

Third District Court of Appeal

State of Florida, July Term, A.D. 2007

Opinion filed September 19, 2007.
Not final until disposition of timely filed motion for rehearing.

No. 3D07-903
Lower Tribunal No. 07-2685

NRD Investments, Inc.,
Petitioner,

vs.

Dr. Nelvis Velazquez,
Respondent.

A Case of Original Jurisdiction – Prohibition.

Berman Rennert Vogel & Mandler, P.A., and Neil J. Berman; Hinshaw & Culbertson, LLP, and Ronald L. Kammer, and Monica T. Cronin, for petitioner.

Hirschhorn & Bieber, P.A., and Brian H. Bieber, for respondent.

Before GREEN and SUAREZ, JJ., and SCHWARTZ, Senior Judge.

PER CURIAM.

We grant the petition for writ of prohibition challenging the trial court's order denying the Petitioner's motion to disqualify the trial judge. The motion was legally sufficient, Fla. R. Jud. Admin. 2.330, and certainly the judge's expression of displeasure with the case, his willingness to enter a final judgment against the Petitioner at such an early stage of the proceedings, and his prognostication in open court that the Petitioner would be faced with liability and large damages in the absence of any pleadings having been filed were sufficient to instill the fear that it would not receive a fair and impartial trial. Enter. Leasing Co. v. Jones, 789 So. 2d 964, 968 (Fla. 2001)(standard for determining whether motion is legally sufficient is whether facts alleged place reasonably prudent person in fear of not receiving a fair trial); Valdes-Fauli v. Valdes-Fauli, 903 So. 2d 214, 217 (Fla. 3d DCA 2005)(judge calling wife in dissolution case "alimony drone" sufficient to place her in fear of not receiving fair trial).

We trust it will not be necessary to formally issue the writ.

Prohibition granted.