

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

CASE NO. 2026-020505-CA-01 (22)

**GEORGE E. DUELL MORGAN,
Plaintiff,**

vs.

**CITY OF NORTH MIAMI, FLORIDA;
ALINA GARGIA, Supervisor of Elections; and
ALIX DESULME,
Defendants.**

**DEFENDANT ALIX DESULME'S MOTION FOR STAY PENDING
APPEAL AND OTHER RELIEF**

Defendant Alix Desulme, in consideration of Fla. R. Civ. P. 9.310 and other applicable authority, seeks an immediate stay of the Order Granting Plaintiff's Emergency Complaint for Declaratory and Injunctive Relief issued yesterday, October 19, 2026, at 5:45 p.m. Defendant Desulme is presently preparing this case for an expedited appeal to the Third District Court of Appeal. Staying the effect of this Order pending the outcome of the appeal and further proceedings on the pending Counterclaim.

1. This matter arises from an elections qualifications challenge that resulted in an Order on October 19, 2026, declaring Desulme to be not qualified and ordering the City and the Supervisor

of Elections to take action to notify the voters that votes cast for Desulme will not be counted and to declare him ineligible for his votes to be counted.

2. As an election matter, this case is entitled to priority treatment.

3. The evidentiary hearing occurred on October 14 and 19, 2026.

4. All parties fully briefed the legal and evidentiary issues.

5. The Court entered its ruling yesterday, October 19, 2026, at 5:45 p.m.

6. Desulme filed his Counterclaim challenging the qualification of his opponent, Plaintiff Morgan, as a qualified candidate for failing to pay the required qualifying fee. That matter is pending.

7. Desulme is preparing this case for appellate review.

8. Desulme seeks a stay of the Order pending further review by appeal and the disposition of the Counterclaim.

MEMORANDUM OF LAW

9. The trial court as the "lower tribunal," has the power to stay its own orders. *Holman v. Ford Motor Co.*, 239 So. 2d 40, 43 (Fla.

1st D.C.A. 1970). “A party seeking to stay a final order, nonfinal order pending review shall file a motion in the lower tribunal, which shall have continuing jurisdiction, in its discretion, to grant, modify, or deny such relief.” Fla. R. App. P. 9.310 (a). A party seeking to stay the lower tribunal order pending appeal should demonstrate a likelihood of prevailing on appeal, irreparable harm to movant if the motion is not granted, and that a stay is in the public interest. *Lampert-Sacher v. Sacher*, 120 So. 3d 667 (Fla. 1st DCA 2013); *White Constr. Co. v. State Dep’t of Transp.*, 526 So. 2d 998 (Fla. 1st DCA 1988).

10. Desulme seeks a stay of portions of the Order regarding remedy and notification regarding Desulme’s purported status as a “not qualified candidate”. Desulme and the public will suffer irreparable harm and undue hardship if notices that he is a “not qualified candidate” accompany ballots and are placed at polling stations. Early voting began yesterday, making the entry of a stay before notices are posted at Early Vote polling stations an urgent matter. It is unquestionably in the public interest to allow voters to have a choice between candidates in an orderly election process should the appellate court find Desulme to be a qualified candidate

or this Court to find that Morgan is not qualified.

11. Desulme has a substantial likelihood of success in this appeal because of Florida's strong public policy of fostering electoral choice by voters instead of having election results determined by technicalities. Such notices would undoubtedly persuade voters not to vote for Desulme, thus impairing the integrity of the ballot should Desulme be deemed qualified.

12. Votes discouraged by the mailing and posting of notices could never be recovered. However, it is not necessary for the Supervisor of Elections to immediately implement those portions of the Order regarding remedy and notification. But if the implementation of the Order is not stayed, the impact on the election cannot be remedied on appeal. The purpose of an appellate stay is to maintain the status quo in the election process while an appeal proceeds. In this case, if the appeal is unsuccessful and Desulme is found not to be a qualified candidate, then the remedy that the Supervisor will not count nor release any results as to votes for Desulme will be sufficient without regard to the mailing or posting of notices. Conversely, staying implementation of the notification allows this already underway election to proceed, and would allow

meaningful relief to be granted by this or the appellate court. Granting a stay does not prejudice any parties, whereas not granting a stay severely prejudices Desulme and the public.

13. For these reasons, Desulme seeks a stay of the implementation of the Order pending the final outcome of this case.

Respectfully submitted,

KUEHNE DAVIS LAW, P.A.

Miami Tower, Suite 3650

100 S.E. 2 St.

Miami, FL 33131-2154

Tel: 305.789.5989

Fax: 305.789.5987

Ben.Kuehne@KuehneLaw.com

JohanD@KuehneLaw.com

efiling@kuehnelaw.com

By: S/ Benedict P. Kuehne

BENEDICT P. KUEHNE

Florida Bar No. 233293

CERTIFICATE OF SERVICE

I certify this document was efiled through the Florida E-Filing Portal and served on all counsel of record on October 20, 2026.

/s/Benedict P. Kuehne
BENEDICT P. KUEHNE