

IN THE CIRCUIT COURT OF THE NINTH
JUDICIAL CIRCUIT, IN AND FOR
ORANGE COUNTY, FLORIDA.
CASE NO.: 2009-CA-019445-O

Adventist Health System,
Counter Defendant, Plaintiff

Judge Frederick Lauten

vs.

Patricia L. Moleski,
Counter Plaintiff, Defendant

_____ /

DEFENDANT/COUNTER PLAINTIFF MOTION TO DISQUALIFY

PRESIDING JUDGE

Defendant/Counter Plaintiff Patricia L. Moleski, Pro Se and pursuant to section 38.10, Florida Statutes and Rule 2.160 of the Florida Rules of Judicial Administration, respectfully moves this Court to enter an order disqualifying the judge currently presiding over this cause. As grounds for this motion, the defendant states as follows:

1. Section 38.10, Florida Statutes and Rule 2.160 of the Florida Rules of Judicial Administration require that a circuit judge presiding over a criminal/civil proceeding disqualify him or herself if a party thereto fears that he, she, or it will not receive a fair trial or hearing because of specifically described prejudice or bias of the judge.
2. Procedurally, a party seeking to disqualify a trial judge must do so by a motion, which is either verified or supported by a sworn affidavit. Florida Rule of Judicial Administration 2.160©. Such an affidavit may include, and the Court must consider, hearsay allegations in support of the request for disqualification. *Barnett v. Barnett*, 727 So.2d 311, 312n. 2 (Fla. 2d DCA 1999). Additionally, a certificate of good faith from counsel is required in support of the motion. Pro Se litigant, Patricia Moleski, has filed such a certificate of

good faith. “[A] judge faced with a motion for recusal should first resolve that motion before making any other ruling in a case.” *Mackenzie v. Super Kids Bargain Store, Inc.*, 565 So.2d 1332, 1339-1340 (Fla. 1990) (emphasis in original).

3. A court’s discretion is extremely limited when considering a motion for disqualification. The judge against whom a motion to disqualify is directed shall determine only the legal sufficiency of the motion and shall not pass on the truth of the facts supporting the motion for disqualification. Florida Rule of Judicial Administration 2.160(f). “In order to decide whether the motion is legally sufficient, [a] determination must be made as to whether the facts alleged would place a reasonably prudent person in fear of not receiving a fair and impartial trial.” *Mackenzie*, 565 So.2d at 1335-36 (quoting *Livingston v. State*, 441 So.2d 1083, 1087 (Fla. 1983)); see, also, *Barnett*, 727 So.2d at 312 (finding the requisite prejudice to disqualify a Pinellas County trial judge as a result of the suggestion she make at the close of evidence but before closing argument in a child custody proceeding that the wife negotiate for better visitation than the court was prepared to order); *Nunez v. Backman*, 645 So.2d 1063, 1064 (Fla. 4th DCA 1994). Obviously, this threshold is extraordinarily low.

4. The Defendant and Counter-Plaintiff recently discovered facts that reasonably cause her to fear that she will not receive fair treatment before the judge currently presiding over this cause because his spouse, Shelley W. Lauten, is President of *myregion.org*, a Regional Development Program formed in 1999. This program serves as a catalyst for Central Florida’s individuals, organizations, businesses, and governments to act together in making the region of Florida globally competitive. *My Region* has Partners, Regional Partners, an Executive Board of Advisors, a Regional Board of Advisors, and staff. Affiliations from within *My Region* organization are two Regional Board members/partners who are employed by Adventist Health System/Sunbelt Corp and includes as an outreach partner, the whole system of Florida Hospital Orlando. The Defendant and counter plaintiff feels that she will not receive fair treatment before the judge because of his association and this shows possible prejudice or bias against her. The relevant facts and the reasonable fear of prejudice engendered by them are

specifically described in the Affidavit of Patricia Moleski, the defendant and counter plaintiff, which is attached to this motion and incorporated herein by reference.

5. The Plaintiff, Florida Hospital, employs Becky Neimann as its Marketing Director & Director of Development, and she oversees the Fitch Rating for the Plaintiff - Adventist Health System. Des Cummings is employed by the Plaintiff, Adventist Health System, and sits on its Board. He is also the Executive Vice President for the Florida Division of Adventist Health System, and the Executive Vice President of Florida Hospital. Adventist Health System employs both and both are members of *My Region, a company operated by President Shelley Lauten and wife of Judge Frederick Lauten*. Becky Neimann sits on *My Region's* Board of Advisors, and Des Cummings sits as an acting Central Florida Partnership Officer to *My Region*. Most significant is the fact that one of *My Region's* acting Outreach Partner's is the whole entity of Florida Hospital. Florida Hospital is one of the largest hospitals in the United States and is one of the Plaintiff's forty-one Adventist Health System's hospitals within its hierarchy. *See screen shots of My Region Website attached*. *My Region* serves seven counties within the State of Florida and its acting President is the wife of Judge Lauten, who presides over this case. *My Region's* goals and objectives are listed within its website:

My Region's Goals & Objectives

With seven counties, 86 cities, thousands of business and community leaders, and millions of concerned residents, how can *myregion.org* effectively help Central Florida organize to create a better future? By setting clear goals and objectives, we can give regional leaders the roadmap they need to move our region into tomorrow.

Our Goals:

- Organize and train regional leaders
- Conduct regional research to guide regional efforts
- Identify key issues and opportunities
- Nurture an understanding of regional collaboration

Our Desired Outcomes:

Build a new regional mentality
Strengthen and create regional coalitions
Maximize opportunities and address challenges

Our Key Initiatives:

Create the common framework for regional dialogue
Evaluate the challenges and opportunities of our region
Prepare leaders within our region

Five core values:

Inclusion: The development of a regional framework is dependent upon participation at every level. Inclusive representation of profession, background, gender, race, geography, thought and action will insure success.

Partnerships: Regionalism is the triumph of cooperation over competition. Collaborative partnerships have proven successful because they recognize and maximize the strengths and expertise of every participant.

Regional Thinking: In the new millennium, technology has virtually erased the traditional boundaries of doing business. "Location" no longer ensures profitability. The Central Florida Region must be able to respond effectively and efficiently to the demands of the global marketplace.

Exploration & Discovery: A common knowledge base of community assets across the seven-county region will enable leaders to set aside parochial priorities in order to address critical challenges and visualize opportunities for the future.

Consensus Building: One of the most important components of *myregion* is the opportunity to build relationships and provide a "safe" environment for dialogue and debate. These discussions will build a comprehensive understanding of the competitive realities facing the region and the need for integrated thinking and regional action.

Therefore, the defendant and counter plaintiff, Patricia Moleski, has recently discovered facts that show reasonable cause for her to fear that she will not receive fair treatment before the judge currently presiding over this cause. Because of his wife's leadership role as acting President of *My Region*, and his tertiary degree of association to *My Region* and one of its largest constituents, Adventist Health System, these facts meet the criteria for Florida Rule 2.130(d) and should disqualify Judge Frederick Lauten from this case.

Rule 2.160(d) sets forth the following bases for a disqualification motion, at least one of which must be shown in the motion:

1. that the party fears that he or she will not receive a fair trial or hearing because of specifically described prejudice or bias of the judge;
2. that the judge before whom the case is pending, or some person related to said judge by consanguinity or affinity within the third degree, is a party thereto or is interested in the result thereof;
3. that the judge is related to an attorney or counselor of record in the cause by consanguinity or affinity within the third degree; or
4. that the judge is a material witness for or against one of the parties to the cause.

WHEREFORE, The Defendant/Counter Plaintiff respectfully requests that the Court enter an order disqualifying the judge presiding over this cause and providing for the reassignment of the case to another judge of this Court, all in accordance with section 38.10, Florida Statutes and Rule 2.130 of the Florida Rules of Judicial Administration. In addition, the defendant seeks the court to hold in the evidence vault the box forwarded to Judge Lauten from Brad Conway, and to protect the information contained within it until this motion is resolved.

Respectfully Submitted,

/s/ Patricia Moleski – Pro Se Litigant

Patricia L. Moleski – Pro Se Litigant

38340 Tamarac Blvd. #210

Willoughby, Ohio 44094

440-521-8863

CERTIFICATE OF SERVICE - IN COMPLIANCE WITH RULE 1.070. PROCESS

I HEREBY CERTIFY that a copy of the foregoing has been furnished by US Mail/FedEx Certified and specified for signature at of delivery this ___ day of _____ to Judge Frederick Lauten, 425 North Orange Ave. Orlando, Fla. 32801 and to Nicolette Vilmos-BROAD AND CASSEL, 390 North Orange Avenue Suite 1400 Orlando, Florida 32801 and Jim Kizziar 106. S. St. Mary's Street # 800 San Antonio, Texas 78205-3603. In addition, this motion was sent by fax to Judge Lauten - 407-835-5088 and Nicolette Vilmos - (407) 425-8377 and Jim Kizziar – (210) 226-1133 .

Signed,

/s/ Patricia Moleski

Patricia Moleski | 38340 Tamarac Blvd. #210 | Willoughby, Ohio 44094 | 440-521-8863

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AFFIDAVIT OF PATRICIA L. MOLESKI

THE STATE OF OHIO BEFORE ME, the undersigned notary public, on this date personally appeared PATRICIA L. MOLESKI, whom upon being duly sworn, upon her oath stated the following:

1. My name is Patricia L. Moleski. I am over the age of twenty-one years. I have never been convicted of a felony. I am of sound mind and competent to make this affidavit. All of the facts stated in this affidavit are based on my personal knowledge and are true and correct.
2. I am a Pro Se litigant in case CA-019445-O in which Judge Lauten presides.
3. Judge Lauten has made numerous rulings on behalf of the Plaintiff Adventist Health System.
4. Judge Lauten's wife is the President of MyRegion, which partners with Florida Hospital, as well as two employees from Adventist Health System. This shows a conflict of interest and creates bias and prejudice, giving probable cause for the defendant to file for disqualification.
5. Judge Lauten has taken control of attorney client information and possibly turned information over to Adventist Health System without my knowledge of the contents turned over to the court by previous counsel, Brad Conway.

6. Because of the relation of business between Adventist Health System and Judge Lauten's wife, I seek the disqualification of Judge Lauten, as I do not feel that I will receive an impartial outcome in my case. The relationship between Shelley Lauten and Adventist Health System and its employees are attached to this affidavit and motion for disqualification. *See screen shots from MyRegion website.*
7. The judge's relative/wife, Shelley Lauten, by affinity or consanguinity within the third degree is counsel, or interested either as a plaintiff or defendant, or in the issue of which the judge has, either directly or through such relative, a more than de minimis pecuniary interest. This shows a conflict of interest and Defendant/counter plaintiff feels that she will not receive a fair trial and that previous rulings have violated her rights to due process considering the severity of the relationship between Judge Lauten, his wife and Adventist Health System.
8. I found information on the internet revealing that Judge Lauten's wife, Shelley Lauten, has substantial relationships with the entity of Adventist Health System's, Florida Hospital System, and two of Adventist Health System's board members, Becky Neimann and Des Cummings, all of whom are partners or regional directors.
9. I have enclosed screen shots from the website of MyRegion showing the relationship between Shelley Lauten and Adventist Health System and its employees and one of its hospitals.

FURTHER AFFIANT SAITH NOT

PATRICIA L. MOLESKI_____

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned notary public, by the aforesaid PATRICIA L. MOLESKI, on this the ___ day of _____ to certify which witness my hand and seal of office. NOTARY PUBLIC_____

Staff Directory



Shelley Lauten

President, *myregion.org*

Phone: 407-835-2444

Email: shelley.lauten@orlando.org

Shelley Lauten is President of *myregion.org*, a Regional Development Program formed in 1999 to serve as a catalyst for Central Florida's individuals, organizations, businesses, and governments to act together in making our region globally competitive. Since it was established, *myregion.org* has gained state and national recognition for its ground-breaking work that includes the first-ever Central Florida Regional SourceBook, a framework for regional collaboration throughout the seven-county region along with a library of original research completed with key community partners: the Central Florida Regional Indicators Report, Penn Design Central Florida, Central Florida Values Study, Naturally Central Florida – Fitting the Pieces Together, and The Central Florida Social Capital Survey bringing contemporary and meaningful data to the question, "How Shall We Grow?"

Shelley is especially proud of *myregion's* leadership in "How Shall We Grow?" an eighteen-month initiative to address projected regional growth in Central Florida. Along with nine other partner organizations, this project brought together seven counties, 86 cities and over 20,000 residents in large meetings and small throughout the region to create a Shared Regional Growth. The consensus document, presented to the community at a Regional Summit in August 2007, recommends a focus on Four Cs – Conservation, Centers, Corridors and Countryside – for future land use and development throughout Central Florida through the year 2050. Shelley and *myregion.org* continue to provide support to the Congress of Regional Leaders as they develop and implement regional policies on issues that matter most to residents of Central Florida: the environment, water, transportation and land use.

While her primary responsibilities focuses on Regional Research and Resolves (*myregion.org*), one of four (4) "lines of business" for the [Central Florida Partnership](#), Shelley also performs duties supporting the other lines of business as well as other initiatives and goals of the Partnership. Also, Shelley served as the Florida Director for the Urban Land Institute (ULI) Florida Initiative on Regional Collaboration, established to identify new opportunities for the State of Florida to support and encourage communities around the state to collaborate regionally.

Prior to her work with *myregion.org* and the Central Florida Partnership, Shelley held key executive positions at Walt Disney World and the Arnold Palmer Golf Management Company. She is married to Fred and has two children, Christopher (23) and Victoria (21). She was raised in Melbourne Beach, Florida and has called Orlando her home for over 30 years.

**HOW SHALL WE GROW?
CENTRAL FLORIDA REGIONAL GROWTH VISION**

PARTNERS

HOW SHALL WE GROW? FUNDING PARTNERS

Brevard County Metropolitan Planning Organization
East Central Florida Regional Planning Council
Florida Department of Community Affairs
Florida Department of Transportation
Lake-Sumter Metropolitan Planning Organization
METROPLAN ORLANDO
myregion.org
Orlando Regional Chamber of Commerce
Polk County Transportation Planning Organization
Volusia County Metropolitan Planning Organization

HOW SHALL WE GROW? PROGRAMMING PARTNERS

Central Florida Regional Planning Council
MSCW
Progress Energy
UCF Metropolitan Center for Regional Studies
WKMG-TV

HOW SHALL WE GROW? COMMUNITY OUTREACH PARTNERS

African American Chamber of Commerce of Central Florida
American Society of Landscape Architects – Florida Chapter
Asociación Borinqueña
Brevard County Board of County Commissioners
Brevard County Library System
Bright House Networks
Chuluota Community Association
City of Orlando
City of St. Cloud
City of Tavares
City of Winter Springs
Cocoa Civic Center
Community Vision
Daytona Beach Community College
Daytona Beach Community College Television
Downtown Development Board, City of Orlando
El Nuevo Dia
Embarq
Envision Seminole
Equinox Documentaries, Inc.
Eustis Community Center

Florida Chamber Foundation
Florida High Tech Corridor Council
[Florida Hospital](#)

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Florida High Tech Corridor Council
[Florida Hospital](#)

Ms. Becky Niemann

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Des Cummings, Jr., Ph.D.

Florida Hospital Foundation

Since 1908, the mission of Florida Hospital has been to extend a healing ministry that makes our community a healthier place to live. We are accomplishing this mission by building the most advanced health care programs and services in Central Florida.

"Linking cutting-edge healthcare research with the clinical service demands that our ever-expanding region will require in the years ahead is an important part of our corporate mission. The Central Florida Partnership provides access to the economic development initiatives that are growing our region while nurturing relationships among Central Florida's founding organizations and newcomers who bring innovation and enthusiasm to our marketplace."

