

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Dario Carnevale and Flavia Carnevale v. Guy M. Shir, et al.

No. 3D25-0680 (Fla. 3d DCA Mar. 25, 2026) · No. No. 3D25-0680 · Decided March 25, 2026

SUMMARY

The Florida Third District Court of Appeal affirmed a non-final trial court order in an appeal concerning an attempt to disqualify opposing counsel. The court relied on precedent emphasizing caution regarding disqualification motions and the need to file such motions promptly after discovering the alleged conflict.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Chief Judge SCALES; Judge FERNANDEZ; Judge GOODEN
JURISDICTION	Florida Third District Court of Appeal
DECIDED	March 25, 2026
DOCKET	No. 3D25-0680
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a non-final order of the Circuit Court for Miami-Dade County concerning an attempt to disqualify opposing counsel.
STANDARD OF REVIEW	Abuse of discretion, as reflected by the cited authority concerning review of a trial court's repudiation of an attempt to disqualify counsel.
PRECEDENTIAL VALUE	Published
PARTIES	Dario Carnevale, Flavia Carnevale v. Guy M. Shir, et al.

TOPICS

- appellate procedure
- interlocutory appeal
- waiver
- civil procedure

PRACTICE AREAS

- civil procedure
- legal ethics and professional responsibility

QUESTIONS PRESENTED

1. Whether the trial court properly rejected the appellants' attempt to disqualify opposing counsel where the motion was not filed promptly after discovery of the alleged conflict.

HOLDINGS

1. The trial court did not abuse its discretion in rejecting the attempt to disqualify opposing counsel, and the non-final order was affirmed.

KEY QUOTATIONS

“A party can waive his right to seek disqualification of the opposing party’s counsel by failing to promptly move for disqualification upon learning of the facts leading to the alleged conflict.” (at 2)

“A motion to disqualify should be made with reasonable promptness after the party discovers the facts which lead to the motion.” (at 2)

FACTUAL BACKGROUND

The appellants sought to disqualify opposing counsel based on an alleged conflict. The opinion indicates that the motion was not made promptly after the appellants learned the facts supporting disqualification. The appellate court affirmed the trial court's rejection of the disqualification attempt.

PROCEDURAL HISTORY

The Circuit Court for Miami-Dade County entered a non-final order rejecting or denying the appellants' attempt to disqualify opposing counsel. The appellants appealed, and the Third District Court of Appeal affirmed without an extended written analysis, relying on precedent concerning waiver and undue delay in seeking counsel disqualification.

DISPOSITION

affirmed

CASES CITED

- Takefman v. Pickleball Club LLC, 422 So. 3d 239, 240 (Fla. 3d DCA 2025)
- Zayas-Bazan v. Marcelin, 40 So. 3d 870, 872-73 (Fla. 3d DCA 2010)
- Transmark, U.S.A., Inc. v. State, Department of Insurance, 631 So. 2d 1112, 1116 (Fla. 1st DCA 1994)
- Lackow v. Walter E. Heller & Co. Southeast, Inc., 466 So. 2d 1120, 1122 (Fla. 3d DCA 1985)

OPINION

Dario Carnevale v. Guy M. Shir

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed March 25, 2026. Not final until disposition of timely filed motion for rehearing. _____ No. 3D25-0680 Lower Tribunal No. 16-1219-CA-01 _____ Dario Carnevale and Flavia Carnevale,

Appellants, vs. Guy M. Shir, et al., Appellees. An Appeal from a non-final order from the Circuit Court for Miami-Dade County, Vivianne del Rio, Judge. Sniffen & Spellman, P.A., and Robert J. Hauser (West Palm Beach), for appellants. Robert E. Menje, PLLC, and Robert E. Menje (Okeechobee), for appellees. Before SCALES, C.J., and FERNANDEZ, and GOODEN, JJ. PER CURIAM. Affirmed. See *Takefman v. Pickleball Club LLC*, 422 So. 3d 239, 240 (Fla. 3d DCA 2025) (“This case concerns an attempt to disqualify an opposing party’s counsel. Such attempts should be viewed with caution and skepticism as they can be used to harass the opposing party and counsel, or for other indecorous tactical reasons. Because the trial court did not abuse its discretion in repudiating these attempts, we affirm.”); *Zayas-Bazan v. Marcelin*, 40 So. 3d 870, 872–73 (Fla. 3d DCA 2010) (“A party can waive his right to seek disqualification of the opposing party’s counsel by failing to promptly move for disqualification upon learning of the facts leading to the alleged conflict.”); *Transmark, U.S.A., Inc. v. State, Dept. of Ins.*, 631 So. 2d 1112, 1116 (Fla. 1st DCA 1994) (“A motion to disqualify should be made with reasonable promptness after the party discovers the facts which lead to the motion.”); *Lackow v. Walter E. Heller & Co. Se., Inc.*, 466 So. 2d 1120, 1122 (Fla. 3d DCA 1985) (“[A]fter learning of the facts supporting a motion to disqualify counsel, a party may not unduly delay the filing of such motion.”). 2