

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.

OPINION

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.”).

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