

1 Marcio Sousa Sales
2 Plaintiff, Pro Se
3 160 W Camino Real, 102
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7 **IN THE CIRCUIT OF THE 15TH JUDICIAL CIRCUIT IN AND**
8 **FOR PALM BEACH COUTY, FLORIDA**

9)
10)
11)
12 **MARCIO SOUSA SALES,**

13 Plaintiff(s),

14)
15 **vs.**

16)
17 **ANTONIO DE ANDRADE,**

18 Defendant(s).
19)
20)

Case No.: 50-2025-CA-000969-XXXXA-MB

**AMENDED MOTION TO STRIKE
IMPROPER POST-DISMISSAL FILINGS,
BAR FURTHER ACTION IN CLOSED
CASE, AND NOTICE OF FEDERAL
ESCALATION AND JUDICIAL
MISCONDUCT**

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22 **COMES NOW,** Marcio Sousa Sales, pro se, and respectfully submits this amended
23 emergency motion to strike post-dismissal filings, bar further litigation activity in a
24 closed case, and place the Court and opposing counsel on formal notice of
25 constitutional violations, attorney misconduct, and anticipated federal escalation under
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27
28 42 U.S.C. § 1983.

1 **I. CASE DISMISSED WITHOUT PREJUDICE ON MAY 14, 2025**

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4 On May 14, 2025, Judge Scott dismissed this matter without prejudice on grounds that
5 Plaintiff allegedly failed to appear at a hearing. However, no lawful order setting said
6 hearing was ever entered by the Court. The plaintiff repeatedly objected to the motion
7 to dismiss and filed more than a dozen responsive pleadings and supplemental
8 memoranda. None were ever addressed or ruled upon. Dismissal was executed solely
9 based on Plaintiff's alleged absence from a non-lawfully scheduled hearing.
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15 **II. NOTICE OF APPEAL FILED AND TRIAL COURT**
16 **JURISDICTION DIVESTED**

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18 A timely notice of appeal has been filed under Fourth District Court of Appeal Case
19 No. 4D2025-1600. Once an appeal is perfected, the trial court is divested of jurisdiction
20 to entertain post-dismissal motions or conduct further proceedings in the case,
21 including motions for sanctions. See Olson v. Olson, 95 So. 3d 435 (Fla. 4th DCA
22 2012); Goter v. Brown, 682 So. 2d 155 (Fla. 4th DCA 1996).
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III. DEFENDANT FILED MOTIONS FOR SANCTIONS POST-DISMISSAL

Despite the above, defense counsel Brandon J. Gibson filed a motion for § 57.105 sanctions in June 2025—more than a month after the case was dismissed. This filing is both improper and legally void. Moreover, the trial court has no jurisdiction to hear such a motion while an appeal is pending. Any such hearing would constitute judicial overreach and a violation of the appellate process.

IV. JUDICIAL MISCONDUCT: MOTIONS IGNORED, DUE PROCESS DENIED

More than twelve motions and objections filed by Plaintiff were never addressed by the Court. The signed dismissal order falsely claims that the Court “reviewed the papers filed in this case,” which contradicts the statement made on record by attorney Gibson, who admitted: **“The Court would not rule on those objections.”**

This misrepresentation constitutes judicial misconduct and deliberate concealment of procedural violations. Judicial statements of review are contradicted by both attorney statements and the absence of any docketed rulings. This implicates Rule 2.330, Florida Rules of Judicial Administration, and undermines confidence in the judicial process.

1 **V. FRAUD UPON THE COURT AND VIOLATIONS OF**
2 **PLAINTIFF’S RIGHTS**

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4 The cumulative conduct—unauthorized hearings, refusal to rule on pleadings,
5 misrepresentation of docket activity—constitutes fraud upon the court, a violation of
6 due process under the Fourteenth Amendment, and a deprivation of rights actionable
7 under 42 U.S.C. § 1983. See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S.
8 *238 (1944)*; *Napoli v. Sever*, 682 So. 2d 597 (Fla. 2d DCA 1996).
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13 **VI. PLAINTIFF RETAINS RIGHT TO REFILE: NEW CASE**
14 **PENDING**

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17 Plaintiff has since filed a new and separate civil action against Defendant in Palm
18 Beach County under Case No. 50-2025-CA-005676. This renders all further activity
19 under this closed case number unnecessary, improper, and potentially prejudicial. The
20 attempt to litigate sanctions in a terminated action is a procedural nullity. See *Pino v.*
21 *Bank of New York*, 76 So. 3d 927 (Fla. 2011).
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VII. UNAUTHORIZED ATTORNEY PARTICIPATION AND FRAUD ON THE COURT

It is now confirmed and indisputable that attorney Brandon J. Gibson, Esq., who signed and filed numerous pleadings, conducted the May 14, 2025, Zoom hearing, and requested dismissal on behalf of Defendant Antonio de Andrade, never filed a formal Notice of Appearance as required by Fla. R. Jud. Admin. 2.505(e)(1). Only attorney Seth R. Keller is listed in the court record as counsel of record for Mr. de Andrade.

All appearances, filings, and oral arguments by Mr. Gibson were unauthorized and constitute unauthorized practice under Florida Bar Rule 4-5.5 and cases such as Estate of Stisser v. Busch, 928 So. 2d 391 (Fla. 2d DCA 2006) and Fischman v. Fischman, 727 So. 2d 1097 (Fla. 4th DCA 1999). The plaintiff was forced to respond to motions filed by a person who, as a matter of court record, had no lawful standing to act as attorney in the matter.

VIII. MISREPRESENTATIONS TO THE COURT AND APPEALS PREJUDICE

During the hearing, Mr. Gibson falsely stated that the Court would not rule on Plaintiff's objections. Minutes later, the Court signed an order stating it had reviewed all papers filed in the case. These two positions cannot coexist. Further, Mr. Gibson

1 was instructed to “upload an order,” which he did—*containing factual*
2 *misrepresentations and legal conclusions*, falsely suggesting that dismissal was based
3 on review of pleadings and merits.
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6 Such conduct misleads the appellate court, prejudices Plaintiff’s rights, and constitutes
7 both ethical and judicial misconduct. See *Ruiz v. State, 857 So. 2d 915 (Fla. 5th DCA*
8 *2003*; *Cox v. Burke, 706 So. 2d 43 (Fla. 5th DCA 1998)*.
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10 11 12 13 **IX. NO COURT ORDER EVER SCHEDULING THE HEARING** 14

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16 Review of the docket confirms that no order was ever issued scheduling the May 14,
17 2025 hearing. Mr. Gibson submitted filings with hearing dates, Zoom credentials, and
18 instructions—yet no such order was signed or docketed. A hearing not properly ordered
19 cannot be used to dismiss a case. This denied Plaintiff’s right to notice and participation
20 in violation of Fla. R. Civ. P. 1.090 and constitutional due process.
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24 That the Court allowed a *non-listed attorney* to *organize and conduct a hearing, make*
25 *oral arguments*, and *submit final orders* further implicates Florida Bar rules and the
26 constitutional integrity of this court.
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3 **RELIEF REQUESTED**

4 Plaintiff respectfully moves this Court to:

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7 STRIKE all post-dismissal filings submitted after May 14, 2025;

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9 BAR Defendant's attorneys from further action under this case number;

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12 DECLARE the dismissal order void due to procedural and constitutional defects;

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15 FORWARD this matter to the Florida Bar and Judicial Qualifications Commission for
16 review of potential ethical and judicial misconduct;

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19 ENTER any further relief necessary to preserve Plaintiff's rights under Florida law and
20 the U.S. Constitution.

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22 Respectfully Submitted,

23 Marcio Sousa Sales

24 Plaintiff, Pro Se
25 160 W Camino Real, 102
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Additionally, I certify that I served a copy of the foregoing document via E-mail to Seth R Keller attorney for Andrade.

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