

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

CAIR-FOUNDATION, INC. and
CAIR FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:26-cv-315-MW-MJF

RON DESANTIS, *et al.*,

Defendants.

_____ /

**PLAINTIFFS' OPPOSITION TO DEFENDANTS'
MOTION FOR DISQUALIFICATION**

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INTRODUCTION

This is the fourth time in recent years that Governor Ron DeSantis or Florida cabinet members have sought to disqualify the Court from presiding over a constitutional challenge to a Florida law or policy. The current motion is as meritless as the others.

Disqualification is inappropriate because nothing the Court has said or done, in this case or any other, reflects bias or prejudice against Defendants. The Court's preliminary rulings in this case have run in Defendants' favor, and the Court has stated unequivocally that it will not resolve any issue until "Defendants are heard." ECF No. 26 at 1. With nothing to cite from this litigation, Defendants piece together cherry-picked quotes from other cases in an effort to manufacture a controversy and impugn the Court's impartiality. Boiled down, Defendants' argument is that the Court has displayed bias by making critical statements about state statutes and policies that it deemed likely unconstitutional. But analyzing facts and legal arguments—and forming judgments about them—is precisely what judges are supposed to do. Their assessments and opinions, including those that are "critical," "disapproving," or "even hostile," are typically "grounds for appeal, not for recusal." *Liteky v. United States*, 510 U.S. 540, 555 (1994).

Notably, the Court has ruled for Governor DeSantis and other Florida officials many times in the recent past.¹ This includes the cases that Defendants now cite as evidence of the Court’s bias against them. *See, e.g., Honeyfund.com, Inc. v. DeSantis*, 622 F. Supp. 3d 1159, 1174 (N.D. Fla. 2022) (denying motion for preliminary injunction against Governor DeSantis). Defendants do not even acknowledge these facts, let alone explain how a judge who has repeatedly ruled in their favor has demonstrated a “deep-seated favoritism or antagonism that would make fair judgment impossible.” *Liteky*, 510 U.S. at 555.

¹ *See, e.g., Students for Just. in Pal. at the Univ. of S. Fla. v. DeSantis*, No. 1:23-cv-281-MW/HTC, 2024 WL 371875, at *7 (N.D. Fla. Jan. 31, 2024) (denying plaintiffs’ motion for preliminary injunction, with CAIR as counsel of record); *Brown v. Young*, No. 4:25-cv-419-MW/MJF, 2025 WL 3171160, at *4 (N.D. Fla. Nov. 13, 2025) (denying plaintiffs’ motion for preliminary injunction); *Dream Defs. v. DeSantis*, 553 F. Supp. 3d 1052, 1098 (N.D. Fla. 2021) (dismissing majority of plaintiffs’ claims against the Governor and sheriffs); *League of Women Voters of Fla., Inc. v. Lee*, 595 F. Supp. 3d 1042, 1062 n.4 (N.D. Fla. 2022) (“All told, I have heard 17 cases related to voting in Florida. I ruled against Florida in six of those 17 cases.”); *Namphy v. DeSantis*, 493 F. Supp. 3d 1130, 1146 (N.D. Fla. 2020) (denying plaintiffs’ motion for preliminary injunction); *Harris v. DeSantis*, No. 4:23-cv-328-MW/MAF, 2024 WL 2703812, at *2 (N.D. Fla. Feb. 29, 2024) (granting Governor’s motion to dismiss); *Support Working Animals, Inc. v. Moody*, No. 4:19-cv-570-MW/MAF, 2020 WL 10728640, at *1 (N.D. Fla. June 12, 2020) (granting Attorney General’s motion to dismiss); *Israel v. DeSantis*, No. 4:19-cv-576-MW/MAF, 2020 WL 2129450, at *27 (N.D. Fla. May 5, 2020) (dismissing plaintiff’s claims against the Governor); *Nevels v. DeSantis*, No. 4:20-cv-365-MW/MAF, 2021 WL 121211, at *1 (N.D. Fla. Jan. 13, 2021) (dismissing case against the Governor); *Falls v. DeSantis*, No. 4:22-cv-166-MW/MAF, 2023 WL 3568526, at *9 (N.D. Fla. May 19, 2023) (dismissing case against the Governor); *Link v. Diaz*, 669 F. Supp. 3d 1192, 1203 (N.D. Fla. 2023) (dismissing case against Florida officials).

Defendants plainly would prefer a judge that they view as friendlier to their positions. Their transparent effort at judge-shopping should be denied.

BACKGROUND

I. The CAIR Executive Order Litigation

On December 8, 2025, Governor DeSantis issued Executive Order 25-244, which purported to designate CAIR as a “terrorist organization” and imposed sweeping consequences on CAIR and anyone who provided it with “material support.” CAIR and CAIR-Florida filed a lawsuit challenging the Executive Order on First and Fourteenth Amendment grounds and sought a preliminary injunction against its enforcement. *CAIR-Found., Inc. v. DeSantis*, No. 4:25-cv-516-MW/MJF (N.D. Fla. 2025), ECF Nos. 1, 21, 24.

Only after the Court ruled against Governor DeSantis did the Governor accuse it of bias. On March 4, 2026, the Court granted CAIR’s motion for a preliminary injunction, holding that CAIR was substantially likely to succeed on the merits of its First Amendment coercion claim. *CAIR-Found., Inc. v. DeSantis*, 822 F. Supp. 3d 1263, 1268, 1279 (N.D. Fla. 2025) (“*CAIR I*”). On appeal to the Eleventh Circuit, the Governor contended for the first time that the case should be assigned to a different judge. Appellant’s Br. at 39–42, *CAIR Found. v. Governor, Fla.*, No. 26-10735 (11th Cir. 2026), ECF No. 15.

II. This Case and CAIR’s Impending Statutory Designation

On July 1, 2026, Florida’s unprecedented “domestic terrorist organization” designation regime went into effect. Under HB 1471 and HB 1473, Florida officials have the unilateral power to designate any U.S. organization as a “domestic terrorist organization,” or “DTO,” based on nothing more than allegations. Designation immediately subjects the organization, its employees, and a wide range of others who associate with it to severe penalties—including up to life in prison. *See, e.g.*, Fla. Stat. §§ 943.03102, 874.03, 874.10 (any person who knowingly initiates “activity” to “further the interests” of a DTO commits a first-degree felony); Fla. Stat. § 775.33 (provision of “material support” to a DTO is a first-degree felony).

On July 1, Governor DeSantis announced his intent to designate CAIR as a DTO and stated publicly that he had received a “notice of intent” from Defendant Mark Glass to designate CAIR, which set the designation process in motion. *See* ECF No. 19-3 (Exs. 25, 27, 28). Plaintiffs filed this suit the same day, bringing multiple constitutional challenges to the DTO regime. Plaintiffs also filed an emergency motion seeking a temporary restraining order and preliminary injunction to prevent their impending designation as domestic terrorist organizations. ECF No. 19. The Court was randomly assigned to preside over the proceedings.

On July 6, 2026, the Court denied Plaintiffs’ emergency motion for a temporary restraining order, declining to grant relief “before Defendants are heard.”

ECF No. 26 at 1. On July 7, Plaintiffs requested that the Court reconsider its denial of their emergency motion, asking, in the alternative, for a narrower injunction. ECF No. 27. The Court again denied Plaintiffs' motion, noting that it ruled on a similar motion in the Executive Order case "only after affording the Defendant an opportunity to respond." ECF No. 28 at 2.²

On August 21, 2026, Defendants filed the instant motion to disqualify the Court, accusing it of "animosity . . . reflected in openly antagonistic comments, all entirely gratuitous, in a series of unrelated cases over a period of years." ECF No. 50 ("Mot.") at 1. But Defendants do not claim that the Court has acted with any bias toward them in this case. Rather, they contend that the Court's decision preliminarily enjoining Executive Order 25-244, as well as a handful of other statements in other cases, reflect overt hostility toward Governor DeSantis and the State of Florida generally. *Id.* at 5–7.

² Following Plaintiffs' motion, Defendants represented that they would promulgate regulations for the DTO regime under emergency rulemaking procedures. *See* ECF No. 33. In light of the forthcoming regulations, Plaintiffs agreed to withdraw their pending motion for a preliminary injunction and intend to file a renewed motion for emergency relief once the regulations have been promulgated. *See* ECF No. 39.

ARGUMENT

I. Under Supreme Court Precedent, Defendants Must Show That Fair Judgment Is “Impossible.”

Defendants seek to disqualify the Court under two subsections of 28 U.S.C. § 455, neither of which applies here. First, under § 455(b)(1), a judge must recuse if “he has a personal bias or prejudice concerning a party.” Second, under § 455(a), a judge must recuse “in any proceeding in which his impartiality might reasonably be questioned.”

The bar for disqualifying a judge from a particular case under § 455(a) or (b)(1) is exceptionally high. Because the role of a judge is to consider and “form judgments” about the facts and actors before him or her, such judgments generally do not amount to bias. *Liteky*, 510 U.S. at 551 (“[I]f the judge did not form [such] judgments . . . he could never render decisions.” (citation omitted)). So long as the court’s “knowledge and the opinion it produced were properly and necessarily acquired in the course of the proceedings,” any conclusions or impressions the judge draws about the proceedings ordinarily cannot be considered impermissible bias or prejudice. *Id.* This is true even where the judge’s review of the evidence leads him or her to become “exceedingly ill disposed towards [a] defendant” or party. *Id.* at 550–51. And it also holds true where the judge’s opinions are based on facts “learned in earlier proceedings,” *id.* at 551, including “previous criminal or civil trials involving the same parties,” *Christo v. Padgett*, 223 F.3d 1324, 1334 (11th Cir.

2000). Thus, as a “general rule,” “bias sufficient to disqualify a judge must stem from extrajudicial sources.” *Thomas v. Tenneco Packaging Co.*, 293 F.3d 1306, 1329 (11th Cir. 2002).

Where, as here, a litigant has not cited any “extrajudicial source” of bias, recusal is appropriate only where the litigant proves that the Court has demonstrated “a deep-seated favoritism or antagonism that would make fair judgment impossible” in pending proceedings. *Liteky*, 510 U.S. at 555 (addressing both § 455(a) and (b)(1)). Only the most egregious remarks establishing “pervasive bias and prejudice” rise to this level. *Thomas*, 293 F.3d at 1329. Statements that “are critical or disapproving of, or even hostile to, counsel, the parties, or their cases” are not enough. *Liteky*, 510 U.S. at 555. Nor are “expressions of impatience, dissatisfaction, annoyance, and even anger,” *id.* at 555–56, or “harsh comments about [a party’s] litigation strategy,” *AcryliCon USA, LLC v. Silikal GMBH & Co.*, 46 F.4th 1317, 1330 (11th Cir. 2022); *see also Thomas*, 293 F.3d at 1330 (declining to reassign judge who made harsh statements because they merely reflected “friction between the court and counsel,” which “is not enough to show ‘pervasive bias’ warranting recusal”).

Additionally, the Eleventh Circuit has generally held that recusal is required under § 455(a) only if “an objective, disinterested, lay observer would entertain significant doubt about the judge’s impartiality.” *Christo*, 223 F.3d at 1333–34

(citing *Liteky* and applying standard to reject disqualification); *see also Common Cause Fla. v. Lee*, No. 4:22-cv-109-AW/MAF, 2022 WL 2343366, at *4 (N.D. Fla. Apr. 6, 2022) (because this is an objective test, “[t]he question is not whether ‘the hypersensitive, cynical, and suspicious person’ might harbor doubts” (citation omitted)). As described above, when a party points only to the opinions a judge has formed in the course of judicial proceedings as evidence of bias, this is an especially high bar to meet. *See Thomas*, 293 F.3d at 1329 (stating the “general rule” that bias sufficient to disqualify a judge “must stem from extrajudicial sources”); *Belue v. Leventhal*, 640 F.3d 567, 573 (4th Cir. 2011) (This “high bar . . . makes good sense” because “if strong views on a matter were disqualifying—then a judge would hardly have the freedom to be a judge.”). In these circumstances, a court’s statements cross the line only if they reveal such a high degree of favoritism or antagonism as to make fair judgment “impossible.” *Liteky*, 510 U.S. at 555; *see Christo*, 223 F.3d at 1334; *Arnold ex rel. Arnold v. City of Hampton*, No. 25-10123, 2026 WL 2491587, at *5 (11th Cir. Aug. 25, 2026).³

³ While there appears to be little difference between the “significant doubt” and “fair judgment impossible” standards in practice, the Court should make clear that Defendants’ motion fails to establish even a “significant doubt about the judge’s impartiality.” *Thomas*, 293 F.3d at 1329.

II. Isolated Excerpts from Opinions Defendants Disagree With Do Not Reflect Bias or Create an Appearance of Partiality.

Defendants fail to clear the exceptionally high hurdle of establishing that recusal is warranted. Critically, Defendants have not identified any extrajudicial source of bias. They have failed to show that an objective observer would entertain “significant doubt” about the Court’s impartiality and that “fair judgment [is] impossible.” *Christo*, 223 F.3d at 1333–34 (citing *Liteky*, 510 U.S. at 555). Their cherry-picked quotes and inaccurate summaries of rulings they disagree with are no substitute.

A. The Court’s Prior Rulings Addressing Florida Laws and Policies Are Not Evidence of Bias, Much Less “Pervasive” Bias Requiring Recusal.

Because Defendants cannot point to any extrajudicial source of the Court’s purported prejudice, they argue that various excerpts from the Court’s opinions involving challenges to Florida statutes or policies reveal pervasive bias against Defendants. *See* Mot. at 5–7, 9–10. As an initial matter, this Court’s past analyses of Florida statutes are entirely irrelevant. The Defendants here are executive branch officials, not the Florida Legislature, and no case supports Defendants’ novel theory that a judge may be prejudiced against an entire state government. The implications of Defendants’ theory are staggering: if Defendants had their way, this Court would be disqualified from presiding over *any* case involving the State of Florida. Article III does not countenance such a result.

But even more importantly, Defendants’ selective quotes and slanted characterizations do not establish bias—let alone the type of pervasive bias that makes fair judgment “impossible.” *Liteky*, 510 U.S. at 555. The vast majority of the statements Defendants cite involve the Court’s “perception of the underlying facts of the case,” as discussed in its opinions. *Jaffe v. Grant*, 793 F.2d 1182, 1189 (11th Cir. 1986) (affirming district court’s denial of recusal motion); *see also AcryliCon USA, LLC*, 46 F.4th at 1331–32 (refusing to reassign case where district court’s “barbed” remarks were “related to the legal merits of the case”). Those remarks invoke cultural reference points, analogize to historical events, or describe broader trends within state policy—hardly grounds for disqualification.

- In *Honeyfund.com*, 622 F. Supp. 3d at 1168, the Court explained how recent state statutes inverted the protections afforded by the First Amendment, noting that the laws resembled the “upside down” world from the television show *Stranger Things*.
- In *Austin v. University of Florida Board of Trustees*, 580 F. Supp. 3d 1137, 1144–45 (N.D. Fla. 2022), the Court analogized a university policy of “block[ing] professors from providing expert testimony against the State in cases implicating hot-button political issues” to historical events in China.
- In *Pernell v. Florida Board of Governors of State University System*, 641 F. Supp. 3d 1218, 1230, 1291 (N.D. Fla. 2022), the Court described a statutory scheme as “positively dystopian,” explaining that “the First Amendment does not permit the State of Florida to muzzle its university professors, impose its own orthodoxy of viewpoints, and cast us all into the dark.”

Much as Defendants may disagree with these comparisons, they do not demonstrate bias. All of these remarks fall well within the scope of permissible

comment and observation. A “judge’s assessment” of the facts before it, even if viewed as critical or harsh, does not create the appearance of bias. *Thomas*, 293 F.3d at 1330. Indeed, the Eleventh Circuit has used similarly pointed language in affirming the Court’s decisions that Defendants now challenge. *See Pernell v. Fla. Bd. of Gov. of State Univ.*, 181 F.4th 1135, 1166 (11th Cir. 2026) (affirming decision below, stating “[t]his is not the first time that the State has tried to lead us down the garden path about the purpose and effect of a law banning speech,” and describing challenged law as purporting to “transform[] the classroom into a place where a ‘deadening dogma takes the place of free inquiry’”); *Honeyfund.com Inc. v. Governor*, 94 F.4th 1272, 1283 (11th Cir. 2024) (same and stating that “allowing the government to set the terms of the debate,” as the statute at issue there did, “is poison, not antidote”); *see also Cobell v. Kempthorne*, 455 F.3d 317, 333 (D.C. Cir. 2006) (stating that opinion containing “harsh—even incendiary—language” was not itself disqualifying and that the D.C. Circuit had itself “referred to [the party’s] ‘malfeasance,’ ‘recalcitrance,’ ‘unconscionable delay,’ ‘intransigen[ce],’ and ‘hopelessly inept management’”).

Nor is the decision in *CAIR I* evidence of bias. *Contra* Mot. at 5–6, 12. There, the Court concluded that Governor DeSantis’s executive order targeting those who hold beliefs he disagrees with had crossed the “line between permissible persuasion and unconstitutional coercion,” and it noted the “troubling trend of using an

executive office to make a political statement at the expense of others’ constitutional rights.” *CAIR I*, 822 F. Supp. 3d at 1269, 1272 n.7. In its discussion of unconstitutional coercion, the Court quoted Merriam-Webster’s discussion of the etymology of “bully pulpit.” *Id.* at 1272 n.7. Merriam-Webster states—with a note of levity—that when Theodore Roosevelt coined the phrase “bully pulpit,” “bully” meant “excellent,” unlike “today’s familiar noun *bully*,” which refers “to an abusive meanie.” *Id.* (quoting *Bully Pulpit*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/bully%20pulpit>). The Court explained that “in this instance,” the Governor was “choosing to be a bully—in the familiar sense of the term—from his pulpit” through his unconstitutional conduct. *Id.* This characterization of Governor DeSantis’s conduct “in this instance”—conduct that the Court deemed unconstitutional—simply does not meet the high bar for recusal. *Liteky*, 510 U.S. at 555; *Thomas*, 293 F.3d at 1330.⁴

As for the statement from *CAIR I* that Defendants paint as “mock[ing],” Mot. at 5, it does not remotely rise to the level of “deep-seated favoritism or antagonism” that makes “fair judgment impossible.” *Liteky*, 510 U.S. at 555; see *CAIR I*, 822 F.

⁴ Defendants point out, Mot. at 12, that Plaintiffs described the Governor’s request for reassignment in *CAIR I* as an attempt to “silence another one of his critics,” Appellees’ Resp. Br., *CAIR Found.*, No. 26-10735 (11th Cir. July 20, 2026), ECF No. 40 at 56, but that adds nothing. Courts are often critical in forming judgments about the merits. Criticism of this kind is not a basis for recusal. *Liteky*, 510 U.S. at 555; *Christo*, 223 F.3d at 1334.

Supp. 3d at 1277 n.13 (observing that, though Governor DeSantis “gave it the good ol’ college try, [he] is not the president”). The Court’s one-off remark was directly relevant to the issue before it: whether Governor DeSantis was entitled to the type of deference given to the President regarding certain national security matters. *CAIR I*, 822 F. Supp. 3d at 1227 n.13 (distinguishing cases involving the President’s authority). That does not warrant recusal. *See AcryliCon USA, LLC*, 46 F.4th at 1331–32 (refusing to reassign case where court remarked that “the Defendant as usual talks a big game” and “[a]gain as usual the Defendant relies upon heated rhetoric rather than evidence,” because the remarks were “related to the legal merits”).

Again, Defendants may not like these statements, but they do not meet the high bar set in *Liteky*, 510 U.S. at 555. *See also Christo*, 223 F.3d at 1333–34. The Court is entitled to make judgments about the facts and litigants before it, and it may form “opinions” about those facts and litigants based on “what [it has] learned in earlier proceedings.” *Liteky*, 510 U.S. at 551. The Court’s language reflects “nothing more than the views of an experienced judge” who has presided over suits challenging state laws and policies that have “flagrantly and repeatedly” violated the First Amendment. *Cobell*, 455 F.3d at 333; *see also Pernell*, 181 F.4th at 1166; *Honeyfund.com*, 94 F.4th at 1283.

More generally, the Eleventh Circuit has declined to reassign cases involving more pointed remarks than what Defendants cite here. *See, e.g., Klayman v. City Pages*, 650 F. App'x 744, 748 (11th Cir. 2016) (declining to reassign judge who used a literary reference with the term “moron,” which a party viewed as “impl[ying] that he was the moron”); *Thomas*, 293 F.3d at 1329–30 (rejecting argument that recusal was required where judge accused a party of an “inexplicable hypersensitivity to racial differences”); *Christo*, 223 F.3d at 1333–34 & n.12 (holding that judge’s remarks criticizing party’s public-relations campaign did not create appearance of bias); *Sovereign Mil. Hospitaller Ord. v. Fla. Priory of Knights Hospitallers of Sovereign Ord.*, 702 F.3d 1279, 1297 (11th Cir. 2012) (refusing to reassign case where judge stated that he believed parties were “more interested in dressing up in costumes, conferring titles on each other and playing in a ‘weird world of princes and knights’ than in performing charitable acts”); *United States v. Marrero*, No. 22-14305, 2023 WL 5091325, at *7 (11th Cir. Aug. 9, 2023) (affirming denial of motion to recuse even where judge described party as engaging in “blatant untruthfulness” and “absurd manipulation of people”).

B. Defendants’ Sensationalized Characterizations of Other Statements Cannot Establish Grounds for Recusal.

Not content with complaining about the Court’s characterization of facts and law, Defendants take issue with a handful of anodyne observations and cultural references scattered throughout the Court’s opinions. They also, in one instance,

accuse the Court of saying something the Court has never said. None of these additional statements, real or imaginary, come close to reflecting bias—much less bias so pervasive as to make a fair ruling impossible. At bottom, Defendants’ motion is “nothing more than rank judge-shopping” and should be denied. *Walt Disney Parks & Resorts U.S., Inc. v. DeSantis*, No. 4:23-cv-163-MW/MJF, 2023 WL 11763037, at *1–2 (N.D. Fla. June 1, 2023).

To start, Defendants bizarrely object to the Court’s observation that CAIR is “one of America’s largest civil rights organizations” as somehow indicating bias. Mot. at 10–11. Yet that is a basic fact about CAIR, *see* First Am. Compl. ¶ 7, *CAIR-Found., Inc. v. DeSantis*, No. 4:25-cv-516-MW/MJF (N.D. Fla. 2025), ECF No. 21, and the Court cannot reasonably be faulted for reciting the facts of the case.

Defendants’ reliance on the Court’s statements in *Pernell* and *Austin* is similarly perplexing. In particular, Defendants point to the Court’s observation in those cases that teachers are the “priests of democracy.” Mot. at 10–11. But in both instances, the Court was quoting and describing statements from Justice Frankfurter in a prior Supreme Court opinion. *See Pernell*, 641 F. Supp. 3d at 1290 (“Justice Frankfurter opined that ‘[i]t is the special task’ of our professors—the ‘priests of our democracy’—‘to foster those habits of open-mindedness and critical inquiry which alone make for responsible citizens.’” (citation omitted)); *Austin*, 580 F. Supp. 3d at 1175 (“Justice Frankfurter referred to our teachers as ‘the priests of our democracy.’”

(citation omitted)). No informed observer would believe that quoting Justice Frankfurter’s description of an occupation central to a case is reflective of bias.⁵ See *Wieman v. Updegraff*, 344 U.S. 183, 196 (1952) (Frankfurter, J., concurring) (“To regard teachers—in our entire educational system, from the primary grades to the university—as the priests of our democracy is therefore not to indulge in hyperbole.”).

Other statements Defendants complain about are mere observations that do not appear in any way harsh or antagonistic. For example, Defendants point out that in *Austin*, the Court noted that the challenged law had been signed by the Governor “to great fanfare at a ‘Fox exclusive’ appearance on the Fox News Channel’s *Fox and Friends* program.” Mot. at 7 (quoting *Austin*, 580 F. Supp. 3d at 1148 n.19). Despite carrying the burden to explain how that statement is offensive or indicative of bias, Defendants fail to do so.

⁵ Another judge’s passing suggestion that the Court’s reference to “college professors as ‘priests of democracy’ . . . may say something about [its] predisposition on these issues” is irrelevant. *Simon v. Ivey*, No. 2:25-cv-00067, 2025 WL 2345845, at *66 n.60 (N.D. Ala. Aug. 13, 2025). The judge in *Simon*, like Defendants, did not explain how the Court’s quotation of Justice Frankfurter could conceivably show bias. In any event, the Eleventh Circuit ultimately affirmed the Court’s ruling in *Pernell*, emphasizing the “transcendent value” of academic freedom. 181 F.4th at 1145 (“Because academic freedom ‘is of transcendent value to all of us and not merely to the teachers concerned,’ the First Amendment ‘does not tolerate laws that cast a pall of orthodoxy over the classroom.’” (quoting *Keyishian v. Bd. of Regents of Univ. of State of N.Y.*, 385 U.S. 589, 603 (1967))).

Defendants also claim that the Court called the State of Florida “stupid.” Mot. at 7 (citing *Floridians Protecting Freedom, Inc. v. Ladapo*, 754 F. Supp. 3d 1165, 1171 (N.D. Fla. 2024), a First Amendment challenge to conduct by Florida Department of Health officials). Not so. As an initial matter, neither the “State of Florida,” nor the Surgeon General, nor Department of Health officials are defendants here. In terms of substance, the Court was merely invoking a common phrase in popular culture—“it’s the X, stupid”—to distill its more complex discussion of First Amendment doctrine.⁶ The Eleventh Circuit has held that “the use of a literary device to enliven” a court order—even one that could by implication refer to a party as a “moron”—“does not evidence the kind of ‘deep seated favoritism or antagonism that would make fair judgment impossible.’” *Klayman*, 650 F. App’x at 748. So too here. Whatever Defendants’ views on the use of cultural references in judicial opinions, those references are commonplace. *See, e.g., Butler v. Sheriff of Palm Beach Cnty.*, 685 F.3d 1261, 1269 (11th Cir. 2012) (Carnes, J.) (affirming dismissal of complaint alleging excessive use of force by sheriff and referencing Jim Croce song: “If the allegations are true, [the sheriff’s] treatment of [the plaintiff] was

⁶ *It’s the Economy Stupid*, Political Dictionary, <https://perma.cc/6AVW-5N69>.

badder than old King Kong and meaner than a junkyard dog. She might even have acted like the meanest hunk of woman anybody had ever seen.”).⁷

Finally, Defendants accuse the Court of calling Governor DeSantis a “religious bigot” in its opinion in *CAIR I*. Mot. at 5, 9. But the Court did not say that. Defendants’ accusation rests on nothing more than their interpretation of the Court’s opinion, which discussed the effect of Executive Order 25-244 on America’s largest Muslim civil rights organization and the resemblance to other government action that targets minority groups. *Compare CAIR I*, 822 F. Supp. 3d at 1281 & n.16 (observing that “history teaches that it is often minority religious groups who find themselves in the crosshairs” and “point[ing] out that not all Muslims are terrorists”), *with, e.g., United States v. Carolene Products Co.*, 304 U.S. 144, 152 n.4 (1938) (recognizing prejudice against “discrete and insular minorities”). As explained above, this is not evidence of bias. Defendants’ “unsupported, inflammatory allegations alone would not cause a reasonable person to question” the Court’s

⁷ See also, e.g., *Fedance v. Harris*, 1 F.4th 1278, 1289 (11th Cir. 2021) (Pryor, C.J.) (referencing lyrics from T.I. song “You Know What It Is” in explaining why rapper T.I.’s securities-fraud action was barred by the statute of limitations); *High Point, LLLP v. Nat’l Park Serv.*, 850 F.3d 1185, 1188 (11th Cir. 2017) (Rosenbaum, J.) (referencing Otis Redding song lyrics and noting that “nothin’s gonna change” in the district court’s opinion, which the court affirmed); *United States v. McPhee*, 336 F.3d 1269, 1276 n.9 (11th Cir. 2003) (Marcus, J.) (discussing “metaphysical” distinction between a rock and an island as described in Simon and Garfunkel’s song “I am a Rock” in opinion deciding whether body of land was “a rock or an island according to the statutory definitions provided by the Archipelagic Act”).

impartiality and “do not entitle [them] to a new judge.” *Draper v. Reynolds*, 369 F.3d 1270, 1281 (11th Cir. 2004).

III. Defendants Fail To Address This Court’s Many Holdings in Defendants’ Favor.

Defendants’ motion conspicuously omits any discussion of this Court’s many holdings in Defendants’ favor—including in this case. *See* Introduction, *supra* (collecting cases). These holdings are further evidence of the Court’s impartiality.

Perhaps the most obvious flaw in Defendants’ motion is their failure to engage with the fact that, in the short lifespan of this case, the Court’s preliminary rulings have run in Defendants’ favor. As noted above, Plaintiffs have asked the Court to issue emergency relief in this case on two occasions; the Court has denied Plaintiffs’ motions both times. ECF Nos. 26, 28. The Court has made it clear that it intends to give Defendants in this case “ample opportunity to be heard.” *In re Walker*, 532 F.3d 1304, 1311 (11th Cir. 2008); ECF No. 26. This is evidence of impartiality, not bias.

Defendants also fail to connect the bias supposedly animating the Court’s prior decisions to the proceedings here. Other than *CAIR I*, only one of the cases Defendants cite as evidence of bias has a common party to this action: Governor DeSantis.⁸ *Honeyfund.com*, 622 F. Supp. 3d at 1174. And the Court in that case

⁸ To the extent Defendants argue that the Court’s ruling in *CAIR I* establishes bias in this case, that is incorrect. “It has long been regarded as normal and proper for a judge to sit” in similar or successive cases “involving the same defendant.” *Liteky*, 510 U.S. at 551; *see also In re Corrugated Container Antitrust Litig.*, 614 F.2d 958,

denied the plaintiffs’ motion seeking to preliminarily enjoin Governor DeSantis. *Id.* Defendants do not even attempt to explain how that case, or the cases involving various state employees or officers who are not Defendants here, reveal the Court’s bias against *Defendants* specifically. *See McWhorter v. City of Birmingham*, 906 F.2d 674, 679 (11th Cir. 1990) (a judge’s personal and business relationship with mayor did not create appearance of impropriety and require recusal in case brought against city where mayor “was neither a party nor a witness in this case”).

Rather than evincing bias, *Honeyfund.com*, *Pernell*, and *Austin* each show that the Court’s critical assessment of a Florida statute or policy’s constitutionality does not automatically translate into a ruling against the state. *Contra* Mot. at 10–11. In each of these cases, the Court partially *denied* the plaintiffs’ motions for preliminary relief. *Pernell*, 641 F. Supp. 3d at 1254, 1264–65, 1287 (denying motion for preliminary injunction as to two plaintiffs and six defendants for lack of standing and for failing to show likelihood of success on First Amendment claim); *Austin*, 580 F. Supp. 3d at 1153–55 (declining to enjoin challenged policy of prohibiting law professors from affiliating themselves with University of Florida in *amicus* briefs on First Amendment grounds). Indeed, the Court has ruled in favor of Governor DeSantis and other state officials on numerous occasions. *See* Introduction, *supra*.

966 (5th Cir. 1980) (“We have long disclaimed any notion of ‘no-deposit/no-return judges, disposable after one use.’” (citation omitted)).

Defendants, straining for support, point to press coverage of the Court’s opinions to justify recusal. Mot. at 11–12. Much of this coverage simply recites the Court’s holdings or identifies the Court as presiding over a particular proceeding.⁹ But media reports quoting a court’s sharp language do not require recusal. To again state the obvious, regardless of any press coverage, a judge need not recuse if he or she has not done anything suggesting bias or prejudice. *See United States v. Greenough*, 782 F.2d 1556, 1558 (11th Cir. 1986) (media attention regarding whether judge should recuse did not warrant reassignment because judge’s conduct objectively did not cast doubt on judge’s impartiality). Thus, Defendants’ reliance on *Haines v. Liggett Grp., Inc.*, 975 F.2d 81, 84 (3d Cir. 1992), is misplaced. *See* Mot. at 12. There, the judge’s remarks themselves undermined the appearance of impartiality. *Haines*, 975 F.2d at 98. While media outlets had reported on those

⁹ *See, e.g.*, Gary Fineout, *Federal judge who ruled against DeSantis will recuse himself from Disney case*, POLITICO (June 1, 2023), <https://perma.cc/3CHW-H2FT> (in article describing Court’s recusal “on the side of caution” because a “‘third-degree’ relative” owned 30 shares in Disney, noting that the Court has “presided over several contentious legal fights in the past several years” involving Florida officials and statutes); Zach Schonfeld, *Judge blocks DeSantis’s ‘Stop WOKE Act,’ says Florida feels like a ‘First Amendment upside down’*, The Hill (Aug. 18, 2022), <https://perma.cc/7KYG-8RG9> (observing that the Court compared a Florida statute “to the fictional ‘upside down’ in the Netflix series ‘Stranger Things’”); Liz Dye, *Epic Benchslap: University of Florida Gets Spanked In Effort To Gag Professors Testifying Against State*, Above the Law (Jan. 24, 2022), <https://perma.cc/W95V-SB6N> (noting that the Court compared the State’s decision to bar professors from testifying as expert witnesses to the Chinese Communist Party).

remarks, *id.* at 97, the Third Circuit ordered reassignment based on “the statements made in the district court’s prologue to its opinion,” *id.* at 98.

No reasonable person would read the articles cited by Defendants and conclude that a fair judgment in this case is impossible. *See Christo*, 223 F.3d at 1333 (citing *Liteky*, 551 U.S. at 555). As the Eleventh Circuit explained in *In re Moody*, “there is as much obligation for a judge not to recuse when there is no occasion for him to do so as there is for him to do so when there is.” 755 F.3d 891, 895 (11th Cir. 2014) (quotation marks and citation omitted) (denying motion seeking the recusal of all judges within the Eleventh Circuit where case involved person convicted of killing an Eleventh Circuit judge). Here, because Defendants have not come close to meeting the extraordinarily high bar for recusal, the Court is obliged not to recuse.

IV. Defendants’ Cases Bear No Resemblance to This One.

Defendants cite a handful of reassignment cases for their “convenient language” but fail to contend with “the chasm between” the “conduct at issue in those cases” and the statements they challenge here. *Walt Disney*, 2023 WL 11763037, at *2. Rather than counseling in favor of disqualification, these cases demonstrate precisely why such an extraordinary remedy is unjustified in this suit. *See, e.g., Belue*, 640 F.3d at 575 (recusal of the presiding judge is a “drastic remedy”).

Each of the cases Defendants cite involved district court judges who made statements confirming they had prejudged the matter before them and would not be swayed by the facts or evidence. For example, in *United States v. Torkington*, 874 F.2d 1441, 1447 (11th Cir. 1989), the Eleventh Circuit reassigned a criminal case after the district court judge repeatedly criticized the prosecution as “silly,” “a waste of the taxpayers’ money,” and furtherance of a private “vendetta.” The judge had also twice tried to dismiss the proceedings, including by entering a judgment of acquittal at trial; the Eleventh Circuit overruled the dismissals both times. *Id.* Reassignment was required because the judge had explicitly “questioned the wisdom of the substantive law he had to apply” and “demonstrated great difficulty in putting aside his prior conclusions about the merits of th[e] prosecution.” *Id.* The same was true in *United States v. White*, 846 F.2d 678, 696 (11th Cir. 1988), where the Eleventh Circuit reassigned a judge who displayed “tremendous difficulty putting” prior findings “out of his mind” and had issued an order adopting a holding that had been expressly reversed by Eleventh Circuit.

Similarly, in *Haines*, 975 F.2d at 88, the Third Circuit reassigned a district court judge who issued an order that declared the defendants’ industry to be “the king of concealment and disinformation.” These statements cast doubt on his ability to fairly resolve the ultimate merits question: whether the defendant had intentionally concealed the dangers of its products. *Id.* The judge’s statements

warranted recusal because they strongly suggested that he believed all the companies in the defendant's industry "[a]ll too often" choose "concealment . . . over disclosure, sales over safety, and money over morality." *Id.* at 87.

And in *Cobell*, 455 F.3d at 333, the D.C. Circuit reassigned a judge who had been overturned *eight* times in the same case and who repeatedly and aggressively maligned the defendant's intentions when its "motive had nothing to do with the issue pending in the district court." Critically, the appeals court suggested that the judge's "incendiary" language alone would not warrant recusal; indeed, it noted that the judge's statements "might well have been appropriate were [the defendant's] motives relevant" to the issues being decided. *Id.* But "the combination of" all of these factors—antagonistic language that bore "no relationship to the issue pending before the court," "repeated reversals," as well as other conduct like "actively participating in evidence-gathering"—made *Cobell* "one of those rare cases in which reassignment is necessary." *Id.* at 335.

None of these cases bear any resemblance to the Court's statements or actions here. Nothing the Court has said or done suggests prejudgment of any issue in this case—indeed, the Court has repeatedly demonstrated its impartiality, both in this case and in the opinions Defendants claim are evidence of bias. *See* Section II, *supra*. The Court has not directed any criticism at Defendants unrelated to its resolution of the issues immediately before it. Nor has it repeatedly defied and ignored appellate

rulings in clear favor of one party. Defendants may dislike some of the Court's statements, but that is not proof of bias under 28 U.S.C. § 455.

CONCLUSION

For all these reasons, the Court should deny Defendants' motion.

Dated: September 4, 2026,

Respectfully Submitted,

/s/ Celin Carlo-Gonzalez

Scott D. McCoy (FBN 1004965)
Aaron S. Fleisher (*pro hac vice*)
Diego A. Soto (*pro hac vice*)
Mary Ella W. Simmons (*pro hac vice*)
Southern Poverty Law Center
400 Washington Ave
Montgomery, AL 31604
(771) 215-8661
scott.mccoy@splcenter.org
aaron.fleisher@splcenter.org
diego.soto@splcenter.org
maryella.simmons@splcenter.org

Manoj S. "Sachin" Varghese
(*pro hac vice*)
Mark L. Bailey (*pro hac vice*)
Kayla P. Gannon (*pro hac vice*)
Bondurant, Mixson & Elmore, LLP
1201 W. Peachtree St. NW, Ste. 3900
Atlanta, GA 30309
(404) 881-4100
varghese@bmelaw.com
bailey@bmelaw.com
polonsky@bmelaw.com

Hina Shamsi (*pro hac vice*)
Ashley Gorski (*pro hac vice*)
Celin Carlo-Gonzalez (*pro hac vice*)
Charles Hogle (*pro hac vice*)
Natalie Smith (*pro hac vice*)
Patrick Toomey (*pro hac vice*)
**American Civil Liberties
Union Foundation**
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2500
hshamsi@aclu.org
agorski@aclu.org
ccarlo-gonzalez@aclu.org
charlie.hogle@aclu.org
n.smith@aclu.org
ptoomey@aclu.org

Daniel B. Tilley (FBN 102882)
ACLU Foundation of Florida
4343 West Flagler Street, Ste. 400
Miami, FL 33134
(786) 363-2714
dtalley@aclufl.org

Shereef H. Akeel*
Samuel Simkins*
Akeel & Valentine, PLC
888 West Big Beaver Road, Ste. 350
Troy, MI 48084
(248) 269-9595
shereef@akeelvalentine.com
sam@akeelvalentine.com

**Pro hac vice motion forthcoming*

Counsel for Plaintiffs

CERTIFICATE OF WORD COUNT

Pursuant to Local Rule 7.1(F), I certify that this memorandum contains
6,157 words.

Dated: September 4, 2026

/s/ Celin Carlo-Gonzalez

Celin Carlo-Gonzalez

Counsel for Plaintiffs