

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

CASE NO. 2026-20505-CA-01

GEORGE E. DUELL MORGAN,

Plaintiff/Counter-Defendant,

v.

CITY OF NORTH MIAMI, FLORIDA; ALINA
GARCIA, in her official capacity as Miami-Dade
County Supervisor of Elections; and ALIX
DESULME,

Defendants.

ALIX DESULME,

Defendant/Counter-Plaintiff,

v.

GEORGE E. DUELL MORGAN; CITY OF
NORTH MIAMI, FLORIDA; and ALINA
GARCIA, in her official capacity as Miami-Dade
County Supervisor of Elections,

Counter-Defendants.

**PLAINTIFF/COUNTER-DEFENDANT GEORGE E. DUELL MORGAN'S
MOTION TO DISMISS DEFENDANT ALIX DESULME'S COUNTERCLAIM
FOR LACK OF JURISDICTION AND INCORPORATED MEMORANDUM OF LAW**

Plaintiff/Counter-Defendant George E. Duell Morgan ("Morgan") moves under Florida Rule of Civil Procedure 1.140(b)(1) to dismiss Defendant Alix Desulme's ("Desulme") "Emergency Verified Counterclaim Against Plaintiff/Counter-Defendant Morgan for Declaratory and Injunctive Relief" (the "Counterclaim"), see [DIN 36]. In support, Morgan states:

I. INTRODUCTION

The Court lacks jurisdiction to hear Desulme's Counterclaim for two independent reasons. First, Desulme filed the Counterclaim after the Court entered a Final Order that disposed of every claim in Morgan's original complaint. A counterclaim filed after final judgment is a nullity. Second, the Final Order disqualified Desulme as a candidate. Section 99.0211(2), Florida Statutes, allows only "a candidate" to challenge another candidate's qualifications. Desulme is no longer a candidate. He even admitted that Morgan "is now the only candidate." [DIN 36] at ¶ 2. Desulme therefore lacks standing.

II. BACKGROUND

A. Morgan's Complaint and the Expedited Final Hearing

On October 8, 2026, Morgan filed a two-count Emergency Complaint for Declaratory and Injunctive Relief under sections 99.0211 and 86.011, Florida Statutes. See [DIN 2]. Count I asked the Court to declare that Desulme "is not a qualified candidate for Mayor of the City of North Miami in the November 3, 2026 municipal election." [DIN 2] at ¶¶ 83–95. Count II asked the Court to enjoin the City of North Miami (the "City") from treating Desulme as a qualified candidate and to direct the Miami-Dade County Supervisor of Elections (the "Supervisor") to implement DE Reference Guide 0007 so that voters receive notice that votes cast for Desulme will not be counted. [DIN 2] at ¶¶ 96–104.

Desulme did not answer the Complaint. He did not counterclaim. He filed a "Response in Opposition" and a "Supplemental Response." [DIN 26, 28]. In both Responses, Desulme asserted that Morgan paid his own election assessment eighty cents short. [DIN 28] at ¶¶ 18–19. Desulme raised that allegation as an affirmative defense of unclean hands. *Id.*

The Court held an expedited hearing on October 14, 2026, and a final hearing on October 19, 2026. All parties appeared at both hearings. Desulme even concedes that the Court held an “evidentiary hearing” and that “[a]ll parties fully briefed the legal and evidentiary issues.” See [DIN 39] at ¶¶ 3–4, Desulme’s Motion to Stay, filed on October 20, 2026.

B. The October 19, 2026 Final Order

At 5:28 p.m. on October 19, 2026, the Court entered a Final Order Granting Morgan’s Emergency Complaint for Declaratory and Injunctive Relief (the “Final Order”). See [DIN 35]. The Clerk electronically docketed it at 5:45 p.m. *Id.* The Final Order makes findings of fact and conclusions of law. *Id.* The Final Order held that Florida’s Election Code governs the City’s qualifying-fee requirement, that a cashier’s check is not a check drawn upon the candidate’s campaign account, and that the doctrine of substantial compliance does not apply. *Id.* at 2–3. The Final Order also rejected Desulme’s unclean hands defense: “The defense of unclean hands does not bar Plaintiff’s recovery. The City qualified Plaintiff as a candidate for Mayor. Plaintiff remains a qualified candidate unless and until a court declares otherwise.” *Id.* at 4.

The Final Order then granted Morgan relief by declaring that: (i) Desulme’s TD Bank official checks did not satisfy section 99.061(7)(a)1. or City Code section 6-21(d); (ii) “ALIX DESULME failed to satisfy the statutory qualification requirements before the qualifying period closed;” and (iii) Desulme “is not a qualified candidate for Mayor of the City of North Miami in the November 3, 2026 municipal election.” The Final Order specifically “DISQUALIFIE[D] ALIX DESULME as a candidate for that office.” See [DIN 35] at 4 (citing §§ 99.061(7)(a)1., 99.0211(3), Fla. Stat.). Regarding Morgan’s request for injunctive relief, the Final Order “DIRECT[ED]” the Supervisor to follow section 99.0211(4), Florida Statutes and the Florida Division of Elections’ DE Reference Guide 0007. *Id.* at 5. Importantly, the Final Order did not

reserve jurisdiction over any issue. It stated, “Final Order as to All Parties UCR #: CA010 (Disposed by Judge),” and “THIS CASE IS CLOSED AS TO ALL PARTIES.” *Id.*

C. Desulme’s Post-Judgment Counterclaim and Motion to Stay

At 11:43 p.m. on October 19, 2026—after the Court entered the Final Order—Desulme e-filed his Counterclaim. See [DIN 36]. Desulme did not seek leave to file it or move for rehearing. The Counterclaim names Morgan, the City, and the Supervisor as “Counter-Defendants.” [DIN 36] at ¶¶ 24-28. It alleges that Morgan’s campaign-account check for the \$898.80 election assessment was written for \$898.00. [DIN 36] at ¶¶ 7–8. It asks the Court to declare Morgan unqualified, to remove Morgan from the ballot, to enjoin the City and the Supervisor from certifying the results, and to order the City to “reopen qualifying for a special election to take place on December 1, 2026.” *Id.* at 1, ¶¶ 13, 46, 58.

However, the Counterclaim admits the effect of the Final Order: “Morgan is now the only candidate who has filed for office in view of this Court’s ruling on October 19, 2026, disqualifying Desulme as a candidate for North Miami Mayor.” *Id.* at ¶ 2. Desulme nonetheless asserts standing on the theory that, “[u]ntil a final decision is rendered in this matter, Desulme remains a candidate for the Office of North Miami Mayor.” *Id.* at ¶ 16; *see also Id.* ¶ 39 (“Until a final decision is reached in this matter, Desulme and Morgan are candidates in the same race.”).

At 8:24 a.m. on October 20, 2026, Desulme moved for a stay pending appeal under Florida Rule of Appellate Procedure 9.310. See [DIN 39]. He described the Final Order as “declaring Desulme to be not qualified,” confirmed that “[t]he Court entered its ruling yesterday,” and announced that he “is presently preparing this case for an expedited appeal to the Third District Court of Appeal.” [DIN 39] at ¶¶ 1, 5, 7. The Court denied the motion. [DIN 37].

III. LEGAL STANDARD

Rule 1.140(b)(1) authorizes dismissal for “lack of jurisdiction over the subject matter.” A court must decide its own jurisdiction before it reaches the merits, and a party may raise the defect at any time. Fla. R. Civ. P. 1.140(h)(2). In deciding this motion, the Court may consider its own docket and orders. § 90.202(6), Fla. Stat. (court may take judicial notice of “[r]ecords of any court of this state”). The Court may also consider the Counterclaim’s own allegations and admissions. Standing is a threshold question that the Court resolves before the merits, and a plaintiff must possess standing when he files his claim.

IV. ARGUMENT

A. The Court Lacks Jurisdiction Over a Counterclaim Filed After the Final Order.

1. *The October 19, 2026 Order is a final order.*

Florida applies a settled test of finality. An order is final when it “constitutes an end to the judicial labor in the cause, and nothing further remains to be done by the court to effectuate a termination of the cause as between the parties directly affected.” *S.L.T. Warehouse Co. v. Webb*, 304 So. 2d 97, 99 (Fla. 1974). The Third District has stated, “Florida’s test of finality for appellate purposes is well established: the order constitutes the end of judicial labor in the trial court, and nothing further remains to be done to terminate the dispute between the parties.” *Bloomgarden v. Mandel*, 154 So. 3d 451, 454 (Fla. 3d DCA 2014); *accord Fabre v. 4647 Block, LLC*, 401 So. 3d 523, 526 (Fla. 3d DCA 2024). “A final order or judgment is one which evidences on its face that it adjudicates the merits of, and disposes of, the matter before the court and leaves no judicial labor to be done.” *Cardillo v. Qualsure Ins. Corp.*, 974 So. 2d 1174, 1175–76 (Fla. 4th DCA 2008). Substance controls over form. “In deciding whether an order constitutes a final judgment, we look not to the title. Instead, we review the content and substance to discern whether the order fully and

finally determines the rights of the parties involved in the lawsuit.” *Colby III, Inc. v. Centennial Westland Mall Partners, LLC*, 386 So. 3d 1003, 1005 (Fla. 3d DCA 2023).

The Final Order here satisfies every element of that test. Morgan filed a two-count complaint for declaratory and injunctive relief. The Final Order resolved both claims. It declared that Desulme failed to qualify. And it directed the Supervisor to implement the statutory remedies. [DIN 35] at 4–5. No claim, count, party, or issue remains for decision. The Final Order reserves jurisdiction over nothing. The Court coded it as a “Final Order as to All Parties” and closed the case “AS TO ALL PARTIES.” *Id.* at 5. The Final Order ended the judicial labor in this case.

Desulme’s own filings confirm finality. Hours after the Court issued the Final Order, Desulme moved for a stay “pending appeal” under Rule 9.310, which governs stays of orders “pending review.” [DIN 39] at 1, ¶ 9. He announced an “expedited appeal to the Third District Court of Appeal.” *Id.* ¶ 7. Desulme cannot treat the Final Order as final for purposes of appeal and as non-final for purposes of his Counterclaim.

Section 99.0211 itself confirms the point. It gives a challenger “an expedited final hearing,” provides that “any appeal of a final hearing must receive expedited consideration by the appellate court,” and requires the Supervisor to act “[u]pon a final order of the circuit court which contains the determination under subsection (3).” § 99.0211(4), Fla. Stat. The Legislature designed these proceedings to end in one final order. This Court entered that order on October 19, 2026.

2. *After a final order, the Court may not entertain a new pleading, and a counterclaim filed after judgment is a nullity.*

“[T]he trial Court loses jurisdiction of a cause after a judgment or final decree has been entered and the time for filing petition for rehearing or motion for new trial has expired or same has been denied.” *Mich Auto Sales, Inc. v. 14004 NW 19th Ave., LLC*, 347 So. 3d 438, 440 (Fla. 3d DCA 2022) (quoting *Liberty Ins. Corp. v. Milne*, 98 So. 3d 613, 615 (Fla. 4th DCA 2012)).

After final judgment, the trial court retains authority only to enforce the judgment, to exercise jurisdiction it expressly reserved, to rule on a timely motion under Rule 1.530, and to entertain a proper motion under Rule 1.540. *Id.*; *Fla. Nat'l Bank v. Domanska*, 486 So. 2d 1384, 1385 (Fla. 3d DCA 1986) (“A final judgment cannot be disturbed by the trial court except on a properly filed motion for relief from judgment.”); *Shelby Mut. Ins. Co. v. Pearson*, 236 So. 2d 1 (Fla. 1970).

Florida courts apply this rule to post-judgment pleadings that attempt to inject new claims into a concluded case. In *Domanska*, the Third District held that the trial court “was without jurisdiction to permit the filing of a new complaint in the action” after final judgment. 486 So. 2d at 1385. In *Mich Auto Sales*, the Third District granted a writ of prohibition where the trial court allowed a post-judgment amendment, holding that “the trial court lacks the power to permit amendment of the complaint” once judgment has been entered and that the trial court “exceeded its jurisdiction in considering” the motion. 347 So. 3d at 440–41. In *DiPaolo v. Rollins Leasing Corp.*, 700 So. 2d 31, 32 (Fla. 5th DCA 1997), the Fifth District dismissed an appeal from a post-judgment ruling on a motion to amend because, once final judgment was entered, no action remained pending on which to base an amendment. *See Milne*, 98 So. 3d at 615 (describing *DiPaolo*). And in *Milne*, the Fourth District prohibited the trial court from entertaining a new claim filed the same day the final judgment was entered. The court held that “any attempt to file a crossclaim or a third-party complaint” after the case concluded “was a nullity,” because the new pleading “could not revive an underlying action that already had been concluded.” 98 So. 3d at 615. *See also Francisco v. Victoria Marine Shipping, Inc.*, 486 So. 2d 1386 (Fla. 3d DCA 1986).

The Counterclaim here is exactly such a pleading. Desulme’s Counterclaim is not a motion for rehearing under Rule 1.530. It does not ask the Court to reconsider, alter, or amend the Final

Order. In fact, it affirmatively relies on the Final Order. [DIN 36] at ¶ 2. It is not a motion for relief from judgment under Rule 1.540.

The Counterclaim instead asserts two new causes of action, against two new “Counter-Defendants,” seeking to disqualify Morgan. The Court has no jurisdiction to entertain it, as this Court has already denied Desulme’s motion to stay the Final Judgment, which is effectively the same as denying a petition for rehearing.

The timing of Desulme’s Counterclaim is similar to *Milne*. There, the clerk’s stamps showed that the new pleading was filed on the same day as the final judgment, yet the Fourth District held the pleading a nullity because the action had concluded and the new claim “could not revive” it. 98 So. 3d at 614–15. Were the rule otherwise, every non-prevailing party could keep a closed case alive indefinitely by filing new claims in the days after judgment. Florida law does not permit that result.

3. Desulme’s “Response in Opposition” was a defense, not a counterclaim.

Desulme may argue that he put Morgan’s qualifying fee at issue before the Final Order. He did—as a defense. [DIN 28, ¶¶ 18–19]. However, a defense is not a claim or counterclaim. A counterclaim must be stated in a pleading and must demand affirmative relief against an opposing party. Fla. R. Civ. P. 1.170(a). Desulme’s Response asked the Court to deny Morgan’s claims on the theory of unclean hands. The Court considered that theory and rejected it. [DIN 35] at 4. At most, Desulme raised a defense to Morgan’s Complaint. Neither a response in opposition nor a defense equates to a complaint or counterclaim.

Important here, Desulme knew the facts underlying his Counterclaim during the underlying proceeding. He raised them in his filings before the Court entered its Final Order. [DIN 28, ¶¶ 18–19]. Desulme had every opportunity to file a counterclaim before the October 19 final hearing.

Desulme purposefully chose to raise Morgan's alleged deficiencies as a shield. He may not now, after judgment, convert that shield into a sword. Desulme should have, and could have, filed his Counterclaim while Morgan's case was pending. Unfortunately, Desulme's Counterclaim is untimely.

4. *The Final Order precludes the Counterclaim.*

Even if the Court could entertain a post-judgment pleading, which it cannot, the Final Order would bar this one. Desulme's claim was a compulsory counterclaim. A compulsory counterclaim is "any claim which at the time of serving the pleading the pleader has against any opposing party, provided it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim." Fla. R. Civ. P. 1.170(a). The Florida Supreme Court applies the "logical relationship" test: a claim is compulsory when it "arises out of the same aggregate of operative facts as the original claim." *Londono v. Turkey Creek, Inc.*, 609 So. 2d 14, 20 (Fla. 1992). The rule exists "to promote judicial efficiency by requiring defendants to raise claims" arising from the same transaction in one proceeding. *Id.* at 19.

Morgan's claim and Desulme's Counterclaim share the same aggregate of operative facts. Both concern the same office, the same election, the same qualifying period, the same filing officer, the same statute (section 99.061(7)(a)1.), the same ordinance (City Code section 6-21), the same statutory cause of action (section 99.0211(2)), and the same statutory remedy (section 99.0211(4)). Both turn on what each candidate tendered to the City Clerk between August 10 and August 20, 2026. Desulme himself asserted Morgan's alleged fee deficit as a defense to Morgan's claim. [DIN 28, ¶¶ 18–19]. The Counterclaim was compulsory.

A final judgment on the merits bars a compulsory counterclaim that the defendant failed to assert. In *Cabinet Craft, Inc. v. A. G. Spanos Enterprises, Inc.*, 348 So. 2d 920 (Fla. 2d DCA 1977),

the defendant's counterclaim had been stricken, and the plaintiff's claim proceeded to judgment. The Second District held that "since Cabinet Craft's counterclaim was by its nature a compulsory counterclaim, once a judgment on the merits of the subject matter of the action was entered, Cabinet Craft could not file a new suit on the same cause of action." *Id.* at 922. The court stressed that the defendant had been on notice of the issue during the first case and had not raised it. *Id.* at 921. Desulme's case is no different.

The Florida Supreme Court applies the same principle under the doctrines of res judicata and estoppel by judgment. In *Avant v. Hammond Jones, Inc.*, 79 So. 2d 423 (Fla. 1955), the defendant in a replevin action allowed judgment to be entered without asserting his claim to certain equipment and then sued separately for its conversion. The Court held him estopped because he "had had abundant opportunity to isolate for adjudication the claim he now makes." *Id.* at 424. "When he disregarded this opportunity and by his silence let the adjudication dispose of" the property, "he estopped himself from raising the point by a subsequent and different action." *Id.* Res judicata bars "a later suit between the same parties upon the same cause of action, the first adjudication being final as to matters that were or could have been presented." *Id.* at 424.

Eastern Shores Sales Co. v. City of North Miami Beach confirms that a final declaratory decree binds the parties on every issue they litigated or could have litigated. "[W]hen a final decree or judgment of a court of competent jurisdiction becomes absolute it puts at rest and entombs in eternal quiescence every justiciable, as well as every actually adjudicated, issue." 363 So. 2d at 323 (quoting *Gordon v. Gordon*, 59 So. 2d 40 (Fla. 1952)).

Courts applying Florida law hold that res judicata "precludes the assertion by such parties of any legal theory, cause of action, or defense which could have been asserted in that action," and that "[o]ne cannot revisit the same transaction or occurrence, already adjudicated between the same

parties, by resort to a new legal theory in a separate lawsuit.” *In re Zoernack*, 289 B.R. 220, 228–29 (Bankr. M.D. Fla. 2003) (applying Florida law and citing *Albrecht v. State*, 444 So. 2d 8, 12 (Fla. 1984)). That the relief requested in the second case “is the flip side of the relief granted in the other case” does not avoid the bar. *Id.* at 228 (citing *City of Anna Maria v. Miller*, 91 So. 2d 333, 335 (Fla. 1956)).

Each element of res judicata exists here. *See Cabinet Craft*, 348 So. 2d at 921 (quoting *Donahue v. Davis*, 68 So. 2d 163 (Fla. 1953)). The thing sued for is the same: the status of a candidate on the November 3, 2026 ballot for Mayor of North Miami. The cause of action is the same: a section 99.0211(2) challenge to a candidate’s compliance with the qualifying-fee requirement during the August 2026 qualifying period. The parties are the same: Morgan, Desulme, the City, and the Supervisor. And each party appears in the same capacity. The Final Order adjudicated Morgan’s claim on the merits after an evidentiary hearing that Desulme concedes was fully briefed. [DIN 39] at ¶¶ 3–4. The Final Order also addressed Morgan’s own status, rejected Desulme’s unclean hands defense, and found that “[t]he City qualified Plaintiff as a candidate for Mayor.” [DIN 35] at 4. Desulme’s only remedy now for any disagreement with the Final Order is an appeal. His remedy is not a second lawsuit, dressed as a counterclaim, in the case the Court has already closed.

B. Desulme Lacks Standing Because He Is No Longer a Candidate.

1. Section 99.0211(2) confers standing only on candidates.

Section 99.0211 creates the cause of action Desulme invokes. [DIN 36] at ¶¶ 1, 15, 38. It also defines who may invoke it. Subsection (2) provides: “A candidate or a political party with a candidate in the same race, or an affiliated party committee as authorized by s. 103.092, may challenge a candidate’s compliance with subsection (1) by filing an action for declaratory and

injunctive relief in the circuit court for the county in which the filing officer is headquartered.” § 99.0211(2), Fla. Stat. The Legislature did not extend that right to voters, taxpayers, former candidates, or disqualified candidates. Compare § 102.168(1), Fla. Stat. (election contests may be brought by “any unsuccessful candidate,” “any voter qualified to vote in the election,” or “any taxpayer”). When the Legislature wants to confer standing on voters or unsuccessful candidates, it says so. In section 99.0211(2), it did not.

The Legislature also resolved the issue by stating, “If an order of a court that has become final determines that a person did not comply with this section, the person shall not be qualified as a candidate for election” § 99.012(6), Fla. Stat. In other words, a judicial determination of noncompliance ends the candidacy. This Court’s Final Order ended Desulme’s candidacy.¹ Accordingly, Desulme can no longer challenge Morgan’s qualifications.

2. *Desulme Admitted he is not a candidate.*

Desulme admits he is not a candidate. Desulme pleads that “Morgan is now the *only* candidate who has filed for office in view of this Court’s ruling on October 19, 2026, disqualifying Desulme as a candidate for North Miami Mayor.” [DIN 36] at ¶ 2 (emphasis added). His Motion to Stay likewise describes the Final Order as “declaring Desulme to be not qualified.” [DIN 39] at ¶ 1. A party is bound by the allegations of his own pleading. If Morgan “is now the only candidate,”

¹ Applying section 99.0211(3), the Court “DECLARE[D] that ALIX DESULME failed to satisfy the statutory qualification requirements before the qualifying period closed,” declared that he “is not a qualified candidate for Mayor of the City of North Miami in the November 3, 2026 municipal election,” and “DISQUALIFIE[D] ALIX DESULME as a candidate for that office.” [DIN 35] at 4. The Court then directed the Supervisor to post the statutory notice that “a candidate in the race for the office of North Miami – Mayor has been disqualified resulting in an unopposed candidate race.” *Id.* at 5.

then Desulme is not a candidate, and he is not a candidate “in the same race” as Morgan. § 99.0211(2), Fla. Stat.

Standing is measured when the plaintiff files his claim. Desulme filed the Counterclaim at 11:43 p.m. on October 19, 2026—after the Court disqualified him. [DIN 36] at 1. He had no standing then, and he has none now.

3. Desulme’s “until a final decision” theory fails.

Desulme attempts to preserve his standing by alleging that, “[u]ntil a final decision is rendered in this matter, Desulme remains a candidate.” [DIN 36] at ¶ 16; *see also Id.* ¶ 39. That theory fails for four reasons.

First, the Court has rendered a final decision. The Final Order is a final order under every applicable test. *See* Part IV.A.1, *supra*. Desulme himself treats it as final; he has moved for a stay “pending appeal” and announced an “expedited appeal.” [DIN 39] at ¶¶ 7–9.

Second, an appeal does not suspend the Final Order. No automatic stay attaches to a notice of appeal. A party must move for a stay, and the trial court decides that motion in its discretion. Fla. R. App. P. 9.310(a). Desulme moved for a stay. [DIN 39]. The Court denied it. [DIN 37]. The Final Order remains in full force, and the Supervisor is implementing it.

Third, the statute itself ties the loss of candidacy to the circuit court’s final order—not to the exhaustion of appellate review. Section 99.0211(4) directs the Supervisor to remove the candidate’s name or post the statutory notice “[u]pon a final order of the circuit court which contains the determination under subsection (3).” If the Legislature intended a disqualified person to remain a “candidate” until an appellate mandate issued, it would not have required the Supervisor to strip his name from the ballot or post the statutory notice upon the circuit court’s

order. The Court's order directing the Supervisor to notify voters of Desulme's disqualification remains in full effect.

Fourth, Desulme's theory would render subsection (3) meaningless. Under his reading, a person whom a final order has determined unqualified could continue to invoke subsection (2) as a "candidate" for as long as he kept litigating. The Legislature wrote subsection (3) to end the candidacy of a person who fails to qualify. The Court must give effect to that text.

4. *There is no "race" between Desulme and Morgan, and chapter 86 cannot supply standing that section 99.0211 withholds.*

Section 99.0211(2) requires more than candidacy in the abstract. It requires a candidate "in the same race." After the Final Order, there is no race between Desulme and Morgan. The notice the Court ordered the Supervisor to post states that the disqualification "result[s] in an unopposed candidate race" and that "the remaining candidate is deemed by law to be elected for that race." [DIN 35] at 5. Desulme is clearly no longer in the race.

Desulme cannot avoid section 99.0211(2) by invoking chapter 86. [DIN] ¶¶ 14, 17. The Declaratory Judgment Act confers no standing of its own. A party seeking declaratory relief must show a bona fide, actual, present, and practical need for the declaration; a present, ascertained state of facts; and that some immunity, power, privilege, or right of the complaining party depends on the facts or law. *May v. Holley*, 59 So. 2d 636, 639 (Fla. 1952). Desulme's rights as a candidate no longer depend on whether Morgan properly qualified, because Desulme is no longer a candidate. His remaining interest is that of a voter. Section 99.0211(2) deliberately excludes voters. Chapter 86 cannot expand a statutory cause of action beyond the class of persons the Legislature authorized to bring it. A disqualified person cannot use the statute that removed him from the ballot to dictate who else remains on it.

C. Additional Arguments.

1. *The Counterclaim demands relief that section 99.0211 does not authorize.*

Section 99.0211(4) prescribes the consequence of a successful challenge: the Supervisor “shall remove the name of the candidate from the ballot or, if the ballots have already been printed, include a notice with each vote-by-mail ballot, and post a notice at each early voting location and polling precinct, stating that a vote for such candidate will not be counted.” That is the statutory remedy. The Counterclaim instead asks the Court to order the City to “reopen qualifying” and to set a “special election” for December 1, 2026. [DIN 36] at 1, ¶¶ 13, 46, 58. No provision of section 99.0211, chapter 99, or the City Code authorizes a court to reopen a qualifying period that closed by law on August 20, 2026. § 99.061(7)(a), Fla. Stat.; City Code § 6-21. Courts enforce the Election Code as written. *Spiritis v. Botel*, 384 So. 3d 260, 264 (Fla. 4th DCA 2024) (“[I]t is not for us to rewrite a statute to save a party in such a situation. We must enforce the law as written.”); [DIN 35] at 4 (adopting *Spiritis*). The Court should not entertain a pleading whose central demand the law forbids.

2. *Morgan reserves all defenses on the merits.*

This motion addresses jurisdiction and standing. Morgan disputes the Counterclaim’s merits. The City reviewed Morgan’s qualifying papers, accepted his campaign-account checks, and listed him as a qualified candidate. [DIN 2] at ¶¶ 20, 28; [DIN 35] at 4. Morgan reserves every defense, and nothing in this motion waives any of them.

V. CONCLUSION

The Court entered a Final Order on October 19, 2026 that disposed of every claim in this case. Desulme filed his Counterclaim, without leave, in a closed case. The Court lacks jurisdiction to hear it. The Final Order also disqualified Desulme as a candidate, and section 99.0211(2) permits

only a candidate to challenge another candidate's qualifications. Since Desulme is no longer a candidate, he lacks standing.

WHEREFORE, Plaintiff/Counter-Defendant George E. Duell Morgan respectfully requests that the Court enter an order: (a) dismissing the Counterclaim with prejudice for lack of jurisdiction, or alternatively striking it as a nullity; (b) alternatively, dismissing the Counterclaim with prejudice for lack of standing under section 99.0211(2), Florida Statutes; (c) denying Desulme's request for an expedited hearing on the Counterclaim; and (d) granting such other relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of October, 2026, I filed the foregoing through the Florida Courts E-Filing Portal, which served a copy by e-mail on all counsel of record, including: Benedict P. Kuehne, Esq., Kuehne Davis Law, P.A. (Ben.Kuehne@KuehneLaw.com; EFiling@KuehneLaw.com; JohanD@KuehneLaw.com), counsel for Defendant/Counter-Plaintiff Alix Desulme; Richard B. Rosengarten, Esq. and Amanda Pulido, Esq., Weiss Serota Helfman Cole & Bierman, P.L. (rrosengarten@wsh-law.com; szavala@wsh-law.com; apulido@wsh-law.com; lbrewley@wsh-law.com), counsel for Defendant City of North Miami; and Oren Rosenthal, Esq. (oren.rosenthal@votemiamidade.gov; Jeanette.Rodriguez@votemiamidade.gov), counsel for Defendant Alina Garcia, in her official capacity as Miami-Dade County Supervisor of Elections.

Respectfully Submitted,

BY: /s/Sasha Bardelas
Sasha Bardelas, Esq.
Florida Bar No. 20674
Counsel for Plaintiff

Sasha Bardelas, P.A.
350 Sevilla Avenue, Suite 200
Coral Gables, Florida 33134
(305) 424-7060
Sasha@sbblaw.net