its contents. Respondent's suggestion that the motion was unknown or not properly presented is therefore contradicted by the record evidence **(Appx. D; Supp. Appx. C; Supp. Appx. A, B)**.

IV. THE 2017 ORDER DOES NOT DEFEAT RULE 2.330

18. Respondent relies heavily on a prior filing-restriction order to argue that the motion should be disregarded.

19. That argument fails.

20. Petitioner is **not** asking this Court to vacate or overturn the 2017 order in this proceeding. The issue here is narrower:

21. **whether that order can be applied to defeat Rule 2.330's deemed-granted mechanism under the facts presented**.

22. It cannot.

23. The order restricts Petitioner's ability to file without Florida Bar review **(Appx. K)**. It does **not**:

A) direct the Clerk to reject filings,

B) authorize the Clerk to block docketing of recusal-related documents, or

C) override Rule 2.330's operation.

See (Appx. K).

24. Moreover, The order was entered in a proceeding noticed for something else **(Appx. M)**.

25. The docket excerpt does not reflect a separately noticed vexatious-litigant proceeding **(Appx. L)**.

26. More importantly:

27. **Whatever force the 2017 order may otherwise have, it cannot be applied in a manner that defeats Rule 2.330's specific 30-day**

mechanism after the motion was timely discovered, attempted to be filed, served, presented to chambers, and placed into the record.

28. Allowing a filing-restriction order to nullify Rule 2.330 would effectively permit a court to insulate itself from a rule specifically designed to ensure the timely resolution of disqualification motions.

V. RULE 2.330 WAS TRIGGERED AND NOT SATISFIED

29. Rule 2.330 requires that a motion to disqualify be ruled upon within 30 days after service.

30. Respondent does not identify:

A) any order denying the motion within 30 days;

B) any tolling of the 30-day period; or

C) any authority conditioning the rule's operation on successful docketing where filing was attempted and blocked.

31. Here:

A) the motion was served and presented to chambers **(Appx. D, Supp. Appx. A, B)**;

B) chambers had actual notice **(Appx. D, Supp. Appx. A, B)**;

C) the motion was later placed into the record **(Appx. E.)**; and

D) no denial was entered within 30 days (Appx. J).

32. Under these circumstances, Rule 2.330's deemed-granted provision applies **(Appx. D, E, J)**.

VI. THERE IS NO ADEQUATE ALTERNATIVE REMEDY

33. Respondent argues that Petitioner had an alternative remedy by complying with the 2017 order.

34. That argument fails.

A) There is no denial order to appeal (Appx. J);

B) The Clerk's rejection is the very conduct preventing implementation of Rule 2.330 (Appx. C, I);

C) Requiring a litigant, particularly an indigent one, to obtain Florida Bar review as a condition to invoke judicial disqualification is not an adequate substitute for a rule-based reassignment mechanism **(Appx. A, K)**.

D) Mandamus is therefore appropriate.

VII. CONCLUSION

35. Respondent's response does not address the controlling issue and relies on speculation and collateral matters.

36. The record establishes:

A) timely discovery and attempted filing **(Appx. B, C)**;

B) service and presentment to chambers **(Appx. D, Supp. Appx. A, B)**;

C) actual notice to both chambers and opposing counsel **(Supp. Appx. A, B)**;

D) placement of the motion into the court record **(Appx. E)**; and

E) the absence of a denial within 30 days **(Appx. J)**.

37. Accordingly, Petitioner respectfully requests that this Court:

A) Grant the Petition for Writ of Mandamus;

B) Direct the Clerk to reassign the case to a different judge; and

C) Grant such further relief as this Court deems appropriate.

Respectfully submitted,

By: __/s/_____

Frank Polo Sr.

CERTIFICATE OF SERVICE

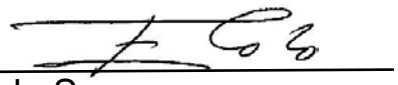
I HEREBY CERTIFY that a true and correct copy of the foregoing was forwarded pursuant to Fla. R. Jud. Admin. 2. 516, via e-portal to the Appellee/Respondent's counsels Manuel A. Segarra, III, Esq., at manny@segarralawfirm.com and service@segarralawfirm.com, to Irech M. Colon Morales at irech@segarralawfirm.com, to the Honorable Judge Spencer Multack at smultack@jud11.flcourts.org, and to Juan Fernandez-Barquin/Clerk of Courts at cocedca@miamidade.gov on this day 31 day of March 2026. All other parties have been served as follows:

To: Merlin Hernandez
Appellee/Respondent
E-Mail: merlinh79@gmail.com

By: /s/ _____
Frank Polo Sr.
1475 SW 8th St Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENTS

I HEREBY CERTIFY that this Petition complies with the font requirements, Arial 14-point font, and the total page number of 10, excluding signature block, certificate of service, and certificate of compliance pursuant to Florida Rule of Appellate Procedure 9.100(l).

By: /s/ 

Frank Polo Sr.
1475 SW 8th ST Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

APPENDIX F

Motion for Rehearing and Request for Written Opinion, filed April 22, 2026.

IN THE DISTRICT COURT OF APPEALS OF FLORIDA
THIRD DISTRICT

FRANK E. POLO
Petitioner, Pro-Se

v.

THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR MIAMI-DADE COUNTY, FLORIDA
Respondent

3d DCA Case No. 3D2026-0507

Lower Ct. Case No. 2012-017787-FC-04

MOTION FOR REHEARING AND REQUEST FOR WRITTEN OPINION

Lower Tribunal Judge: Hon. Spencer Multack

MOTION

1. Petitioner, Frank E. Polo, pursuant to Florida Rule of Appellate Procedure 9.330, respectfully moves for rehearing and requests a written opinion as to this Court's April 7, 2026 order denying the petition for writ of mandamus. In support, Petitioner states as follows:

§ I - INTRODUCTION

2. This motion does not re-argue the petition generally. It identifies specific points of law and fact the Court overlooked or misapprehended in summarily denying relief. Rule 9.330 permits a motion for rehearing and request for written opinion within 15 days of the order and requires that such requests be combined in a single document.

3. The petition presented a narrow question under Rule 2.330: whether the clerk's blockage of the motion could defeat Rule 2.330's 30-day mechanism where the motion was timely discovered, electronically submitted, later included in the court file as an attachment to the filed Notice of Clerk Rejection, served on chambers, directly emailed to chambers with supporting proofs, and not denied within 30 days. The Court's summary denial appears to have overlooked those record facts and the specific operation of Rule 2.330 as amended by the Florida Supreme Court.

4. This motion does not reargue the petition generally. It identifies specific points of law and fact the Court overlooked or misapprehended in summarily denying relief. Rule 9.330 permits a motion for rehearing and request for written opinion within 15 days of the order and requires that such requests be combined in a single document.

5. The petition presented a narrow question under Rule 2.330: whether the clerk's blockage of the motion could defeat Rule 2.330's 30-day mechanism where the motion was timely discovered, electronically submitted, later included in the court file as an attachment to the filed Notice of Clerk Rejection, served on chambers, directly emailed to chambers with supporting proofs, and not denied within 30 days. The Court's summary denial appears to have overlooked those record facts and the specific operation of Rule 2.330 as amended by the Florida Supreme Court.

6. This motion does not reargue the petition generally. It identifies specific points of law and fact the Court overlooked or misapprehended in summarily denying relief. Rule 9.330 permits a motion for rehearing and request for written opinion within 15 days of the order and requires that such requests be combined in a single document.

7. The petition presented a narrow question under Rule 2.330: whether the clerk's blockage of the motion could defeat Rule 2.330's 30-day

mechanism where the motion was timely discovered, electronically submitted, later included in the court file as an attachment to the filed Notice of Clerk Rejection, served on chambers, directly emailed to chambers with supporting proofs, and not denied within 30 days. The Court's summary denial appears to have overlooked those record facts and the specific operation of Rule 2.330 as amended by the Florida Supreme Court.

§ II - MOTION FOR REHEARING

A. The Court overlooked that this was not a service-only case.

8. The petition was not based on mere service of an undocketed motion. The record showed that the Verified Motion to Disqualify was electronically submitted through the Florida Courts E-Filing Portal as Filing No. 238652687 at 8:26:22 p.m. on December 31, 2025, and that the portal confirmation identified the motion and appendix as uploaded through the official filing system.

9. The clerk later rejected the filing, but the subsequent rejection does not erase the fact of electronic submission. The rejection message itself shows that the clerk blocked the filing as allegedly "barred by order of court," rather than because Petitioner failed to submit anything. (Appx. C.) In addition, on January 27, 2026, Petitioner filed the Notice of Clerk Rejection, and that filed notice attached the same Verified Motion to

Disqualify, thereby placing the motion into the lower tribunal record. (Appx. The Court's denial appears to have overlooked that this case involved attempted filing, clerk rejection, and later inclusion of the motion in the court record, not service alone.

B. The Court overlooked the record establishing actual notice to chambers and Respondent.

10. The petition also showed multiple independent channels of presentment and notice.

11. The motion was served on chambers by U.S. Mail, with delivery confirmed on January 5, 2026. (Appx. D.)

12. Petitioner also sent chambers an email transmitting the motion, the mailing receipt, and the delivery receipt, while copying opposing counsel specifically to avoid any ex parte concern. Chambers responded with an automatic reply from the judicial assistant, confirming receipt of the email communication.

13. Further, the filing portal confirmation shows that Merlin Hernandez and multiple attorneys associated with her were selected for e-service of the motion at the time of the electronic submission, including: merlinh79@gmail.com; manny@segarralawfirm.com;

service@segarralawfirm.com; info@segarralawfirm.com; irech@segarralawfirm.com, and serena@segarralawfirm.com

14. The Court's denial appears to have overlooked that both chambers and Respondent had actual notice of the motion and its contents.

C. The Court overlooked the specific operation of Rule 2.330 after the 2021 amendment.

15. The Florida Supreme Court's 2021 amendment to Rule 2.330 states that a motion to disqualify must be filed within 20 days after discovery and promptly presented to the court, and that the subject judge must take action immediately, but no later than 30 days after service. If the motion is not denied within 30 days of service, "the motion is deemed granted and the moving party may seek an order from the court directing the clerk to reassign the case."

16. The petition's argument was that, whatever force the 2017 order may otherwise have, it cannot be applied in a manner that defeats Rule 2.330's specific 30-day mechanism after the motion was timely discovered, attempted to be filed, served, presented to chambers, and placed into the record.

17. The 2017 order says only that Petitioner "shall not file any further pleadings, motions or letters to the Court in this matter without having the same reviewed by a member of the Florida Bar." It does not direct the clerk to reject filings, create a clerk-screening mechanism, or purport to override Rule 2.330. The Court's denial appears to have overlooked this narrower point.

D. The Court overlooked that no denial order exists and that no adequate remedy exists apart from mandamus.

18. No order denying the motion to disqualify appears on the lower tribunal docket. (Appx. J.) There was therefore no denial order to appeal. The petition sought mandamus precisely because the clerk's blockage was the mechanism preventing implementation of Rule 2.330. In that posture, mandamus was not a substitute for appeal; it was the only avenue to seek enforcement of the rule's reassignment mechanism.

19. For these reasons, Petitioner respectfully requests rehearing.

§ III - REQUEST FOR WRITTEN OPINION

20. Petitioner also requests a written opinion under Rule 9.330(a)(2)(D). A written opinion would provide a legitimate basis for further review and guidance to the parties and lower tribunal on a recurring

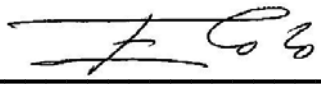
procedural issue: whether Rule 2.330's deemed-granted mechanism can be defeated when a motion to disqualify was electronically submitted, later blocked by the clerk, served on chambers, later attached to a filed notice, and noticed to both chambers and opposing counsel. Rule 9.330 permits a request for written opinion where such an opinion would provide a legitimate basis for supreme court review or guidance in an issue expected to recur.

21. A written opinion would also clarify whether, and under what circumstances, a prior filing-restriction order may be applied to prevent operation of Rule 2.330's specific 30-day mechanism. That issue is expected to recur in this case because the lower tribunal retained jurisdiction over post-judgment matters, and guidance is needed as to whether clerk blockage can nullify the rule's reassignment path.

§ IV - CONCLUSION

22. Petitioner respectfully requests that this Court grant rehearing, withdraw the summary denial entered on **April 7, 2026**, and issue a written opinion addressing the Rule 2.330 issues identified above.

Respectfully submitted,

By: /s/ 

Frank Polo Sr.

CERTIFICATE OF SERVICE

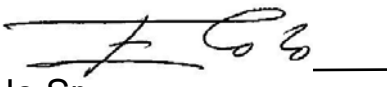
I HEREBY CERTIFY that a true and correct copy of the foregoing was forwarded pursuant to Fla. R. Jud. Admin. 2. 516, via e-portal to the Appellee/Respondent's counsels Manuel A. Segarra, III, Esq., at manny@segarralawfirm.com and service@segarralawfirm.com, to Irech M. Colon Morales at irech@segarralawfirm.com, to the Honorable Judge Spencer Multack at smultack@jud11.flcourts.org, and to Juan Fernandez-Barquin/Clerk of Courts at cocedca@miamidade.gov, on this day 21 day of April 2026. All other parties have been served as follows:

To: Merlin Hernandez
Appellee/Respondent
E-Mail: merlinh79@gmail.com

By: /s/ _____
Frank Polo Sr.
1475 SW 8th St Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENTS

I HEREBY CERTIFY that this Petition complies with the font requirements, Arial 14-point font, and the total page number of 9, excluding signature block, certificate of service, and certificate of compliance pursuant to Florida Rule of Appellate Procedure 9.100(l).

By: /s/ 
Frank Polo Sr.
1475 SW 8th ST Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

APPENDIX G

d\Verified Motion to Disqualify Hon. Spencer Multack, e-filed December 31, 2025.

EXHIBIT: A

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI DADE COUNTY, FLORIDA
(Family Division)

MERLIN HERNANDEZ
Petitioner,
VS. Case No. **2012-017787-FC-04**

FRANK E. POLO
Respondent Pro-Se

VERIFIED MOTION TO DISQUALIFY HON. SPENCER MULTACK

COMES NOW Respondent, **Frank E. Polo**, pro se, and pursuant to Florida Rule of Judicial Administration 2.330, respectfully moves to disqualify the Honorable Judge Spencer Multack and states as follows:

(I). GOVERNING STANDARD

A judge must be disqualified where the facts alleged would place a reasonably prudent person in fear of not receiving a fair and impartial hearing. The test is objective and concerns the **appearance of impartiality**, not proof of actual bias.[1]

(II). FACTUAL BASIS FOR DISQUALIFICATION

A. TERMINATION OF JURISDICTION IN 2018

1. On **September 14, 2018**, **Bernstein** entered a Final Judgment in this family case. *See* **APPX (1)**.

2. On **September 20, 2018**, Judge Bernstein vacated the September 14 judgment and re-entered a Final Judgment. *See* **APPX (2)**

3. Neither version of the Final Judgment reserved jurisdiction to adjudicate attorney's fees or costs.

[1] "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." **Livingston v. State**, 441 So. 2d 1083 (Fla. 1983).

4. Florida Family Law Rule of Procedure **12.530** allows **fifteen (15) days** from entry of a final judgment to move for rehearing or otherwise invoke post-judgment jurisdiction. *See* **Fla. Fam. L. R. P. 12.530(b)**.

5. The Rule 12.530 rehearing period following the **September 20, 2018 Final Judgment expired on October 5, 2018**, without any motion for rehearing being filed.

6. On **October 8, 2018**, **eighteen (18) days after** entry of the **September 20, 2018** Final Judgment and **after expiration of the rehearing period**, Ms. Hernandez filed a motion for attorney's fees. *See* **APPX (3).**

7. On **November 1, 2018**, counsel for Ms. Hernandez, Manuel Segarra, filed a separate motion for attorney's fees, further asserting post-judgment jurisdiction weeks after jurisdiction had expired. *See* **APPX (4).**

8. Because jurisdiction was not reserved and the rehearing period had expired, the trial court lacked personal jurisdiction over Movant to adjudicate attorney's fees absent **new service of process commencing a post-judgment proceeding**. Movant was never served with new process.

B. GOVERNING ETHICAL STANDARDS REQUIRING DISQUALIFICATION

9. Florida's Code of Judicial Conduct requires disqualification whenever a judge's impartiality **might reasonably be questioned**, regardless of the judge's subjective belief in their ability to remain fair.

10. **Canon 2** of the Florida Code of Judicial Conduct provides that a judge shall uphold the integrity and independence of the judiciary and shall avoid impropriety **and the appearance of impropriety** in all judicial activities.

11. **Rule 2.11(A)** mandates disqualification in any proceeding in which the judge's impartiality might reasonably be questioned, including circumstances involving personal bias, prejudice, or personal knowledge of disputed facts.

12. Florida law applies an **objective standard**: the question is whether the facts alleged would place a reasonably prudent litigant in fear of not receiving a fair and impartial hearing, not whether the judge believes they can be impartial.

13. Where a judge has been a **direct litigant** against a party appearing before the court, the appearance of impartiality is necessarily compromised. Even absent proof of actual bias, such circumstances create a reasonable perception that extrinsic considerations could influence judicial decision-making, thereby requiring disqualification to preserve public confidence in the judiciary.

14. Accordingly, disqualification is required not as a finding of wrongdoing, but as a prophylactic measure to uphold judicial integrity and to ensure that justice is both done and **appears to be done**.

C. CONTINUED EXERCISE OF AUTHORITY AFTER JURISDICTION HAD TERMINATED

15. Notwithstanding the jurisdictional termination that occurred in 2018, subsequent judicial officers, including Judge Multack, continued to exercise authority over attorney's fees proceedings in a case where jurisdiction had terminated and entered orders affecting Movant's substantive rights.

16. Judge Multack's continued involvement occurred despite the absence of retained jurisdiction and despite the lack of personal jurisdiction over Movant.

D. APRIL 15, 2021 HEARING BEFORE JUDGE DEL REY (NO RESTORATION OF ACCESS)

17. On **April 15, 2021**, a hearing was held before **Marcia Del Rey**, noticed solely as a *Motion to Withdraw as Counsel* hearing.

18. No motion was noticed, and no hearing was set, to impose, modify, or lift any filing restrictions.

19. During that hearing, Movant expressly requested removal of filing restrictions. Judge Del Rey **refused**, stating on the record that the prior restriction was "law of the case." *See* **(APPX 5).**

20. Nevertheless, a written order drafted by opposing counsel **purported on paper** to reflect a limited restriction, despite no oral ruling authorizing such modification and without notice or opportunity to be heard on access-to-courts issues. *See* **(APPX 6).**

21. In practice, the Clerk of Court continued to enforce a **blanket filing prohibition**, preventing Movant from filing anything.

E. JULY 5, 2022 ORAL RULING AND CONTRADICTORY WRITTEN ORDER

22. On **July 5, 2022**, Judge Multack orally ruled that he would direct the Clerk to accept Movant's pleadings and motions. *See* **(APPX 7)**.

23. Near the end of that same hearing, the Court learned that Movant had previously filed federal litigation involving judicial officers. *Id.*

24. No further argument was heard, and no reconsideration hearing was noticed.

25. The subsequently entered written order:

(a) materially contradicted the oral ruling,

(b) restricted filing access that had been granted on the record, and

(c) the change in the order was entered without holding a hearing at which Movant was present. *See* **(APPX 8)**.

26. Despite the absence of any finding in the record that Movant engaged in extreme or abusive litigation conduct warranting filing restrictions,[2] and despite the absence of any order entered after notice and an opportunity to be heard, the continued enforcement of filing restrictions placed Movant in a materially disadvantaged position. As a result, Movant was unable to meaningfully file evidence, seek discovery, or otherwise participate on equal footing in the proceedings. Under

2 *See* **Sibley v. Sibley**, 885 So. 2d 980, 981–82 (Fla. 3d DCA 2004) (upholding filing restrictions only after documented evidence of extreme and repetitive litigation conduct, including dozens of appellate and federal filings). This citation is offered solely to illustrate the type of extraordinary record typically associated with filing restrictions in Florida, not to seek adjudication of the validity of the restrictions at issue.

these circumstances, a reasonably prudent litigant would fear that the proceedings lack the appearance of fairness required by Canon 2 and Rule 2.11(A).

27. The Court's subsequent orders and findings relied substantially on Movant's litigation activity itself, including motions, objections, discovery requests, appeals, and other filings, as evidence of "vexatious" or "bad faith" conduct. Such actions constitute core litigation activity undertaken within judicial proceedings.[3]

28. The record reflects no independent, discrete factual findings identifying specific acts of misconduct external to legitimate advocacy that would warrant such characterizations. Rather, the findings adopt generalized conclusions and prior labels without articulating particularized facts demonstrating abusive conduct.

29. Under these circumstances, a reasonably prudent litigant would fear that the Court has aligned itself with one party's litigation narrative and is treating protected advocacy as sanctionable behavior, thereby undermining the appearance of impartiality required by Canon 2 and Rule 2.11(A).

30.

F. PRIOR FEDERAL LITIGATION INVOLVING JUDGE MULTACK

31. On **May 4, 2023**, Movant filed a federal civil action in the United States District Court for the Southern District of Florida arising from constitutional violations in this case. Judge Multack was a named defendant. *See* **(APPX 9)**.

32. On **July 22, 2024**, the federal action was dismissed on pleading grounds ("shotgun pleading"), without adjudication on the merits and without any finding that Movant's claims were factually unfounded.

---

3 Florida courts have recognized that filing restrictions and sanctions are extraordinary measures typically supported by documented evidence of extreme and repetitive abuse of judicial process. *See*, e.g., **Sibley**, 885 So. 2d at 981–82. This citation is provided solely to illustrate the type of record ordinarily associated with such measures, not to seek adjudication of the validity of any order.

33. Despite having been a litigation adversary of Movant, Judge Multack continued to preside over this case.

G. CONTINUED ENFORCEMENT AFTER FEDERAL DISMISSAL AND DISCOVERY OF GROUNDS

34. Following dismissal of the federal action, Movant reasonably believed that the Court would cease enforcing unconstitutional, ex parte-modified filing restrictions entered years earlier.

35. On **December 19, 2025**, Movant filed a Motion to Direct the Clerk to Accept and Docket Filings, to Cease Enforcing Void Filing-Restriction Orders, and to Remove/Clarify Any "Do Not File" Flag, not to seek permission to file, but to ensure the Clerk would not continue enforcing illegal or void restrictions going forward. **(APPX 10)**.

36. The rejection of that motion confirmed that the Court continued to enforce filing restrictions despite the jurisdictional posture and without notice or hearing. **(APPX 11)**.

37. Under these circumstances, where jurisdiction terminated in 2018, filings were blocked for years, and Movant had previously sued the presiding judge, a reasonably prudent litigant would fear that he could not receive a fair and impartial hearing before the Court.

(III). WHY THIS SITUATION REQUIRES DISQUALIFICATION

PERSONAL INVOLVEMENT AS A LITIGANT

38. Judge Multack was a named defendant in prior federal litigation brought by Movant. This placed the judge in a direct, personal, and adversarial posture against a party now appearing before him, extending beyond abstract judicial disagreement and into personal litigation exposure.

APPEARANCE OF BIAS, REGARDLESS OF SUBJECTIVE INTENT

39. Even if the Court believes it can remain fair and impartial, Florida law does not turn on the judge's subjective confidence. The controlling inquiry is whether a reasonably prudent person would fear that prior litigation could influence, or appear to influence, the judge's decisions. The

perception that a judge might consciously or unconsciously favor or disfavor a litigant who previously sued them undermines public confidence in judicial neutrality.

PRIOR ADVERSARIAL RELATIONSHIP

40. A prior lawsuit necessarily creates an adversarial history. When a judge has previously stood opposite a party as a defendant, that history creates an inherent appearance problem that cannot be cured by assurances of impartiality. Florida's recusal standard is prophylactic and exists to prevent precisely this erosion of confidence.

PRESERVATION OF JUDICIAL INTEGRITY

41. Florida judges are guided by the principle that justice must not only be done, but must **appear to be done**. A judge's continued participation after having been a direct litigation adversary of a party before the court presents a substantial and objective risk that the appearance of impartiality has been compromised.

42. Accordingly, disqualification is required to uphold the integrity of the judiciary and to ensure that proceedings are free from any reasonable question regarding impartiality.

(IV). TIMELINESS

43. This Motion is timely under Fla. R. Jud. Admin. 2.330(e). Although Movant has experienced filing rejections in the past, Movant reasonably believed that following dismissal of the federal action, the Court would no longer continue enforcing unconstitutional restrictions or would afford notice and an opportunity to be heard. Movant discovered that the Court continued such enforcement on **December 19, 2025,** when the Clerk rejected the motion. This Motion is filed within twenty (20) days of that discovery.

(V). PRESERVATION CLAUSE

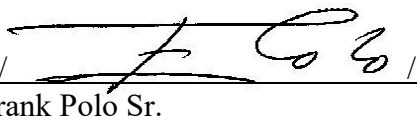
44. Movant raises the foregoing jurisdictional and due-process irregularities solely to demonstrate a reasonable fear of not receiving a fair and impartial hearing and expressly preserves all substantive challenges to jurisdiction, voidness, and enforceability of any orders for adjudication in the appropriate proceeding.

45. This Motion is not based on disagreement with prior judicial rulings, nor does it seek to relitigate matters previously decided or reviewed on appeal. Movant acknowledges that adverse rulings, standing alone, are not grounds for disqualification. Rather, this Motion is based solely on whether the totality of circumstances alleged, including materially contradictory rulings entered without notice or hearing, continued enforcement of filing restrictions without due process, and the Court's prior adversarial posture as a named defendant in litigation brought by Movant, would cause a reasonably prudent litigant to fear that he cannot receive a fair and impartial hearing.

(VI). RELIEF REQUESTED

46. **WHEREFORE**, Movant respectfully requests that the Honorable Judge Spencer Multack enter an order of disqualification forthwith and take no further action in this case other than ministerial acts pending reassignment.

Respectfully submitted,

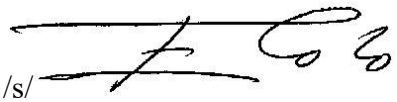
/s/  /

Frank Polo Sr.
1475 SW 8th St Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

(VII). VERIFICATION

47. I, **Frank E. Polo**, declare under penalty of perjury that I have read the foregoing **Verified Motion to Disqualify Judge Spencer Multack**, and that the facts stated therein are true and correct to the best of my personal knowledge and belief.

Executed this **31** day of **December, 2025**, in Miami-Dade County, Florida.



/s/ /

Frank E. Polo, pro se

(VIII). CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was sent via e-filing to the following individuals hereunder, on this **Wednesday, 31, 2025**.

TO: Manuel A Segarra III
Attorneys for Mother
Via: E-Filing
E-Mail: manny@segarralawfirm.com
TO: Merlin Hernandez
E-mail: merlinh79@gmail.com
Petitioner
Via: E-Filing

By: /s/
Frank Polo Sr.
1475 SW 8th St Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

APPENDIX H

Clerk Rejection / Correction Queue Notice Stating Filing Was "Barred by Order of Court or Otherwise Incapable of Being Filed," January 2, 2026.

FLORIDA COURTS
E-FILING PORTAL

View NEF | My Cases | My Submissions | Sign Out
Filings Access | Workbench | My Alerts | E-Filing Map
DIY Documents | CCIS

My Account ▼ Filing Options ▼

Welcome - Frank E. Polo
Last signed in on - 12/31/2025 08:17:57 PM

News & Information

- **12/26/2025 Update: Postponement of Scheduled Maintenance :** Please be advised that the Florida Courts E-Filing Portal maintenance originally scheduled for Saturday, December 27, 2025, from 1:30 a.m. ET to 4:30 a.m. ET has been postponed. Notification of the rescheduled maintenance window will be distributed once the new date and time have been

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To:

Alert Created To

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Filing ID:

Filing #

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Select	Filing #	Case Style	Court Case #	Court	Alert Date	Type of Alert	Remarks
☐	238652687	Hernandez, Merlin vs Polo, Frank E	2012-017787-FC-04	Miami-Dade	01/02/2026 08:47:17 AM	Filing Moved to Correction Queue	Is barred by order of court or is otherwise incapable of being filed in the clerks case maintenance system
☐				FACC Services Group	07/20/2020 03:32:09 PM	Bounce back received more than 5 times	Email Address 'FrankPolo3@gmail.com' linked to your profile has received more than 5 E-service bounce backs. Please correct the bad email address to remove this alert.

1 - 2 of 2 items

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APPENDIX I

USPS Mailing Receipt for Service of Verified Motion to Disqualify, January 2, 2026.

FPolo1@outlook.com

From: DoNotReply@ereceipt.usps.gov
Sent: Friday, January 2, 2026 8:28 AM
To: FRANK.POLO@MSN.COM
Subject: USPS eReceipt

UNITED ST

FLAGLER MIAMI
500 NW 2ND AVE
MIAMI, FL 33101-9998
www.usps.com

01/02/2026 08:27 AM

TRACKING NUMBERS
9505 5141 9972 6002 3603 21

TRACK STATUS OF ITEMS BY LINK
(Up to 25 items)
Click to track items

TRACK STATUS BY TEXT MESSAGE
Send tracking number to 28777 (2USPS)
Standard message and data rates may apply

TRACK STATUS ONLINE
Visit https://www.usps.com/tracking
Text and e-mail alerts available

PURCHASE DETAILS

Product	Qty	Unit Price	Price
Priority Mail® Flat Rate Env Miami, FL 33128 Flat Rate Expected Delivery Date Mon 01/05/2026 Tracking #: 9505 5141 9972 6002 3603 21	1		$11.90

Insurance $0.00
Up to $100.00 included
Total $11.90

Grand Total: $11.90

Credit Card Remit $11.90
Card Name: VISA
Account #: XXXXXXXXXXXX3876
Approval #: 73873D
Transaction #: 394
AID: A0000000031010 Contactless
AL: VISA CREDIT

TO REPORT AN ISSUE
Visit https://emailus.usps.com

All hazardous labels/markings on reused boxes MUST be completely removed/obliterated if they no longer match the contents.

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Visit https://www.usps.com/help/claims.htm

PREVIEW YOUR MAIL AND PACKAGES
Sign up for FREE at
https://informeddelivery.usps.com

All sales final on stamps and postage.
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Thank you for your business.

Customer Service
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(1-800-275-8777)
Agents do not have any additional information other than what is provided on USPS.com.

Tell us about your experience.
Go to: https://postalexperience.com/pos?mt=9
or call 1-800-410-7420.

UFN: 115872-0102
Receipt #: 840-53300041-2-9783390-2
Clerk: 47

Privacy Act Statement: Your information will be used to provide you with an electronic receipt for your purchase transaction via email. Collection is authorized by 39 USC 401, 403, and 404. Providing the information is voluntary, but if not provided, we will be unable to process your request to receive an electronic receipt. We do not disclose your information to third parties without your consent, except to facilitate the transaction, to act on your behalf or request, or as legally required. This includes the following limited circumstances: to a congressional office on your behalf; to financial entities regarding financial transaction issues; to a U.S. Postal Service auditor; to entities, including law enforcement, as required by law or in legal proceedings; to contractors and other entities aiding us to fulfill the service (service providers); to process servers; to domestic government agencies if needed as part of their duties; and to a foreign government agency for violations and alleged violations of law. For more information on our privacy policies visit www.usps.com/privacypolicy.

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APPENDIX J

USPS Delivery Confirmation Showing Delivery of Verified Motion to Disqualify, January 5, 2026.

ALERT: SEVERE WEATHER CONDITIONS ACROSS THE U.S. MAY DELAY PROCESSING, TRANS…

USPS Tracking®

FAQs >

Remove ×

Tracking Number:

420331281846950551419972600236032 1

Copy Add to Informed Delivery (https://informeddelivery.usps.com/)

Latest Update

Your item was delivered in or at the mailbox at 5:32 pm on January 5, 2026 in MIAMI, FL 33128.

Get More Out of USPS Tracking:

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Delivered

Delivered, In/At Mailbox

MIAMI, FL 33128
January 5, 2026, 5:32 pm

See All Tracking History

What Do USPS Tracking Statuses Mean? **(https://faq.usps.com/s/article/Where-is-my-package)**

Text & Email Updates ⌄

USPS Tracking Plus® ⌄

Product Information ⌄

See Less ^

Feedback

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

APPENDIX K

Notice of Clerk Rejection of Verified Motion to Disqualify and Request for Docketing, with Rejected Motion Attached, filed January 27, 2026.

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI DADE COUNTY, FLORIDA
(Family Division)

MERLIN HERNANDEZ
Petitioner,
VS. Case No. **2012-017787-FC-04**

FRANK E. POLO
Respondent Pro-Se

NOTICE OF CLERK REJECTION OF VERIFIED MOTION TO DISQUALIFY AND REQUEST FOR DOCKETING

COMES NOW Respondent, **Frank E. Polo**, pro se, and pursuant to Florida Rule of Judicial Administration 2.330, respectfully files this "Notice of Clerk Rejection of Verified Motion to Disqualify and Request for Docketing" and in support thereof further states:

1. On December 31, 2025, the Plaintiff e-filed the attached as EXHIBIT A, Verified Motion to Disqualify pursuant to Fla. R. Jud. Admin. 2.330 through the Florida Courts E-Filing Portal with Filing # 238652687 (E-Filed 12/31/2025 08:26:22 PM).

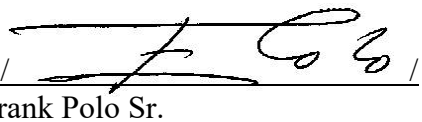
2. On January 2, 2026, at 8:47 a.m., the Clerk did not docket the motion and instead moved it to the "Correction Queue," stating that it "is barred by order of court or is otherwise incapable of being filed in the clerk's case maintenance system." *See* EXHIBIT B.

3. A motion to disqualify under Rule 2.330 may not be rejected or blocked by the Clerk, nor may filing restrictions be enforced to prevent a party from seeking judicial disqualification.

4. Respondent files this Notice solely to preserve the record and to request that the Court direct the Clerk to immediately docket the Verified Motion to Disqualify for determination as required by Rule 2.330.

WHEREFORE, Respondent respectfully requests that this Court enter an order directing the Clerk of Court to immediately accept and docket the Verified Motion to Disqualify filed on December 31, 2025 (Filing No. 238652687), and for such other ministerial relief as may be necessary to ensure compliance with Florida Rule of Judicial Administration 2.330.

Respectfully submitted,

/s/  /
Frank Polo Sr.
1475 SW 8th St Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

(I). CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was sent via e-filing to the following individuals hereunder, on this **Tuesday, January 27, 2026.**

TO: Manuel A Segarra III
Attorneys for Mother
Via: E-Filing
E-Mail: manny@segarralawfirm.com
TO: Merlin Hernandez
E-mail: merlinh79@gmail.com
Petitioner
Via: E-Filing

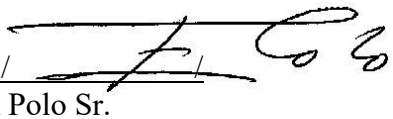
By: /s/  /
Frank Polo Sr.
1475 SW 8th St Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

EXHIBIT: A

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI DADE COUNTY, FLORIDA
(Family Division)

MERLIN HERNANDEZ
Petitioner,
VS. Case No. **2012-017787-FC-04**

FRANK E. POLO
Respondent Pro-Se

VERIFIED MOTION TO DISQUALIFY HON. SPENCER MULTACK

COMES NOW Respondent, **Frank E. Polo**, pro se, and pursuant to Florida Rule of Judicial Administration 2.330, respectfully moves to disqualify the Honorable Judge Spencer Multack and states as follows:

(I). GOVERNING STANDARD

A judge must be disqualified where the facts alleged would place a reasonably prudent person in fear of not receiving a fair and impartial hearing. The test is objective and concerns the **appearance of impartiality**, not proof of actual bias.[1]

(II). FACTUAL BASIS FOR DISQUALIFICATION

A. TERMINATION OF JURISDICTION IN 2018

1. On **September 14, 2018**, **Bernstein** entered a Final Judgment in this family case. *See* **APPX (1)**.

2. On **September 20, 2018**, Judge Bernstein vacated the September 14 judgment and re-entered a Final Judgment. *See* **APPX (2)**

3. Neither version of the Final Judgment reserved jurisdiction to adjudicate attorney's fees or costs.

[1] "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." **Livingston v. State**, 441 So. 2d 1083 (Fla. 1983).

4. Florida Family Law Rule of Procedure **12.530** allows **fifteen (15) days** from entry of a final judgment to move for rehearing or otherwise invoke post-judgment jurisdiction. *See* **Fla. Fam. L. R. P. 12.530(b)**.

5. The Rule 12.530 rehearing period following the **September 20, 2018 Final Judgment expired on October 5, 2018**, without any motion for rehearing being filed.

6. On **October 8, 2018**, **eighteen (18) days after** entry of the **September 20, 2018** Final Judgment and **after expiration of the rehearing period**, Ms. Hernandez filed a motion for attorney's fees. *See* **APPX (3).**

7. On **November 1, 2018**, counsel for Ms. Hernandez, Manuel Segarra, filed a separate motion for attorney's fees, further asserting post-judgment jurisdiction weeks after jurisdiction had expired. *See* **APPX (4).**

8. Because jurisdiction was not reserved and the rehearing period had expired, the trial court lacked personal jurisdiction over Movant to adjudicate attorney's fees absent **new service of process commencing a post-judgment proceeding**. Movant was never served with new process.

B. GOVERNING ETHICAL STANDARDS REQUIRING DISQUALIFICATION

9. Florida's Code of Judicial Conduct requires disqualification whenever a judge's impartiality **might reasonably be questioned**, regardless of the judge's subjective belief in their ability to remain fair.

10. **Canon 2** of the Florida Code of Judicial Conduct provides that a judge shall uphold the integrity and independence of the judiciary and shall avoid impropriety **and the appearance of impropriety** in all judicial activities.

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14. Accordingly, disqualification is required not as a finding of wrongdoing, but as a prophylactic measure to uphold judicial integrity and to ensure that justice is both done and **appears to be done**.

C. CONTINUED EXERCISE OF AUTHORITY AFTER JURISDICTION HAD TERMINATED

15. Notwithstanding the jurisdictional termination that occurred in 2018, subsequent judicial officers, including Judge Multack, continued to exercise authority over attorney's fees proceedings in a case where jurisdiction had terminated and entered orders affecting Movant's substantive rights.

16. Judge Multack's continued involvement occurred despite the absence of retained jurisdiction and despite the lack of personal jurisdiction over Movant.

D. APRIL 15, 2021 HEARING BEFORE JUDGE DEL REY (NO RESTORATION OF ACCESS)

17. On **April 15, 2021**, a hearing was held before **Marcia Del Rey**, noticed solely as a *Motion to Withdraw as Counsel* hearing.

18. No motion was noticed, and no hearing was set, to impose, modify, or lift any filing restrictions.

19. During that hearing, Movant expressly requested removal of filing restrictions. Judge Del Rey **refused**, stating on the record that the prior restriction was "law of the case." *See* **(APPX 5).**

20. Nevertheless, a written order drafted by opposing counsel **purported on paper** to reflect a limited restriction, despite no oral ruling authorizing such modification and without notice or opportunity to be heard on access-to-courts issues. *See* **(APPX 6).**

21. In practice, the Clerk of Court continued to enforce a **blanket filing prohibition**, preventing Movant from filing anything.

E. JULY 5, 2022 ORAL RULING AND CONTRADICTORY WRITTEN ORDER

22. On **July 5, 2022**, Judge Multack orally ruled that he would direct the Clerk to accept Movant's pleadings and motions. *See* **(APPX 7)**.

23. Near the end of that same hearing, the Court learned that Movant had previously filed federal litigation involving judicial officers. *Id.*

24. No further argument was heard, and no reconsideration hearing was noticed.

25. The subsequently entered written order:

(a) materially contradicted the oral ruling,

(b) restricted filing access that had been granted on the record, and

(c) the change in the order was entered without holding a hearing at which Movant was present. *See* **(APPX 8)**.

26. Despite the absence of any finding in the record that Movant engaged in extreme or abusive litigation conduct warranting filing restrictions,[2] and despite the absence of any order entered after notice and an opportunity to be heard, the continued enforcement of filing restrictions placed Movant in a materially disadvantaged position. As a result, Movant was unable to meaningfully file evidence, seek discovery, or otherwise participate on equal footing in the proceedings. Under

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28. The record reflects no independent, discrete factual findings identifying specific acts of misconduct external to legitimate advocacy that would warrant such characterizations. Rather, the findings adopt generalized conclusions and prior labels without articulating particularized facts demonstrating abusive conduct.

29. Under these circumstances, a reasonably prudent litigant would fear that the Court has aligned itself with one party's litigation narrative and is treating protected advocacy as sanctionable behavior, thereby undermining the appearance of impartiality required by Canon 2 and Rule 2.11(A).

30.

F. PRIOR FEDERAL LITIGATION INVOLVING JUDGE MULTACK

31. On **May 4, 2023**, Movant filed a federal civil action in the United States District Court for the Southern District of Florida arising from constitutional violations in this case. Judge Multack was a named defendant. *See* **(APPX 9)**.

32. On **July 22, 2024**, the federal action was dismissed on pleading grounds ("shotgun pleading"), without adjudication on the merits and without any finding that Movant's claims were factually unfounded.

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33. Despite having been a litigation adversary of Movant, Judge Multack continued to preside over this case.

G. CONTINUED ENFORCEMENT AFTER FEDERAL DISMISSAL AND DISCOVERY OF GROUNDS

34. Following dismissal of the federal action, Movant reasonably believed that the Court would cease enforcing unconstitutional, ex parte-modified filing restrictions entered years earlier.

35. On **December 19, 2025**, Movant filed a Motion to Direct the Clerk to Accept and Docket Filings, to Cease Enforcing Void Filing-Restriction Orders, and to Remove/Clarify Any "Do Not File" Flag, not to seek permission to file, but to ensure the Clerk would not continue enforcing illegal or void restrictions going forward. **(APPX 10)**.

36. The rejection of that motion confirmed that the Court continued to enforce filing restrictions despite the jurisdictional posture and without notice or hearing. **(APPX 11)**.

37. Under these circumstances, where jurisdiction terminated in 2018, filings were blocked for years, and Movant had previously sued the presiding judge, a reasonably prudent litigant would fear that he could not receive a fair and impartial hearing before the Court.

(III). WHY THIS SITUATION REQUIRES DISQUALIFICATION

PERSONAL INVOLVEMENT AS A LITIGANT

38. Judge Multack was a named defendant in prior federal litigation brought by Movant. This placed the judge in a direct, personal, and adversarial posture against a party now appearing before him, extending beyond abstract judicial disagreement and into personal litigation exposure.

APPEARANCE OF BIAS, REGARDLESS OF SUBJECTIVE INTENT

39. Even if the Court believes it can remain fair and impartial, Florida law does not turn on the judge's subjective confidence. The controlling inquiry is whether a reasonably prudent person would fear that prior litigation could influence, or appear to influence, the judge's decisions. The

perception that a judge might consciously or unconsciously favor or disfavor a litigant who previously sued them undermines public confidence in judicial neutrality.

PRIOR ADVERSARIAL RELATIONSHIP

40. A prior lawsuit necessarily creates an adversarial history. When a judge has previously stood opposite a party as a defendant, that history creates an inherent appearance problem that cannot be cured by assurances of impartiality. Florida's recusal standard is prophylactic and exists to prevent precisely this erosion of confidence.

PRESERVATION OF JUDICIAL INTEGRITY

41. Florida judges are guided by the principle that justice must not only be done, but must **appear to be done**. A judge's continued participation after having been a direct litigation adversary of a party before the court presents a substantial and objective risk that the appearance of impartiality has been compromised.

42. Accordingly, disqualification is required to uphold the integrity of the judiciary and to ensure that proceedings are free from any reasonable question regarding impartiality.

(IV). TIMELINESS

43. This Motion is timely under Fla. R. Jud. Admin. 2.330(e). Although Movant has experienced filing rejections in the past, Movant reasonably believed that following dismissal of the federal action, the Court would no longer continue enforcing unconstitutional restrictions or would afford notice and an opportunity to be heard. Movant discovered that the Court continued such enforcement on **December 19, 2025,** when the Clerk rejected the motion. This Motion is filed within twenty (20) days of that discovery.

(V). PRESERVATION CLAUSE

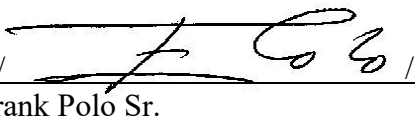
44. Movant raises the foregoing jurisdictional and due-process irregularities solely to demonstrate a reasonable fear of not receiving a fair and impartial hearing and expressly preserves all substantive challenges to jurisdiction, voidness, and enforceability of any orders for adjudication in the appropriate proceeding.

45. This Motion is not based on disagreement with prior judicial rulings, nor does it seek to relitigate matters previously decided or reviewed on appeal. Movant acknowledges that adverse rulings, standing alone, are not grounds for disqualification. Rather, this Motion is based solely on whether the totality of circumstances alleged, including materially contradictory rulings entered without notice or hearing, continued enforcement of filing restrictions without due process, and the Court's prior adversarial posture as a named defendant in litigation brought by Movant, would cause a reasonably prudent litigant to fear that he cannot receive a fair and impartial hearing.

(VI). RELIEF REQUESTED

46. **WHEREFORE**, Movant respectfully requests that the Honorable Judge Spencer Multack enter an order of disqualification forthwith and take no further action in this case other than ministerial acts pending reassignment.

Respectfully submitted,

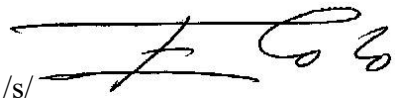
/s/  /

Frank Polo Sr.
1475 SW 8th St Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

(VII). VERIFICATION

47. I, **Frank E. Polo**, declare under penalty of perjury that I have read the foregoing **Verified Motion to Disqualify Judge Spencer Multack**, and that the facts stated therein are true and correct to the best of my personal knowledge and belief.

Executed this **31** day of **December, 2025**, in Miami-Dade County, Florida.



/s/ /

Frank E. Polo, pro se

(VIII). CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was sent via e-filing to the following individuals hereunder, on this **Wednesday, 31, 2025**.

TO: Manuel A Segarra III
Attorneys for Mother
Via: E-Filing
E-Mail: manny@segarralawfirm.com
TO: Merlin Hernandez
E-mail: merlinh79@gmail.com
Petitioner
Via: E-Filing

By: /s/
Frank Polo Sr.
1475 SW 8th St Apt 411
Miami, FL. 33135
Telephone: 305-901-3360
Email: Frank.Polo@msn.com

FLORIDA COURTS
E-FILING PORTAL

View NEF | My Cases | My Submissions | Sign Out
Filings Access | Workbench | My Alerts | E-Filing Map
DIY Documents | CCIS

My Account ▾ | Filing Options ▾

Welcome - Frank E. Polo
Last signed in on - 12/31/2025 08:17:57 PM

News & Information

- **12/26/2025 Update: Postponement of Scheduled Maintenance :** Please be advised that the Florida Courts E-Filing Portal maintenance originally scheduled for Saturday, December 27, 2025, from 1:30 a.m. ET to 4:30 a.m. ET has been postponed. Notification of the rescheduled maintenance window will be distributed once the new date and time have been

My Alerts

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Enter Search Criteria

Alert Date From:
Alert Created From
To:
Alert Created To

Type of Alert:

Filing ID:
Filing #

Search | Clear Search Criteria

Clear Selected Alert(s)

Select	Filing #	Case Style	Court Case #	Court	Alert Date	Type of Alert	Remarks
☐	238652687	Hernandez, Merlin vs Polo, Frank E	2012-017787-FC-04	Miami-Dade	01/02/2026 08:47:17 AM	Filing Moved to Correction Queue	Is barred by order of court or is otherwise incapable of being filed in the clerks case maintenance system
☐				FACC Services Group	07/20/2020 03:32:09 PM	Bounce back received more than 5 times	Email Address 'FrankPolo3@gmail.com' linked to your profile has received more than 5 E-service bounce backs. Please correct the bad email address to remove this alert.

1 - 2 of 2 items

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APPENDIX L

Email to Judge Multack's Judicial Assistant Regarding Rule 2.330 Deemed-Granted Reassignment, February 14, 2026.

Outlook

Case No. 2012-017787-FC-04 — Rule 2.330 deemed-granted reassignment: clerk filing blockage (cc counsel)

From Frank Polo <Frank.Polo@msn.com>
Date Sat 2/14/2026 2:27 AM
To YZarate@jud11.flcourts.org, <YZarate@jud11.flcourts.org>
Cc Segarra & Associates, P.A. <service@segarralawfirm.com>; Segarra & Associates, P.A. <info@segarralawfirm.com>; Manny Segarra <manny@segarralawfirm.com>

3 attachments (740 KB)
A- Filed Motion To Recuse.pdf; B- Mailing Receipt January 2, 2026.pdf; C- Delivery Receipt Dated January 5, 2026.pdf;

Hello Ms. Zarate,

I write solely as an administrative courtesy regarding Case No. 2012-017787-FC-04.

A Verified Motion to Disqualify under Rule 2.330 was served on chambers, with USPS delivery confirmed on January 5, 2026. No order denying the motion appears on the docket within 30 days of service.

A Notice of Deemed-Granted Status / Request for Reassignment has been filed and is now docketed with PDF images linked.

When I attempted to file a short motion to implement reassignment, the Clerk returned it to the correction queue with the message that it is "barred by order of court" and to contact the office before submitting documents to the case. I have contacted Clerk administration for assistance.

This email is provided only to ensure chambers is aware of the docket posture. I am copying opposing counsel to avoid any ex parte concern.

Attached:
A – Filed Motion to Disqualify
B – USPS Mailing Receipt (Jan 2, 2026)
C – USPS Delivery Confirmation (Jan 5, 2026)

Respectfully,

Frank E. Polo, pro se
Email: Frank.Polo@msn.com
Phone: 305-901-3360

APPENDIX M

Judicial Assistant Automatic Email Reply Confirming Receipt, February 14, 2026.

Outlook

Automatic reply: Case No. 2012-017787-FC-04 — Rule 2.330 deemed-granted reassignment: clerk filing blockage (cc counsel)

From Zarate, Yarleen <yzarate@jud11.flcourts.org>
Date Sat 2/14/2026 2:28 AM
To Frank Polo <Frank.Polo@msn.com>

Thank you for your e-mail.

All Miami-Dade County Courts and Clerk of Courts offices will be closed on Monday, Feb. 16, 2026, in observance of Presidents Day.

The courts and clerk's offices will re-open on Tuesday, Feb. 17th, following regular schedules.

Yarleen Zarate
Judicial Assistant to
The Honorable Judge Spencer J. Multack
Family Division 39
Lawson E. Thomas Courthouse Center
175 N.W. 1st Avenue Suite 2314
Miami, Florida 33128
Phone: 305-349-5732
Zoom Courtroom: https://zoom.us/j/93093751321
Judge Multack's Website: https://tinyurl.com/wsnt9wl

Useful links:
Florida E-filing Portal: https://www.myflcourtaccess.com/authority/
11th Circuit Family Self Help: https://www.jud11.flcourts.org/Family-Court-Self-Help-Program
Florida Family Law Forms: https://tinyurl.com/85959cf4

APPENDIX N

Lower-Tribunal Docket Sheet Showing No Order Denying Verified Motion to Disqualify.

DIN	Date	Book/Page	Docket Entry	Event Type	Comments
228	01/09/2018		Agreement	Event	MEDATION CONFIDENTIALITY FORM
227	01/09/2018		Agreement	Event	MEDIATION CONFIDENTIALITY FORM
223	01/08/2018		Agreement	Event	MEDIATION CONFIDENTIALITY FORM
222	01/08/2018		Mediators Report	Event	NO AGREEMENT
221	01/05/2018		Notice of Hearing-	Event	1-30-18 1:30pm
220	12/29/2017		Notice of Hearing-	Event	1-30-18 1:30pm
219	12/27/2017		Response to Request for Production	Event	MOTHER'S TO THE RESPONDENT'S FIRST REQUEST DATED FOF 08-27-2017
216	12/26/2017		Receipt:	Event	Receipt#:2210003 Amt Paid:$60.00 Allocation Code Quantity Unit Amount 3170-Mediator Fee 1 $60.00 $60.00 Tender Type:Check Tender Amt:$60.00 Receipt Date:12/26/2017 Register#:221 Cashier:FarahC
218	12/22/2017		Request for Hearing	Event	MOTHERS
217	12/22/2017		Motion for Clarification	Event	MOTHER FOR TIME-SHARING PROVISIONS OF THE MEDIATED SETT AGREEMENT ETC
210	12/20/2017		Receipt:	Event	Receipt#:2050020 Amt Paid:$60.00 Allocation Code Quantity Unit Amount 3170-Mediator Fee 1 $60.00 $60.00 Tender Type:Indigent Tender Amt:$60.00 Receipt Date:12/20/2017 Register#:205 Cashier:FarahC
215	12/18/2017		Subpoena Served	Event	WITHOUT DEPO UPON SYNCHRONY BANK
214	12/18/2017		Transcript of Proceedings Taken	Event	HEARING BEFORE JUDGE SCOTT BERNSTEIN DATED FOR 008-15-2017
213	12/18/2017		Subpoena Served	Event	Kondaur Capital Corporation
212	12/18/2017		Subpoena Served	Event	Department Of Children and Families
211	12/18/2017		Subpoena Served	Event	American Financial Resources Inc
209	12/18/2017		Order of Referral to Parenting Coordinator	Event	
208	12/18/2017		Order of Referral to Family Court Services	Event	
207	12/12/2017		Order:	Event	denied motion for evidentiary hearing on co-parenting coordinator fees
206	12/12/2017		Order:	Event	re: motion for relieve from judgment
205	12/12/2017		Order:	Event	on objection to subpoena duces tecum
	12/12/2017		Motion Hearing	Hearing	
204	11/29/2017		Notice of Cancellation of Hearing	Event	11-30-17 1:30pm
203	11/27/2017		Motion for Continuance	Event	agreed (with attachments)
202	11/17/2017		Transcript of Proceedings Taken	Event	BEFORE JUDGE SCOTT BERSTEIN DATED FOR 08-15-2017
201	10/24/2017		Letter of Correspondence	Event	to Judge Bernstein from resp. dated 9-5-17
200	10/24/2017		Order:	Event	regarding competing orders
199	10/24/2017		Order:	Event	on mtn. for temporary support and other relief
198	10/24/2017		Order:	Event	on objections to notice of production
	10/24/2017		Motion Hearing	Hearing	
197	10/19/2017		Notice of Appt of Medtrandcnfrnce	Event	DATED FOR 12-22-2017 2:30 P.M.
193	10/19/2017		Receipt:	Event	Receipt#:2440006 Amt Paid:$6.00 Allocation Code Quantity Unit Amount 3344-Subpoena - Sign 3 $2.00 $6.00 Tender Type:Cash Tender Amt:$6.00 Receipt Date:10/19/2017 Register#:244 Cashier:FarahC
192	10/19/2017		Notice of Production from Non-Party	Event	(amended) chase bank usa n.a.and jp morgan chase bank n.a.

APPENDIX O

Order / Determination of Civil Indigent Status, February 7, 2017.

IN THE CIRCUIT/COUNTY COURT OF THE ———— JUDICIAL CIRCUIT
IN AND FOR ———— COUNTY, FLORIDA

Merlin Hernandez
Plaintiff/Petitioner or in the Interest Of
vs. Frank Polo
Defendant//Respondent

CASE NO. 2012-017787-FC28

FILED FOR RECORD
2017 FEB -7 PM 12:05
CIRCUIT & COUNTY COURTS
MIAMI-DADE COUNTY, FLA
CLERK
FAMILY #10

APPLICATION FOR DETERMINATION OF CIVIL INDIGENT STATUS

Notice to Applicant: If you qualify for civil indigence you must enroll in the clerk's office payment plan and pay a one-time administrative fee of $25.00. This fee shall not be charged for Dependency or Chapter 39 Termination of Parental Rights actions.

1. I have 2 **dependents.** *(Include only those persons you list on your U.S. Income tax return.)*
Are you Married? (Yes) No Does your Spouse Work?...Yes (No) Annual Spouse Income? $_____

2. I have a net income of $ 0.00 paid weekly every two weeks semi-monthly monthly yearly other _____.
*(Net income is your total income including salary, wages, bonuses, commissions, allowances, overtime, tips and similar payments, **minus** deductions required by law and other court-ordered payments such as child support.)*

3. I have other income paid weekly every two weeks semi-monthly monthly yearly other _____.
(Circle "Yes" and fill in the amount if you have this kind of income, otherwise circle "No")

Second Job	Yes $	(No)	Veterans' benefits	Yes $	(No)
Social Security benefits			Workers compensation	Yes $	(No)
For you	Yes $	(No)	Income from absent family members	Yes $	(No)
For child(ren)	Yes $	(No)	Stocks/bonds	Yes $	(No)
Unemployment compensation	Yes $	(No)	Rental income	Yes $	(No)
Union payments	Yes $	(No)	Dividends or interest	Yes $	(No)
Retirement/pensions	Yes $	(No)	Other kinds of income not on the list	Yes $	(No)
Trusts	Yes $	(No)	Gifts	Yes $	(No)

I understand that I will be required to make payments for fees and costs to the clerk in accordance with §57.082(5), Florida Statutes, as provided by law, although I may agree to pay more if I choose to do so.

4. I have other assets: *(Circle "yes" and fill in the value of the property, otherwise circle "No")*

Cash	Yes $ 17.00	No	Savings account	Yes $	(No)
Bank account(s)	Yes $ 20.00	No	Stocks/bonds	Yes $	(No)
Certificates of deposit or money market accounts	Yes $	(No)	Homestead Real Property*	Yes $	(No)
			Motor Vehicle*	Yes $	(No)
Boats*	Yes $	(No)	Non-homestead real property/real estate*	Yes $	(No)

*show loans on these assets in paragraph 5

Check one: I DO DO NOT expect to receive more assets in the near future. The asset is_____.

5. I have total liabilities and debts of $ 2658.00 as follows: Motor Vehicle $_____, Home $ 1500, Other Real Property $_____, Child Support paid direct $_____, Credit Cards $_____, Medical Bills $_____, Cost of medicines (monthly) $_____,
Other $ 1158.00

6. I have a private lawyer in this case..... Yes (No)

A person who knowingly provides false information to the clerk or the court in seeking a determination of indigent status under s. 57.082, F.S. commits a misdemeanor of the first degree, punishable as provided in s.775.082, F.S. or s. 775.083, F.S. **I attest that the information I have provided on this application is true and accurate to the best of my knowledge.**

Signed this 7 day of Feb, 2017

02/08/72
Date of Birth

D400265720480
Driver's License or ID Number

1475 SW 8th St #411
Address, P O Address, Street, City, State, Zip Code

Miami FL 33135

F Polo
Signature of Applicant for Indigent Status
Print Full Legal Name Frank Polo
Phone Number: 3059013360

CLERK'S DETERMINATION

Based on the information in this Application, I have determined the applicant to be (✓) Indigent ( ) Not Indigent, according to s. 57.082, F.S.

Dated this 7 day of Feb, 20 17

Clerk of the Circuit Court by _____

This form was completed with the assistance of: _____
Clerk/Deputy Clerk/Other authorized person.

APPLICANTS FOUND NOT TO BE INDIGENT MAY SEEK REVIEW BY A JUDGE BY ASKING FOR A HEARING TIME.
THERE IS NO FEE FOR THIS REVIEW.
Sign here if you want the judge to review the clerk's decision _____

APPENDIX P

Notice of Hearing for "Resolution of Competing Orders Submitted by the Parties," October 3, 2017.

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY,
FLORIDA

IN RE: THE MATTER OF

MERLIN HERNANDEZ
Petitioner / Mother,
And

FRANK ENRIQUE POLO
Respondent / Father,

FAMILY DIVISION

CASE NO: 2012-17787-FC-04
SECTION: 28

NOTICE OF HEARING [1]
(Special Setting)

TO: FRANK M. POLO
Frank.Polo@msn.com

YOU ARE HEREBY NOTIFIED that the Undersigned has set down for hearing before the Honorable Scott M. Bernstein, or one of the Judges of the above styled court:

MATTER: **Resolution of Competing Orders Submitted by the Parties.**

DATE: **Tuesday, October 24, 2017.**

TIME: **2:30 P.M.,** or as soon thereafter as counsel may be heard.

LOCATION: Courthouse Center, 175 N.W. 1st Avenue, **Courtroom CHC 28-C**, Miami, FL 33128.

I HEREBY CERTIFY that a true and exact copy of the above *Notice of Hearing* was delivered via electronic mail to the above addressee(s) on the 3rd Day of October, 2017.

SEGARRA & ASSOCIATE, P.A.
2655 South Le Jeune Road
Penthouse 2 C
Coral Gables, FL 33134
Tel: (305) 742-5042 Fax: (305) 397-0292
manny@segarralawfirm.com
service@segarralawfirm.com

/s/Manuel A. Segarra, III, Esq.
MANUEL A. SEGARRA, III
Florida Bar No. 0389110

[1] The above noticed hearing was requested by and coordinated with this Honorable Court.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Eleventh Judicial Circuit Court's ADA Coordinator, Lawson E. Thomas Courthouse Center, 175 N.W. 1st Avenue, Suite 2702, Miami, FL 33128, Telephone (305) 349-7175; TDD (305) 349-7174, Fax (305) 349-7355 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

APPENDIX Q

Order Re Resolution of Competing Orders Imposing Filing Restriction, October 24, 2017.

10/24/2017 3:30 PM FILED FOR RECORD

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

FAMILY DIVISION

Merlin Hernandez

Petitioner,

vs.

Frank Enrique Polo

Respondent.

_____/

CASE NO. 2012-17787FC 04

ORDER Re Resolution of Compete Orders

THIS CAUSE having come on to be heard on October 24, 2012

on ~~Petitioner's/Respondent's Motion~~ Resolution of Compete Orders by the Parties

and the Court having read argument of counsel, and being otherwise advised in the Premises, it is

hereupon,

ORDERED AND ADJUDGED that said Motion be, and the same is hereby

The Court has entered the two (2) proposed orders submitted by Petitioner. Court further finds that Respondents objection to proposed orders and conduct during pending litigation is vexatious. The Respondent shall not file any further pleadings, motions or letters to the Court in this matter without having the same reviewed by a member of the Florida Bar.

DONE AND ORDERED in Chambers, at Miami, Miami-Dade County, Florida, this 24 day of Oct. 2017.

Circuit Court Judge
Scott M. Bernstein
Circuit Court Judge

Copies furnished to: M. Segarra
F. Polo

APPENDIX R

Order Prohibiting Petitioner From Filing Anything Further in the Court File and From Contacting Judicial Assistant, October 2, 2018.

Merlin Hernandez

Petitioner,

vs.

Frank Polo

Respondent.
_____/

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

FAMILY DIVISION

CASE NO. 2012-17787 FC 04 (028)

ORDER ~~GRANTING/DENYING PETITIONER'S/RESPONDENT'S~~

_____

THIS CAUSE came before the Court on the 2 day of Oct., 2018 ~~on Petitioner's/Respondent's Motion~~ sua sponte

and the Court having heard argument of counsel, being otherwise advised in the premises, it is hereupon

ORDERED AND ADJUDGED that ~~said Motion be, and the same is hereby~~ Frank Polo may not file anything further in the court file. He may not call the Court's judicial assistant. He may not email or text the court's judicial assistant. He now has counsel & all communication must be through counsel.

DONE AND ORDERED at Miami-Dade County, Florida, this 2 day of Oct., 2018.

Circuit Court Judge
Scott M. Bernstein
Circuit Court Judge

Copies furnished to:

117.01-323 12/03

APPENDIX S

Excerpt of Transcript of Hearing, October 2, 2018
Relevant portions showing sua sponte filing prohibition, prohibition on contacting judicial assistant, attorney-only access requirement, and indigency/counsel-affordability discussion.

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT, IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

FAMILY DIVISION 28

CASE NO: 2012-17787-FC-04

IN RE: IN THE MATTER OF)
)
MERLIN HERNANDEZ,)
)
Petitioner,)
)
and)
)
FRANK E. POLO, SR.,)
)
Respondent.)
----------/

Lawson Thomas Courthouse Center
175 Northwest First Avenue
Courtroom 28C
Miami, Florida 33128
October 2, 2018
1:30 p.m.

The above-entitled case came on for hearing before the Honorable SCOTT M. BERNSTEIN, Circuit Judge, pursuant to notice.

PROCEEDINGS

APPEARANCES:

ON BEHALF OF THE PETITIONER:

SEGARRA & ASSOCIATES, P.A.
2655 Le Jeune Road
Penthouse 2C
Coral Gables, Florida 33134
BY: MANUEL SEGARRA, III, ESQUIRE
SERENA M. SALVA, ESQUIRE

ON BEHALF OF THE RESPONDENT:

LAW OFFICE OF PEREZ-CEBALLOS
814 Ponce de Leon Boulevard
Suite 318
Coral Gables, Florida 33134
BY: RAUL PEREZ-CEBALLOS, ESQUIRE
perezceballos@bellsouth.net

ALSO PRESENT:

FRANK E. POLO, SR.

anything because they are rejected, where there is a reason --

THE COURT: Well, because he was ordered not to file stuff.

THE JUDICIAL ASSISTANT: Not to file, exactly.

MS. SALVA: Pardon, your Honor.

He filed his verified notice of satisfaction of judgment, on September 9, 2018, at 12:12.

MR. POLO: September 9th?

MS. SALVA: September 29th, I apologize.

THE COURT: Two days ago -- three days ago.

Okay. So what Mr. Polo filed then is wrong. This is not a satisfaction of anything.

MR. PEREZ-CEBALLOS: Judge, luckily he has me now. Understandably, Mr. Polo may or may not have committed errors in the past. He's not a Florida Bar licensed attorney, I am.

Your Honor instructed him that any pleadings and motions and everything had to go through a Florida Bar attorney, and here I am. He is doing the best that he can, with what he has.

He didn't have the money to hire me before. He still doesn't have the money. He had to put it on credit that his wife actually put up for him.

I believe he is making nine hundred-something

dollars a month and he's got over two thousand dollars in expenses, and that's kind of been the issue.

He's a third-year law student, so he thinks that because he's a law student, he's able to understand the rules of procedure and everything else. And clearly, that is not the case, Judge, but he's here in a good faith effort. He has hired me. I am now taking over the case to clean up the situation, and we offered Mr. Segarra exactly what your order says.

THE COURT: What was the amount in the order?

MR. PEREZ-CEBALLOS: $1,107.50.

THE COURT: Have you handed it over?

MR. PEREZ-CEBALLOS: He has to pay it by credit card. He has sent an email to Mr. Segarra with the credit card authorization he could run. He could run it right now, if he has a credit card --

I'm sorry?

Okay. He says he also put the credit card authorization in the mail.

And your wife is here, correct?

MR. POLO: So she's here if you need a verbal authorization.

THE COURT: If it gets paid by five o'clock

authorization. You can run right now if you want to.

MR. SEGARRA: We will run it, Judge.

And is the Court aware of the fact that we asked for the fees in the motion for rule to show cause?

Are you asking us to file an additional motion on top of that?

THE COURT: Yes.

All right. The Court is sua sponte entering an order, Mr. Polo is not to file anything in the court file.

There was some dispute before whether or not I had said anything specific enough in my court order. I had said motions, pleadings or letters. I didn't say affidavits or notices, for examples.

My current order says, Mr. Polo may not file anything further in the court file, period. He may not call the Court's judicial assistant. He may not email the Court's judicial assistant. He may not text message the Court's judicial assistant. All communications must be through his attorney.

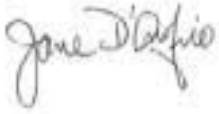
I am thrilled that he now has an attorney, but all communication must be with the attorney, not with Mr. Polo.

CERTIFICATE

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, JANE D'ONOFRIO, a Court Reporter, do hereby certify that the case IN RE: THE MATTER OF MERLIN HERNANDEZ, is the Petitioner, and FRANK POLO, is the Respondent, pending in the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida, Case No. 2012-17787-CA-04, was heard before The Honorable Scott M. Bernstein Circuit Judge, October 2, 2018; that I was authorized to and did report in shorthand the proceedings and evidence in said hearing, to the best of my ability; and that the foregoing pages, numbered from 1 to 25, inclusive, constitute a true and correct transcription of my shorthand report of the proceedings of said case.

IN WITNESS WHEREOF, I have hereunto affixed my hand this 10th day of January, 2019.



JANE D'ONOFRIO
Notary Public-State of Florida
My Commission No.: GG 008495
Expires: July 8, 2020