

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

CIRCUIT CIVIL DIVISION: AI  
CASE NO.: 50-2019-CA-013570-XXXX-MB

DISCOVER BANK,  
Plaintiff/Petitioner

vs.

EVAN S GUTMAN,  
Defendant/Respondent.

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**ORDER GRANTING MOTION FOR DISQUALIFICATION**

THIS MATTER came before the Court for consideration without hearing on Defendant, Evan Gutman's, Motion for Disqualification, filed on January 20, 2022, pursuant to Rule 2.330, Florida Rules of Judicial Administration, and section 38.10, Florida Statutes. Since this is the Defendants' first successful motion,<sup>1</sup> this Court is required by law to review the motion for the sole purpose of determining its legal sufficiency. Turner v. State, 598 So. 2d 186 (Fla. 1st DCA 1992). For purposes of determining legal sufficiency, the Court must assume all of the factual allegations supporting the motion are true. Deren v. Williams, 521 So. 2d 150 (Fla. 5th DCA), review denied, 531 So. 2d 169 (Fla. 1988). The Court is not permitted to deny the allegations supporting the motion as untrue, reject them as unfounded, or comment upon them at all. To do so establishes independent grounds for disqualification. Bundy v. Rudd, 366 So. 2d 440, 442 (Fla. 1978). Even when the allegations are untrue, outrageous, or scandalous, judges should not try to defend their honor or reputation when reviewing and ruling upon motions for disqualification. Hill v. Feder, 564 So. 2d 609 (Fla. 3d DCA 1990). Therefore, as required by law, the Court assumes the factual allegations supporting the motion for disqualification are true solely for the purpose of determining legal sufficiency and consequently, finds the motion to be legally sufficient. Moreover, Defendant is pro se, which requires that the Court view his motion liberally and without an exacting requirement. Accordingly, it is

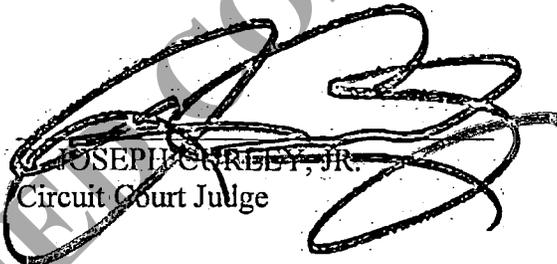
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<sup>1</sup> Defendant previously moved to disqualify Judge Rowe, which motion was denied as legally insufficient.

ORDERED AND ADJUDGED that an Order of Recusal is entered and the Clerk of Court is directed to randomly reassign this case to another division forthwith. All parties shall be notified by the Clerk of said reassignment. it is further

ORDERED AND ADJUDGED that any hearings or trials currently scheduled in Circuit Civil Division AI are hereby canceled and shall be reset by the parties in the new division.

DONE AND ORDERED at West Palm Beach, Palm Beach County, Florida, this 27th day of January, 2022.

  
JOSEPH CURLEY, JR.  
Circuit Court Judge

Copies furnished to:

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