

THE STATE OF NEW HAMPSHIRE  
SUPREME COURT

Docket No. 2025-0297

Daniel Richard

v.

Governor, State of New Hampshire & a.

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**OBJECTION TO MOTION TO DISQUALIFY**

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The Defendants, by and through their attorney, the New Hampshire Department of Justice, hereby objects to Appellant Richard's Motion to Disqualify Attorney General John Formella and the New Hampshire Department of Justice Due to Conflict of Interest and Alleged Criminal Conduct.

1. On July 10, 2025, Appellant Richard filed a motion seeking to disqualify Attorney General Formella and the entire Department of Justice based on a number of substantive allegations which will be addressed in turn below.
2. However, before moving to the arguments directly raised by Appellant Richard, the Defendants begin by making two points:
  - a. First, this request to disqualify is extremely belated and as such should be treated as untimely. The New Hampshire Department of Justice has been serving as counsel for the Defendants since the inception of this litigation more than three years ago.

- b. Second, Appellant Richard appears to lack standing to raise his arguments. Appellant Richard alleges that Attorney General Formella and the Department of Justice should be disqualified due to a conflict of interest. Such a theoretical conflict of interest, even if it existed, would work to impair Attorney General Formella and the Department of Justice's ability to competently represent the Defendants (including Attorney General Formella himself). Appellant Richard is not injured by the choice of attorneys for the Defendants. As such, he has no cognizable injury.
3. The first ground for disqualification, raised by Appellant Richard in section II of his motion, appears to arise from his assertion that his substantive claims allege that Defendants, including Attorney General Formella, have in their official capacity violated his constitutional rights and engaged in criminal conduct, thereby rendering the representation improper. However, nothing about the nature of Richard's allegations necessitates the disqualification of Attorney General Formella specifically or the Department of Justice generally. On the contrary, representing the state and its executive branch agencies in civil legal matters is a core duty of the Attorney General and the Department of Justice. *See* RSA 21-M:2.
4. In section III of Appellant Richard's motion he asserts that there exists a conflict of interest between the Attorney General's role as the State's chief

law enforcement officer tasked with upholding the election laws and defending this case, in which he is alleged to have violated the election laws in his official capacity. Appellant offers no legal authority to support or articulate how this creates a basis for disqualification. The Defendants, including Attorney General Formella and their associated state agencies/institutions, are entitled to defend themselves in court against the allegations of Appellant Richard, and Appellant Richard cannot create a conflict of interest simply through the making of baseless accusations.

5. Appellant Richard's motion also argues that the Department of Justice lacks authority to represent the Defendants without first presenting evidence of compliance with RSA 99-D:2. This claim lacks a legal basis as representation in this matter is not premised on RSA 99-D. Appellant Richard's underlying complaint alleges to bring claims against all Defendants both in their official and personal capacity. However, the relief he seeks, specifically declaratory and injunctive relief rather than monetary damages, effectively demonstrates that the Defendants are being sued in their official capacities. As such, the Department of Justice's duty to represent the Defendants arises from RSA 21-M:2 and not RSA 99-D.
6. Appellant Richard's motion alleges that disqualification is proper because Attorney General Formella has "demonstrated bias by refusing to engage with the federal constitutional questions raised by the Appellant" and by

doing so in a manner that “appears motivated by a desire to protect his clients’ interests[.]” This claim does not assert a cognizable claim of a conflict of interest. The Department of Justice’s role in this litigation is to serve as counsel for the Defendants and their associated state agencies/institutions. Protecting the legitimate interests of a client is the central role of an attorney.

7. Similarly, Appellant Richard’s claim that somehow the existence of a prior professional relationship between Governor Sununu and Attorney General Formella creates a conflict of interest also does not state a cognizable claim. It is not a conflict of interest for an attorney to have a prior professional relationship with a client nor is it an attorney’s role within an adversarial proceeding to act in an independent manner. To the contrary, as discussed above, it is the job of an attorney to advocate for the interests of his or her client.
8. Finally, Appellant Richard’s claim that Attorney General Formella initiated an “unauthorized prosecution” for the purpose of “strategically forc[ing] the removal of Justice Hantz Marconi from this pending case” defies common sense, lacks any validity, is not supported by any evidence, and does not merit further reply.

9. Appellant Richard's constitutional rights are not being violated by the representation of the Defendants by the New Hampshire Department of Justice.

WHEREFORE, the Defendants respectfully request that this Honorable Court deny Appellant Richard's July 10th Motion.

Respectfully submitted,

GOVERNOR, STATE OF NEW  
HAMPSHIRE & a.

By their attorney,

JOHN M. FORMELLA  
ATTORNEY GENERAL

ANTHONY GALDIERI  
SOLICITOR GENERAL

Date: July 18, 2025

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