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NO. \_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

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**JOSÉ YEYILLE**

**Petitioner,**

**v.**

**JUSTIN COLE SPEIGEL, MD**

**Respondent.**

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**EMERGENCY APPLICATION TO STAY THE MANDATE OF THE  
THIRD DISTRICT COURT OF APPEAL OF THE STATE OF  
FLORIDA PENDING PETITIONER'S PETITION FOR A  
WRIT OF CERTIORARI TO THIS COURT**

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**PRO•SE**

**José Yeyille  
5505 SW 135<sup>th</sup> Court  
Miami, Florida 33175**

## **PARTIES TO THE PROCEEDING AND RELATED PROCEEDINGS**

Applicant is José Yeyille. Applicant was petitioner in the Third District Court of Appeal of Florida, and plaintiff in the trial court Eleventh Judicial Circuit of Florida.

Respondent is Justin Cole Speigel, MD. He is sued in his individual capacity. Respondent was Respondent before the Third District Court of Appeal, and Defendant before the trial court Eleventh Judicial Circuit of Florida.

The proceedings below were:

*4*  
*J.Y.* **APPENDIX 1:** *José Yeyille v. Justin Cole Speigel, MD.*, 3D22-104 (February 5, 2022). Emergency Motion to Stay Effect of Mandate and Stay Proceedings in the Lower Court Pending Petitioner's Petition for a Writ of Certiorari to the Supreme Court of the United States, *denied without opinion*.....Appx. 1

**APPENDIX 2:** *José Yeyille v. Justin Cole Speigel, MD.*, 3D22-104 (January 19, 2022). Petition for Writ[s] of Prohibition and/or MANDAMVS of Petitioner's first motion for judicial disqualification, and trial court judge's refusal to rule on the second motion for judicial disqualification on constitutional grounds, *denied without opinion*.....Appx. 2

**APPENDIX 3:** *José Yeyille v. Justin Cole Speigel, MD.*, 21-24767-CA25 (January 5, 2022), first Motion for judicial disqualification *denied without opinion*.....Appx. 3

## **QUESTION PRESENTED FOR REVIEW**

**Whether a State trial court judge should be disqualified on Fourteenth Amendment due process, equal protection, and privileges and immunities grounds from presiding in another separate and contemporaneous case involving the party whom she had previously forbidden to submit any other case before that court.**

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To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

“A fair trial in a fair tribunal is a basic requirement of due process.” *In re Murchison*, 349 U.S. 133, 136 (1955). The Privileges and Immunities Clause may further buttress the right to an impartial judiciary and equal protection of the laws. *Timbs v. Indiana*, 139 S.Ct. 682, 691-698 (2019) (Justice Thomas, concurring). The federal guaranty of due process [and equal protection] extends to state action through its judicial as well as through its legislative, executive or administrative branch of government.” *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680-682 (1930) [emphasis].

#### OPINIONS BELOW

4 J.Y.

1. *José Yeyille v. Justin Cole Speigel, MD.*, 3D22-104 (February 5, 2022). Emergency Motion to Stay Effect of Mandate and Stay Proceedings in the Lower Court Pending Petitioner’s Petition for a Writ of Certiorari to the Supreme Court of the United States, *denied without opinion*

2. *José Yeyille v. Justin Cole Speigel, MD.*, 3D22-104 (January 19, 2022). Petition for Writ[s] of Prohibition and/or MANDAMVS of Petitioner’s first motion for judicial disqualification, and trial court judge’s refusal to rule on the second motion for judicial disqualification on constitutional grounds, *denied without opinion*.

3. *José Yeyille v. Justin Cole Speigel, MD.*, 21-24767-CA25 (January 5, 2022), first Motion for judicial disqualification *denied without opinion*.

## **JURISDICTIONAL STATEMENT**

The jurisdiction of this Court is invoked under **28 U.S.C. §1257(a)\***;  
**28 U.S.C. §2101(f)**; and **Rule 10(b)** of the Supreme Court of the United States.  
Petitioner promises to make application of a Writ of Certiorari within the period allotted therefor. **28 U.S.C. §2101(f)**.

The relief sought, the disqualification and recusal of a trial court judge on constitutional grounds, is not available from any court or judge. The relief requested was first sought in the appropriate courts below and from the trial court judge and a panel of appellate court judges. **Rule 23** of the Supreme Court of the United States. Petitioner respectfully requests that this Court issue a stay of the proceedings in the Florida Third District Court of Appeal while Petitioner prepares his Petition for a Writ of Certiorari which timely shall be submitted in this Court.

## **CONSTITUTIONAL PROVISION INVOLVED**

### **United States Constitution. Fourteenth Amendment, Section 1.**

No State shall make or enforce any law which shall abridge the

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\* “[A] district court decision *rendered without opinion or citation* constitutes a decision from the highest state court empowered to hear the cause, and appeal may be taken directly to the United States Supreme Court.” ***The Florida Star v. B.J.F.* 530 So. 2d 286, footnote 3 (Fla. 1988)**(*emphasis*).

**privileges or immunities of citizens of the United States**; nor shall any State deprive any person of life, liberty, or property, without **due process of law**; nor deny to any person within its jurisdiction the **equal protection of the laws**. (emphasis).

## STATEMENT OF THE CASE AND FACTS

1. At the December 3, 2021 hearing of the case *José Yeyille v. The School Board of Miami-Dade County, Florida, Marta Perez, Perla Tabares-Hantman, Walter Harvey, Alberto Carvalho*, 20-21875-CA25, trial judge Valerie R. Manno-Schurr (hereinafter “judge Manno-Schurr”) severely scolded petitioner:

**Item 12: Judge Manno-Schurr:** “I know her [judge Altonaga]. She could not have done it [agreed with Defendants to rule in their favor in exchange for Defendants’ promise to hire Altonaga’s husband’s law firm of Holland & Knight, LLP].” “You are wasting my time. You are a complete waste of my time, the judges’ time. You cannot continue to bring cases in the court.”

**Item 19:** “You are vexatious. I am going to order that you cannot file any other cases.”

**Item 20: Plaintiff José Yeyille:** “I have another case assigned to you. I request that you recuse from that case.”

**Item 21: Judge Manno-Schurr:** “What case?”

**Item 22: Plaintiff José Yeyille:** “José Yeyille v. Speigel.”

**Item 23. Judge Manno-Schurr:** “What is the case about?”

**Item 24. Plaintiff José Yeyille:** “Intentional infliction of emotional distress.”

**Item 25. Judge Manno-Schurr:** “File motion to disqualify [me] from that case.”

**Item 26.** Judge Manno-Schurr commands Mr. Garcia [counsel for Defendants] to draft the Proposed Order dismissing Plaintiff's Complaint and granting Defendants' Combined Motion to Dismiss.

**Item 27.** The "Proposed Order" has judge Manno-Schurr's signature.

The court's order in December 3, 2021 dismissing petitioner's case on RES-IVDICATA grounds does not contain the judgment's statements at the hearing.

2. Petitioner prepared this statement in lieu of the record of the hearing (there was no court reporter at the hearing) submitted by Petitioner in December 7, 2021; and Statement of the Hearing submitted in December 20, 2021 both pursuant to Florida Rules of Appellate Procedure 9.200(a)(3), 9.200(b)(3), and 9.200(b)(5) (equivalent to Federal Rule of Appellate Procedure 10(c) and 10(d)).

3. In December 6, 2021 petitioner submits a Motion to Disqualify Judge Mano-Schurr in the present case *José Yeyille v. Justin Cole Speigel, 21-24767-CA25*.

4. In January 5, 2022 judge Manno-Schurr denied the motion.

5. The following day in January 6, 2022, petitioner submitted his second

"Plaintiff's Motion to disqualify Judge Valerie R. Manno-Schurr Pursuant to Florida Statute 38.10 and Rule of Judicial Administration 2.330. Violation of Plaintiff's Privileges and Immunities, Due Process, and Equal Protection Clauses Protected by the Fourteenth Amendment to the United States Constitution; Florida Constitution, Article I, Section 9 Due Process; and Fla. Code. Jud. Conduct, Canons 2, 2A, and 3E(1)(b) with Memorandum of Law."

6. As of today, February 6, 2022, judge Manno-Schurr has refused to rule on the second Motion to Disqualify on constitutional grounds.

7. In January 17, 2022, pursuant to Florida's constitution and binding precedent, petitioner submitted Petition for Writ[s] of Prohibition (to disqualify the trial judge from this case) and/or MANDAMVS (to command the judge to rule on petitioner's second Motion for Disqualification on constitutional grounds.

8. In January 19, 2022 a panel of the Third District Court of Appeal of Florida denied that Petition without an opinion or citation.

9. In January 24, 2022 petitioner submitted a Motion for Rehearing and Written Opinion again raising the constitutional grounds for disqualification *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680-682 (1930), and contending that State courts do not have discretion or power to refuse to rule on a party's **federal claims** prominently and repeatedly pleaded and stated in his second Motion for Disqualification on *constitutional grounds* and the Motion for Rehearing. *Davis v. Wechsler*, 263 U.S. 22, 24-25 (1923) and *Brown v. Western R. Co. of Alabama*, 338 U.S. 294, 298-299 (1949).

10. In February 2, 2022 petitioner submitted his Motion to Stay Effect of Mandate and Stay Proceedings in the Lower Court Pending Petitioner's Petition For a Writ of Certiorari to the Supreme Court of the United States.

11. In February 4, 2021 the Third District Court of Appeal of Florida denied the Motion to Stay without an opinion or citation.

### **REASON FOR GRANTING APPLICATION TO STAY**

12. Petitioner's Application for Staying the Proceedings in the Third District Court of Appeal of the State of Florida fulfills the four factors in *Nken v. Holder*, 556 U.S. 418, 434 (2009). The importance of the federal questions raised in this Motion demands the immediate attention and resolution by this Court. *In re Murchison*, 349 U.S. 133, 136 (1955). *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680-682 (1930).

### **ARGUMENT**

#### **Constitutional Grounds for Judicial Disqualification**

13. "A fair trial in a fair tribunal is a basic requirement of due process." *In re Murchison*, 349 U.S. 133, 136 (1955). When any party before any trial court is told by the judge that she is going "to order that you cannot file any other cases" and "You are wasting my time. You are a complete waste of my time, the judges' time. You cannot continue to bring cases in the court" he can only reasonably understand, and interpret, the judge's remark to mean that the judge is at the very least biased and has already prejudged and decided any other case brought before her by Petitioner.

14. “[T]he right of the citizen of this great country, protected by implied guarantees of its Constitution, ““to come to the seat of government to assert any claim he may have upon that government, to transact any business he may have with it, to seek its protection...”” *Slaughter-House Cases*, 83 U.S. 36, 79 (1872).

The Privileges and Immunities Clause may further buttress the right to an impartial judiciary and equal protection of the laws. *Timbs v. Indiana*, 139 S. Ct. 682, 691-698 (2019) (Justice Thomas, concurring).

15. If judge Manno-Schurr is allowed to preside over the present case *José Yeyille v. Justin Cole Speigel*, 21-24767-CA25, or any other case in which petitioner is a party, judge Manno-Schurr will violate Petitioner’s constitutional rights to an impartial judge, the equal protection of the laws, and his privileges and immunities protected by the Fourteenth Amendment to the United States Constitution.

16. Petitioner’s Application for Staying the Proceedings in the Third District Court of Appeal of the State of Florida fulfills the four factors in *Nken v. Holder*, 556 U.S. 418, 434 (2009).

17. Petitioner makes “a strong showing that he is likely to succeed on the merits.” *Mken* at 434. The importance of the federal questions raised demands the immediate attention and resolution by this Court. *In re Murchison*,

349 U.S. 133, 136 (1955). *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680-682 (1930).

18. If the proceedings before the trial court is not stayed until another judge is assigned, judge Manno-Schurr, a judge of proven bias against Petitioner, Petitioner would be confronting two opposing counsels, one of them, his most formidable adversary, is the judge who ordered petitioner in a recent previous case not to submit any other case before the court. Therefore, petitioner will be irreparably injured. *Nken* at 434.

19. Respondent and his counsels will not be injured at all if this Court issues the stay. *Nken* at 434. On the contrary, they immediately scrambled to file a stay of discovery in December 10, 2021 and set a hearing for February 22, 2022 until their motion to dismiss can be heard at a hearing in March 2, 2022. Florida law allows a plaintiff to submit requests for interrogatories, admissions, and production with the Complaint. Fla.R.Civ.P. 1.340, 1350, and 1.370.

20. It is in the public interest to see to it that its citizens' privileges and immunities, due process, and equal protection of the laws are zealously guarded and protected against state action, including by the judiciary (*Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680-682 (1930)), even for indigent PRO•SE parties. *Nken* at 434.

## **CONCLUSION AND RELIEF SOUGHT**

In consideration of the foregoing, Petitioner respectfully urges this Court —to grant his application to stay the proceedings in the Third District Court of Appeal of the State of Florida, and trial court of the Eleventh Judicial Circuit of Florida pending petitioner's timely petition for a Writ of Certiorari to this Court.

—In addition, petitioner respectfully requests that this Court grant him any and all other relief that this Court may deem just and proper.

**Date:** February 7, 2022

Respectfully submitted,

**PRO•SE**

JY  
José Yeyille  
5505 SW 135<sup>th</sup> Court  
Miami, Florida 33175

NO. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

**JOSÉ YEYILLE**  
**Petitioner,**

v.

**JUSTIN COLE SPEIGEL, MD**  
**Respondent.**

**PROOF OF SERVICE**

I, José Yeyille, do swear or declare that on this date, February 7, 2022 as required by Supreme Court Rule 29 I have served the enclosed **MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS** and **EMERGENCY PETITION FOR A MOTION TO STAY PENDING CERTIORARI REVIEW** to that party's counsel pursuant to Rule 29, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid mail for delivery within 3 calendar days.

The names and addresses of those served are as follows:

**Rolando Diaz, Diaz Law Group Dadeland Centre  
9155 S. Dadeland Blvd. Suite 1218 Miami, Florida 33156**

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 7, 2022

\_\_\_\_\_  
JY  
José Yeyille

# APPENDIX

*José Yeyille v. Justin Cole Speigel, MD*

**EMERGENCY APPLICATION TO STAY THE MANDATE OF THE  
THIRD DISTRICT COURT OF APPEAL OF THE STATE OF  
FLORIDA PENDING PETITIONER'S PETITION FOR A WRIT OF  
CERTIORARI TO THIS COURT**

NO. \_\_\_\_\_

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***José Yeyille v. Justin Cole Speigel, MD***

**EMERGENCY APPLICATION TO STAY THE MANDATE OF THE  
THIRD DISTRICT COURT OF APPEAL OF THE STATE OF  
FLORIDA PENDING PETITIONER'S PETITION FOR A WRIT OF  
CERTIORARI TO THIS COURT**

NO. \_\_\_\_\_

4 5.Y.	<b><u>APPENDIX 1:</u></b> <i>José Yeyille v. Justin Cole Speigel, MD.</i> , 3D22-104 (February 8, 2022). Emergency Motion to Stay Effect of Mandate and Stay Proceedings in the Lower Court Pending Petitioner's Petition for a Writ of Certiorari to the Supreme Court of the United States, <i>denied without opinion</i> .....	Appx. 1
	<b><u>APPENDIX 2:</u></b> <i>José Yeyille v. Justin Cole Speigel, MD.</i> , 3D22-104 (January 19, 2022). Petition for Writ[s] of Prohibition and/or MANDAMVS of Petitioner's first motion for judicial disqualification, and trial court judge's refusal to rule on the second motion for judicial disqualification on constitutional grounds, <i>denied without opinion</i> .....	Appx. 2
	<b><u>APPENDIX 3:</u></b> <i>José Yeyille v. Justin Cole Speigel, MD.</i> , 21-24767-CA25 (January 5, 2022), first Motion for judicial disqualification <i>denied without opinion</i> .....	Appx. 3

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
FEBRUARY 04, 2022

JOSE YEYILLE,  
Appellant(s)/Petitioner(s),  
vs.  
JUSTIN COLE SPEIGEL, M.D.,  
Appellee(s)/Respondent(s),

CASE NO.: 3D22-0104  
L.T. NO.: 21-24767

Upon consideration, pro se Petitioner's "Emergency Motion to Stay Effect of Mandate and Stay Proceedings in the Lower Court Pending Petitioner's Petition for a Writ Certiorari to the Supreme Court of the United States" is hereby denied.

EMAS, MILLER and BOKOR, JJ., concur.



CC: Patricia Gladson  
Hon. Valerie R. Manno Schurr

Rolando A. Diaz

Jose Yeyille

la

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JANUARY 19, 2022

JOSE YEYILLE,  
Appellant(s)/Petitioner(s),  
vs.  
JUSTIN COLE SPEIGEL, M.D.,  
Appellee(s)/Respondent(s),

CASE NO.: 3D22-0104  
L.T. NO.: 21-24767

Upon review, the pro se Petition for Writ of Prohibition and/or  
Writ of Mandam[u]s is hereby denied.

EMAS, MILLER and BOKOR, JJ., concur.

A True Copy  
ATTEST  
SACRITO  
CLERK  
DISTRICT COURT OF APPEAL  
THIRD DISTRICT



cc: Patricia Gladson  
Hon. Valerie R. Manno Schurr

Rolando A. Diaz

José Yeyille

ns

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2021-024767-CA-01

SECTION: CA25

JUDGE: Valerie R. Manno Schurr

**Jose Yeyille**

Plaintiff(s)

vs.

**Justin Cole Speigel, M.D.**

Defendant(s)

/

**ORDER DENYING MOTION FOR JUDICIAL DISQUALIFICATION**

This matter came before the undersigned Judge upon the **MOTION FOR JUDICIAL DISQUALIFICATION**. The Motion is **DENIED** as legally insufficient. (Of note, the undersigned was NOT served with Plaintiff's Motion to Disqualify, filed on December 6, 2021, and only discovered the Motion while reviewing the docket).

**DONE and ORDERED** in Chambers at Miami-Dade County, Florida on this 5th day of January, 2022.

  
2021-024767-CA-01 01-05-2022 3:42 PM

Hon. Valerie R. Manno Schurr

**CIRCUIT COURT JUDGE**

Electronically Signed

No Further Judicial Action Required on THIS MOTION

CLERK TO RECLOSE CASE IF POST JUDGMENT

**Electronically Served:**

Allyson M. Paige, mail@dlg-lawyers.com

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jose yeilly, joseyeyille25@outlook.com

**Physically Served:**

**CERTIFICATE OF SERVICE TO COUNSELS FOR RESPONDENTS**

I hereby certify that on February 7, 2022 a true and correct copy of this **APPENDIX** was sent through **U.S. mail** to Rolando Diaz, esq., counsel for Respondent.

**PRO•SE**

  
José Yeyille  
5505 SW 135<sup>th</sup> Court  
Miami, FL 33175

**Rolando Diaz,  
Diaz Law Group Dadeland Centre  
9155 S. Dadeland Blvd. Suite 1218,  
Miami, Florida 33156**