

Third District Court of Appeal

State of Florida

Opinion filed September 9, 2026.
Not final until disposition of timely filed motion for rehearing.

No. 3D26-1650
Lower Tribunal No. 23-25286-CA-01

Tomax 2015, LLC,
Petitioner,

vs.

Gevajoni, LLC,
Respondent.

A Case of Original Jurisdiction – Prohibition.

The Law Office of Kimberly H. Schultz, and Kimberly H. Schultz
(Davie), for petitioner.

South Florida Appeals, PA, and William Allen Bonner, for respondent.

Before LOBREE, GOODEN and REBULL, JJ.

PER CURIAM.

In its Petition for Writ of Prohibition, Tomax 2015, LLC (“Tomax”) is requesting this Court prevent the assigned trial judge from further presiding over this case. Tomax contends, among other things, that the trial judge:

- On June 9, 2026, “rendered a final judgment awarding attorney’s fees and costs against Tomax without affording it an opportunity to be heard and by ignoring responsive pleadings and motions which would have nullified the award of attorney’s fees and costs”
- “entirely disregarded and/never considered Tomax’s motions for rehearing, motion to strike, and motion for attorney’s fees and instead ordered the full amount of attorney’s fees requested by Gevajoni including residual fees, without ever affording Tomax a hearing.”
- “did not consider and/or ignored Tomax’s claim that Gevajoni wrongfully sought to obtain ‘fees for fees’ which is prohibited.”
- “did not apportion the attorney’s fees between Tomax and 1450 SW Build, and . . . without any cause, basis or explanation and without affording Tomax notice and opportunity to be heard, ruled that Tomax was responsible for all of the attorney’s fees that were incurred by 1450 SW Build.”

Every single action of which Tomax complains (if true) amounts to nothing more than disagreement with adverse rulings. Indeed, Tomax has (consolidated) appeals pending before this Court challenging those very rulings. “Adverse rulings, without more, do not constitute the requisite bias or prejudice necessary to support disqualification.” Bouquet v. Jones, 408 So. 3d 869, 870 (Fla. 3d DCA 2025) (citation omitted). See also Cimbler v. Greemberg, 405 So. 3d 536, 536 (Fla. 3d DCA 2025) (“Reiterating the well-entrenched principle that disqualification motions were never intended to

enable a discontented litigant to oust a judge because of adverse rulings made, we conclude that the allegations at issue here, without more, are insufficient to establish entitlement to prohibition.”) (citation modified). The trial court correctly denied the motion to disqualify as legally insufficient and the Petition is denied.¹

Petition denied.

¹ In a footnote in the Petition (and in the Motion filed below), Tomax’s “undersigned” counsel writes that in “all candor” she agrees with Tomax; and proceeds to make the unsworn assertions that while the “cold record” gives the appearance of due process, the trial judge’s “looks and tones,” “faces,” and “sarcasm” “tell a different story.” Leaving aside it goes without saying that all members of The Florida Bar *always* have a duty of candor towards the tribunal, R. Regulating Fla. Bar 4-3.3, attorneys cannot make unsworn oral or written assertions of fact in support of an argument. This has been the law for over forty years. See, e.g., Leon Shaffer Golnick Advert., Inc. v. Cedar, 423 So. 2d 1015, 1016–17 (Fla. 4th DCA 1982) (“[T]he practice we wish to see terminated is that of attorneys making unsworn statements of fact at hearings which trial courts may consider as establishing facts.”). The Motion to disqualify filed below was signed by an “authorized agent” for Tomax under oath before a notary in Argentina. It was not sworn to by “undersigned counsel.”