

No. \_\_\_\_\_

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**In the Supreme Court of the United States**

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Nathan Sebastien Ackermann,

*Petitioner,*

v.

CVS Pharmacy,

*Respondent.*

\_\_\_\_\_  
On Petition for Writ of Certiorari  
To the Court of Appeals of Maryland

\_\_\_\_\_  
**PETITION FOR WRIT OF CERTIORARI**  
\_\_\_\_\_

Nathan Sebastien Ackermann  
6040 Chatsworth Lane  
Bethesda, Maryland 20814  
202-758-8850  
nathantab54@gmail.com

Petitioner *Pro Se*

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## QUESTIONS PRESENTED FOR REVIEW

In pursuant to Rule 14.1(a), and the 1<sup>st</sup> Amendment right to freedom of speech, debate & to petition the government for a redress of grievances, I present to the Supreme Court of Washington D.C., along with other Constitutional rights mentioned herein, the following questions for review (*Nelson v. Johnson*, supra, at 33-34). 28 U.S.C. §1651(a) specifically allows writs as necessary.

Should the District Court of Rockville rule in favor of CVS Pharmacy's motion for interrogatories and bar the plaintiff Nathan Ackermann for not having responded, based on a false allegation of the statute of limitations passing? (Injury was only discovered and diagnosed via endoscopy in 2014).

Should the District Court rule against the Plaintiff's doctor-patient privilege or privileges concerning information, having raised it in court with the belief of having it, without being able to be ever retained by an attorney?

Should the Circuit Court and Court of Appeals affirm the two latter decisions, despite one being false and the other being an infringement of privacy and privilege?

Should the Plaintiff have to respond in order to continue?

Was it ethical for the defending attorney Joseph Smith to propound such motions?

Was it ethical for the Judge, in this case, to make a judgement in favor of the Defendant's

Attorney & will that decision be beneficial to society if it concerns omissions in public health as well as safety?

Most importantly, is it legal for a company as well as a pharmacy such as CVS Pharmacy LLC to deny a loyal customer an administrative hearing?

Last, is it ethical and legal for a pharmacy to deny a customer all of the detailed information regarding the use and length of use of a drug or product, even upon request? (Product defect and failure to warn)

**PARTIES TO PROCEEDING**

In this petition for Writ of Certiorari is Nathan Sebastien Ackermann, the petitioner, to establish a law or precedent for the greater good of the American Healthcare System and the protection of youth v. CVS Pharmacy LLC, the respondent, represented by Attorney Joseph Smith of Carr Maloney.

## TABLE OF CONTENTS

Questions Presented for Review .....	i
Parties to Proceeding .....	iii
Table of Cited Authorities .....	vi
Opinions Below .....	1
Jurisdictional Statement .....	2
Constitutional Provisions .....	3
Statement of the Case .....	4
Reasons for Granting Petition .....	5
Statement of Facts .....	6
Statement of facts for the Court of Appeals in Annapolis Maryland .....	6
Statement of facts for the Circuit Court of Rockville Maryland .....	12
Statement of facts for the District Court of Rockville Maryland .....	14
Additional Opinions .....	19
Enumerations of Error .....	22
Court of Appeals of Annapolis .....	22
Circuit Court of Rockville Maryland .....	23
District Court of Rockville Maryland .....	23
Argument .....	24
Main Argument .....	24
Argument for Original Liability .....	27
Conclusion .....	31

<b>Appendix A-Order of the Circuit Court of Montgomery County, Maryland Dated July 11 2017 .....</b>	<b>A-1</b>
<b>Appendix B- Order of the District Court of Montgomery County, Maryland Dated March 22, 2017 .....</b>	<b>A-3</b>
<b>Appendix C- Order of the Court of Appeals of Maryland Entered October 26, 2017.....</b>	<b>A-5</b>

## TABLE OF CITED AUTHORITIES

### Cases

<i>Broadwater v. Dorsey</i> , 344 Md. 548, 688 A.2d 436 (1997).....	28
<i>Brown v. Board of Education of Topeka</i> , 347 U.S. 483 (1954).....	7, 22, 25, 26
<i>Craver v. Craver</i> , 298 N.C. 231, 258 S.E. 2d 357 (1979).....	7, 22
<i>Fisher v. University of Texas</i> 579 U.S. _ (2016) ..	26-27
<i>Holzhauer v. Saks &amp; Co.</i> , 346 Md. 328 (1997) ...	15, 30
<i>Katz v. Katz</i> , 55 A.D.3d 680, 867 N.Y.S.2d 100 (2008).....	17
<i>Kowell Ford, Inc. v. Doolan</i> , 391 A.2d 840 (Md. 1978) .....	12
<i>Marbury v. Madison</i> , 5 U.S. 137 (1803).....	1, 11, 16, 19, 26
<i>Palsgraf v. Long Island Railroad Co.</i> , 248 N.Y. 339, 162 N.E 99 (1928) .....	6, 10
<i>Pavelic &amp; LeFlore v. Marvel Entertainment Group</i> , 493 U.S. 120 (1989).....	24
<i>Ray v. Atlantic Richfield Co.</i> , 435 U.S. 151 (1978).....	25, 26
<i>Roe v. Wade</i> , 410 U.S. 113 (1975) .....	5
<i>St. John Dixon v. Alabama State Board of Education</i> , 294 F.2d 150 (5th Cir. 1961).....	25

<i>Sun Pipe Line Co. v. Altes</i> , 511 F. 2d 280 (8th Cir. 1975).....	6, 17
<i>Walder v. Paramount Publix Corp.</i> 132 F Supp. 912 (S.D.N.Y. 1955) .....	18, 26
<i>Walker v. Armco Steel Corp.</i> , 446 U.S. 740 (1980)...	16
<i>Wisconsin v. Constantineau</i> , 400 U.S. 433 (1971).....	7, 22
<b>Constitutional Provisions, Statutes and Rules</b>	
U.S. Const., Article III .....	3, 4
U.S. Const., Article VI .....	3, 5, 20, 25, 26, 27, 28
U.S. Const., Amendment I .....	3
U.S. Const., Amendment IV .....	3
U.S. Const., Amendment V .....	3
U.S. Const., Amendment IX .....	5
U.S. Const., Amendment XIV .....	3, 4, 5, 7, 22, 25, 26
MD Const., Article 2.....	16, 20, 27, 28
15 U.S.C. § 2301 et seq. (The Magnuson Moss Warranty Act) .....	3, 5, 27, 28
28 U.S.C. § 2101 (e).....	5
MD Code Ann. Cts. & Jud. Proc. § 5-101 .....	8, 9, 16-17, 18
Supreme Court Rule 10 .....	2, 3
Federal Rules of Civil Procedure, Rule 11 .....	5, 14, 20, 24



ABA Rule 2.6 .....	1, 4, 8, 13, 23
ABA Rule 3.3 .....	16, 24
ABA Model Rules 8.4 .....	16, 24
Maryland Code & Court Rules:	
MD Rule 16-813 .....	9, 14, 21, 22
MD Rule 18-102.15 (a).....	8
MD Rule 18-102.3 .....	8
MD Rule 18-102.6 .....	1, 4, 7, 8, 13, 23
MD Rule 19-305.3 .....	20
Maryland Attorneys's Rules of Professional Conduct, Chapter 300, Appendix 19- B .....	20
<b>Other Authorities</b>	
Restatement (Second) of Torts, § 390 .....	28

This Petition lists cases, statutes as well as laws which grant the filing of this claim and otherwise a face to face hearing in front of trier(s) of fact, rather than a filing of documents for arbitrary review behind closed doors. What I was given in the lower courts does not express enough the concerns I have. The references argue a minimum of relief of some kind to express my situation. I have deep concerns which involve the incident in the suit regarding Gastritis, the virility of my health, and financial things which I try to claim as General Damages. I've cited as well *Marbury v. Madison*, where Marbury took a case to the Supreme Court when he was not supposed to, and established judicial review. He took an oath to the Constitution and its authority, which pre-empted any other law. This incident damaged my body, and hurt what is somewhat of an indispensable asset to my personal career. This is wrong and inherently evil, and no one should go thru this.

#### OPINIONS BELOW

\*Please note that it is unsure whether the documents included, directly from the Circuit Court, are indeed opinions of the court. Unfortunately, I cannot bring any proper citations because no writ was ever granted for this case, it was rejected. I only have the final orders and decisions made on motions. There was a strong hassle in acquiring to the least the documents I have. Any answers or responses from the court are in definitive. Any decisions made are overly brash and otherwise uncarefully decided.

The Court of Appeals found that the case was undesirable & not of public importance on October 20<sup>th</sup> 2016. Please refer to exhibits included from the Courts.

The Circuit Court believed that an appeal was not merited on July 11<sup>th</sup> 2017.

The Original District Court Decision was March 22<sup>nd</sup> 2017 in Rockville Maryland. This court believed essentially that if I did not cite the rules of the court at the time, that it was justified that I be forced to answer interrogatories propounded incorrectly (2<sup>nd</sup> time after 1 denial), along with a misinformed or incorrect use of Maryland's statute of limitations by the Defendant's attorney Joseph Smith of Carr Maloney in Washington DC.

### **JURISDICTIONAL STATEMENT**

The Supreme Court of the United States has the Jurisdiction to review this case, last judgement entered on October 20<sup>th</sup> 2017, by Rule 10(c) of the Rules of The Supreme Court of the United States:

a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

In this case, The Court of Appeals of Maryland has decided an important question of federal law that has not been, but should be, settled by this Court. The Court of Appeals has also decided an important federal question in a way that conflicts with relevant decisions of this court. The latter reason will be noticed by the court. It hinders my rights federally as a citizen.

The Supreme Court also may have jurisdiction to review this case on the basis of Rule b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals.

### **CONSTITUTIONAL PROVISIONS**

The major Constitutional Provisions involved in this case are:

The Constitution of the United States of America

Article III of the U.S. Constitution

Article VI of the U.S. Constitution, The Supremacy Clause

Amendment I Freedom of Speech

Amendment IV

Amendment V

Amendment XIV

15 U.S.C. § 2301 et seq (The Magnuson Moss Warranty Act)

## STATEMENT OF THE CASE

Proceeding pro-se as a Plaintiff in the Small Claims District Court of Rockville Maryland, I had significant issues petitioning the court for a grievance, otherwise making a complaint. Freedom of Speech and the right to petition government for a redress of grievances is an absolute right. I sincerely believe that I am entitled to a minimum of accommodations. After referral to legal aid, county and state bars, and going through personal resources, I could not be retained, and no one will recognize my duty to mitigate damages and circumstances. As a matter of fact, anything I try to raise as an issue faces prejudice, and there is indeed a problem here. The issue was of the state courts denying my state Pro-se right, to be heard by Maryland Code & Court Rules: MD rule 18-102.6: ensuring the right to be heard. (ABA RULE 2.6) I have other state rights that were ignored mentioned herein, and I strongly sense that there is something that should not remain unspoken regarding my Amendment XIV rights, specifically the equal protection clause. Nonetheless my federal rights are involved in this matter.

This petition is for review of a state court decision(s), particularly the state court of appeals. This calls for the full authority of the United States Supreme Court of Washington DC by Article III of the United States Constitution. The case is already closed in the court of first instance, the District Court of Rockville Maryland, the Circuit Court of Rockville and The Court of Appeals of Maryland, the latter decision which may have to be reviewed on it's own, all cases without prejudice. The Federal Questions

which were raised in the Court of Appeals, were the Magnuson Moss Warranty Act (raised in motions), Amendment XIV, (raised when a hearing on a was requested, see statement of facts below), and Article VI of the United States Constitution's Supremacy Clause, even including the doctrine of preemption. I would also include that I had raised a belief, that a right to privacy existed, whether because of *Roe v. Wade*, or the Ninth Amendment, or even Amendment XIV, regarding privileged information requested by the defendant, which were raised in all courts. All of these questions were raised but ignored, or found unimportant in all courts, even as undesirable in the Court of Appeals.

#### **REASONS FOR GRANTING PETITION**

There are many cases featured in this petition which illustrate the uses of Federal laws and cite the Constitution in a way that is different from which they are applied in this case, *Ackermann v. CVS*. They should be absorbed by the court. I originally did not want to reside in Maryland any longer from the day my issues began with insomnia in 2010, and I wanted to move. By Rule 11 and 28 U.S.C. § 2101 (e), this case deviates from normal appellate practice, because it is regarding medicine, healthcare, and indispensable information which I never obtained from the defendant. These are unusual circumstances. I still do not have answers as to the extent of the damages I have experienced. The lower courts, where this case has been held, are currently not up to par with the demands of the public. There is an increasing population, and nothing is being done

to handle the current demands for 2018 or the years to come.

### STATEMENT OF FACTS

#### Statement of Facts for the Court of Appeals in Annapolis Maryland

Herein, I am the Petitioner, Nathan Ackermann, who had been suffering from insomnia since 2010. I was prescribed medication that was filled and managed by CVS Pharmacy from 2010 to 2014. I, the Petitioner, followed all the protocols for taking medication prescribed by many paid-out-of-pocket and insurance-covered psychiatrists daily. Eventually, after 4 years of taking these medicines as prescribed, I developed gastritis that was discovered in 2014 through an endoscopy. The company along with the pharmacy managing and filling these medicines are the only possible entity liable for my damages because of *Palsgraf v. Long Island Railroad Co.*, 248 N.Y. 339, 162 N.E. 99 (1928) is CVS Pharmacy. This petition for the Writ of Certiorari is pursuant to Rule 33.1. This entire case is not dismissible or moot in any way. It was not resolved by the court or company, and I continue to face issues as a consequence of CVS Pharmacy's actions (*Sun Pipe Line Co. v. Altes*, 511 F.2d 280 (8th Cir. 1975)).

In the Court of Appeals of Maryland, I have not received a response from the Defendant, CVS Pharmacy, which was filed on September 1st, 2017. I have also not received any comments from the Circuit Courts or District Courts regarding my case filed on August 10th, 2017. I have not even received the final judgement [*Brown v. Board of Education of Topeka*,

May 17, 1954 in US Supreme Court] [(*Craver v. Craver*, 298 N.C. 231, 258 S.E 2d 357 (1979)) (if the court can be persuaded). [MD Rule 18-102.12. Supervisory duties Aba Rule 2.12]

I will say that I am certainly concerned about the occurrence of ex-parte communications. Having previously spoken to the Court staff, I have heard of the Defendant calling in. I have had concerns regarding hearings of which I have no knowledge since the District Court, but they have escalated in the Court of Appeals. I told the Deputy Clerk at the office about the same, as she would not let me speak to the Clerk. I requested a hearing on the last motion that I filed and asked the Deputy Clerk if I could file a motion for one or speak with the Court Administrator, to which she replied "no" [Constitution of the United States of America 1789 (rev. 1992) Amendment XIV Section I] [*Brown v. Board of Education of Topeka*, May 17, 1954 in US Supreme Court] [*Craver v. Craver* 298 N.C.231, 258 S.E 2d 357 (1979)] [*Wisconsin v. Constantineau*, (1971)] (if the court can be persuaded). I later found the case on the denied list on the Court of Appeals website for the October term, whereupon I must reiterate that the case was filed in August 2017. I have recorded all my conversations with them and all the statements made by them to the best of my abilities. The State Courts do not show any expression or regard for my motions. I called in on August 30th, 2017, and was not informed of anything by the court. All I have received thus far is a receipt of the petition fee. The Attorney for the Defendant, Joseph Smith, was also listed as a party in the filing of the case for unknown reasons. I listed Attorney Smith as the



Defendant's attorney and nothing more, although I did pursue the possible sanctions. I assumed that this was a mistake of some kind by the court and requested for it to please be corrected before we proceeded, because the other party has made note of it, and it should not be recognized as my own fault. I am also worried about the quality of the consideration of my case. [Maryland Code & Court Rules; MD rule 18-102.15 (a); MD Rule 18-102.3; MD rule 18-102.6: ensuring the right to be heard. (ABA RULE 2.6)]

The Defendant's response, which was filed on September 1st, 2017, against my petition for certiorari, is incoherent and does not expound the Defendant's argument against my petition. After I filed a valid motion that weighed in against this response, the Defendant did not reply, and the court made a judgement in favor of the Defendant just as the Circuit Court had. The Defendant again claims that the statute of limitations was passed on the case. The claim clearly lies within the filing deadline between February 2014 and February 2017, as my case was filed in the fall of 2016, 09/14/2016. Depending on the cause of action, the statute of limitations is valid for about 3 years for personal injury (MD Code Ann. Cts. & Jud. Proc. § 5-101); product liability for 3 years (Md. Code Ann. Cts. & Jud. Proc. § 5-101); property damage for 3 years; and slander for 1 year. I have mentioned this before in my petition to the Circuit Court as well. The Defendant makes his own arguments against my claims that should be rejected because of its repeated use and misinterpretation by the courts as well as their invalid basis for doing so.

The Defendant, in his only response, has included the learned intermediary doctrine. This doctrine should be pre-empted by the Federal laws regarding strict liability, which I have also mentioned in my petition's supplement. If not, I will state here that I believe that CVS is accountable (see argument for original liability.)

The Defendant has also mentioned the propounding of his interrogatories. Their propounding of the interrogatories was not justified, and they made the same claim regarding the statute of limitations, which was false (see attachment) [Maryland Code of Judicial Conduct. Maryland Rule 16-813]. It was an unfair error committed by the judge, which, in my opinion, was improper because of the imbalance of justice it caused. The Defendant's interrogatories were stricken previously by an objection or motion I made, but the interrogatories were strangely accepted later after another motion, whose number I cannot recall in a turn of events.

The problem also lies in the recognition of the date of my injury's discovery. According to the Defendant's motion that was filed to pass interrogatories, I mentioned the occurrence date as 2011 and 2012, which is true; however, ultimately and truthfully, which I have always maintained, the actual date of discovery occurred in the beginning of 2014 via an endoscopy. This is the fact that matters here, according to [MD rules 3 years MD Code Ann. Cts. & Jud. Proc. § 5-101]. I may not have put an exact date on the pleadings, as I have so many documents piled up with regard to this case currently, but I have always firmly maintained that I had an endoscopy in

2014, which was the date of discovery and the diagnoses also took place that year in February. Within this motion filed for interrogatories, the Defendant suggests that I did not provide evidence. On the contrary, I supplied the court with adequate evidence to show that I had an endoscopy which was dated and showed that it was performed in February 2014. I am flabbergasted that the court has radically shifted their view of the Plaintiff, me in this case herein, and I view this as strange, unjustified, and improper. The Circuit Court of Montgomery County Maryland has previously made comments regarding my case as well, which I have neither viewed nor received.

The Defendant's Attorney also states two more things. The first being they did not receive the motion, which is untrue because I had mailed them the service via certified mail. The second being that it should be denied because it is not of public importance or benefit. This is also untrue because it is regarding Healthcare and Information, which affects everyone in this country in one way or another. Healthcare is also an expense. It represents a large part of the economy and affects a lot, if not all Americans. I consulted a prescribing physician in 2014, out of many and because they cannot be blamed due to *Palsgraf v. Long Island Railroad Co.* (Additionally, because of this precedent, the proximate cause must be located instead. The prescriptions that were managed by CVS Pharmacy were the ultimate cause of this issue for which I am suing them. I wanted this case to be well heard and also for it to become a precedent. It was a horrible experience for which I am pursuing a writ of certiorari (in terms of internal

health and social reputation). If I request information, which is pertinent to my wellbeing, I should be given access to the same. Especially if I am paying money for medical care.

For these reasons, the Defendant's request should be denied. It was an error on the part of the Judge(s) [*Marbury v. Madison* 5 U.S. 137 (1803)]. The case I filed against CVS Pharmacy should be reviewed, changed, and mostly overruled. I strongly believe that all the judgements made in this case, ranging from the ones in the District Court to the Court of Appeals, were unjust and incorrect. I cannot move on without this case being resolved, and it must be reviewed and overruled. I daresay that a special order should be issued to overturn the verdict because I have followed all the required protocols, did not make any false claims, and have tried to preserve my right to privacy regarding the communications between me and my doctor. I also have a strong sense that some undue influence, the courts being busy, or changes in the government have slowed down the system. Although this does not excuse everything they did, the Supreme Court should overrule this case in my favor. I don't understand why this has taken place, and I have never been treated this horribly before. I remember when President Bush was in office, nothing of this sort ever occurred; in fact, it was quite the opposite case. I was born under Bush Senior and I miss him as well. There was no reason for me to be treated this terribly. I also like President Trump but feel he is held back by certain people. I hope this gets read by Neil Gorsuch. This is important, because I voted for, contributed to, and pushed for Donald J. Trump. Almost a year into his presidency, I am

disconcerted. I would like to be heard by him as well. I am in emotional pain and feel abandoned. I have concerns about my health and future, even though I have a duty (my oath taken to the constitution) to bring this case to the Supreme Court of Washington D.C. for the welfare of the society.

Statement of Facts for Circuit Court of  
Rockville Maryland.

On April 24, 2017, I filed an appeal to the Circuit Court. I filed a brief along with a statement and the answered interrogatories to see if I could appeal a decision made by the court. An appeal is essential to my future, and in a way, it is a philosophical sentence. The court denied my appeal based on the Defendant's second claim that my case lay outside the statute of limitations. I believe that an order (via writ of certiorari) should be granted with an overruling because this was also an error, and I will further elaborate upon how that is so.

The Defendant replied with an Appellee's memorandum of law in favor of the District Court's decision. It basically said that I had filed several motions that were denied. This is true; however, these came with no sanctions. He used the statute of limitations again as a false claim that my appeal should be dismissed. He also used precedents that were not in line with the subject matter of the case. These were cases, such as *Kowell Ford Inc. v. Doolan*, where the subject matter was about strict liability regarding automobiles. I would also like to point out that this is a good reason for my case to be heard, because there are very few famous cases and

precedents regarding the issue of strict liability for drugs and medical items.

I, the plaintiff, then filed a motion for sanctions, default or an order in opposition to the Appellee's memorandum in which I stated the above. I also stated that there was information I believed was privileged, which was covered by my Constitutional rights, irrelevant to the issue, and even exposed along with the briefs in the appellate Circuit Court (Answered Interrogatories). I also stated that the judge in the district court made an error by allowing interrogatories to be propounded on the false basis of my statute of limitations having passed. I will reiterate that the statute of limitations is valid three years from the date of the injury's discovery. I discovered my injury in February 2014.

The Defendant then filed a response to my motion, stating that I had submitted a brief instead of a memorandum upon my appeal and that my appeal should be denied. I filed a reply to this motion saying that submitting a memorandum was unnecessary. By Maryland Code & Court Rules: MD rule 18-102.6: ensuring the right to be heard. (ABA RULE 2.6) I believe that as pro-se, all that was required is for a notice of appeal to be filed with the court. The court received my motion, and no reply was obtained from the Defendant. A decision was then made by the Circuit Court against my Motion for default, sanctions, or an order in opposition to the Appellee's memorandum.

The lower Circuit Court re-prioritized this case unfairly between May-July and given it lesser importance. They probably made the above-

mentioned ruling in order to clear their dockets. For this, I will also be gravely pursuing sanctions against that court's judge and its staff involved in pursuant to the Maryland Code of Judicial Conduct: Maryland Rule 16-813. The Maryland code should be considered/absorbed by the Supreme Court because I followed the Maryland rules in this case and the judge did not follow them. I also believe as the verdict for my case is an obvious one, since I have proof.

Statement of Facts for the District Court  
of Rockville Maryland

The District Court does not keep records well. I have filed the doctor's notes and everything else available as witness testimony. Through the entire duration of the District Court case, I have gone back and forth with the Defendant, as if for discovery, by filing motions. I have filed sworn statements, made attempts for depositions and interrogatories, and requested the production of documents such as business licenses, tried to acquire verification that the other party, CVS, was regulated as a retail/pharmacy. I have tried to mediate this before, but the company did not allow an administrative hearing and failed to return my phone calls. The Defendant's Attorney, Joseph Smith, filed motions for dismissal and interrogatories during the District Court proceedings of this case, which were denied a few times, or at least once (Rule 11 of the Federal Rules of Civil Procedure). His motion for interrogatories came before his reply. They could be considered late, whereas my case was originally filed on 09/14/2016, while he filed his reply between 10/13/2016 and 10/14/2016 (the dates on the document render the exact day of filing the document

unclear). 1) The normal time limit for a defendant to serve an answer to the plaintiff is 20 days from the date of service according to Federal Rule 12(a). The attorney for CVS, Joseph Smith, responded to my complaint by putting the blame on me and stating that any fault should rest on other parties. I believe that the issue was caused by the poor management of my prescription drugs by the pharmacy and its failure to fulfill its professional duties. I was not provided with every detail that I needed to use my prescriptions properly, such as how long they could be used according to their maximum period of use [*Holzhauser v. Saks & Co.*, 346 Md. 328, 335-336 (1997)] (if applicable). I did not receive any information regarding clinical trials, etc. The case file of this complaint as of today is unorganized as compared to how it was during the time of litigation. I must clarify that I did file statements of my own to illustrate the extent of the incident for which I was suing along with some discovery requests that were denied but did not come with any sanctions. I have also tried filing the evidence in discovery, because CVS Pharmacy filed a reply to my complaint requesting so. The court ordered that my evidence was not admissible. Something has occurred in the courts. The opposing side, however, always had filed some motions that were **stricken or sanctioned**, including a first motion for interrogatories, in which the statute for filing the interrogatories was not allowed. I objected to the first set, which was denied in my favor. The second set, I tried to quash by stating that I believed I enjoyed the privilege of confidentiality between me and my doctor (and which is all I really needed by law), but the judge granted it



unfairly. [*Marbury v. Madison* 5 U.S. 137 (1803)]. This resulted in an infringement of my right to privacy, and the status of CVS Pharmacy is unhinged, regardless of how hard I try to trace their liability regarding my original complaints.

The case itself is associated with negativity and portrays me in a bad light. I am dubbed the losing party when I strongly feel and know I should have won. At one point during the trial, there were random papers that were appearing in the court docket, which seemed to have come either from the firm of the Defendant's attorney or the court. Documents with the name Edward Firestone appeared in the docket one day, and once there was a sanction issued against Attorney Joseph Smith. I do not know what these documents were or what they said, but I asked the court staff and no one adequately explained to me what was going on. They seemed to be motions filed as the "plaintiff". After I complained to the Court's Clerk, I proceeded in the pretrial discovery, and from what I could gather from the clerk and staff, there was a sanction on the attorney for CVS. Attorney Smith also used the Statute of Limitations various times in this matter to dismiss my case, which was false because I filed my complaint within the deadline of Maryland's Statute time frame. The attorney lacked candor in the court (ABA model Rules 8.4) (Rule 3.3) (Article 2 of MD constitution's Declaration of Rights) (*Walker v. Armco Steel Corp.*). I discovered my injury on February 2014. The Statute of Limitation in Maryland is 3 years for personal injury (Md. Code Ann. Cts. & Jud. Proc. § 5-101) and 3 years for product liability (Md. Code Ann. Cts. & Jud. Proc. § 5-101). I will re-state that the deadline for most

issues except for assault, libel, and slander is for over 3 years. The same could be said if this were to be decided on a federal level.

In January 2017, I filed an Amendment to the case where I requested an increase in the claim sum from \$5000 to \$30,000, because the amount I had originally requested was not enough to repair the level of damage this had caused to my reputation and personal well-being before its filing. I made the decision to file this motion, which was accepted, because it is also evident that the case is worth much more than \$5000. I must say the same for the amount of \$30,000, which I subsequently requested to be increased to \$200,000 in the Court of Appeals. It was also, however, at this point that Attorney Joseph Smith filed another Motion for Interrogatories, which was surprisingly accepted. I was shocked and again, unaware of what was going on at that particular time [*Sun Pipe Line Co. v. Altes*, 511 F.2d 280 (8th Cir. 1975) § 753. Power of courts to punish civil contempt].

A court of record has the power to punish, by fine and/or imprisonment, a neglect or violation of duty or any other misconduct, upon which a right or remedy of a party to a civil action or special proceeding that is pending in court may be defeated, impaired, impeded, or prejudiced, in any of the following cases (*Katz v. Katz*, 55 A.D.3d 680, 867 N.Y.S.2d 100) (to persuade the court, if possible). I am unaware of the reason behind the judge's final acceptance, but the interrogatories continued. Did the case suddenly restart? I wrote my motion on a piece of regular paper because I did not have access to a printed copy from the court and could not print one at

home. I was thrown off course in my early adulthood, could not afford to go to college, and no one gave me a job, quoting the 2008-09 recession as an excuse each time. I am still affected by this whole matter. Further, it does not matter anymore if I improve my educational qualifications because I am older and do not have much experience. A life not behind the computer is one that I would not be able to achieve. I am currently an entrepreneur because of these reasons, and although it is not enough to get by, I manage with what I can get. [*Walder v. Paramount Publix Corp.*, 132 F Supp. 912 (S.D.N.Y. 1955)] (If it is possible to use this to persuade the court).

I filed motions to quash and stop the interrogatories that the opposition had filed, but the judge stated that they were going to continue with the process, which created a public scene that filled me with dismay regarding justice. I believe that the new interrogatories were also propounded with the same claim that my Statute of Limitations for filing had passed. Again, this was not true, because of (Md. Code Ann. Cts. & Jud. Proc. § 5-101). The Statute of Limitations in Maryland is 3 years for personal injury and 3 years for product liability.

I could not answer these interrogatories because the other party was requesting sensitive information that was protected by my patient-doctor confidentiality, and which were embarrassing and harmful to my reputation. All I needed at the time was the belief that my privilege existed for it to be considered by the court, and which I did mention that I believed existed. The defendant continued to request irrelevant information to what had specifically

occurred, via the judge. A subpoena was never obtained and neither was a request for the production of these documents. However, I was ordered by the court to disclose my sensitive information, which was a very difficult moment for me then. I was also asked to state my full social security number, which I really could not disclose because it could have led to intrusion upon my financial information. I have security issues regarding my financial information at this moment and there are people that quite often attempt to access my credit cards and similar information. I sense that some of this may be due in part to the availability of my information in the case records of the lower court, which has gone through to the other appellate courts as well.

Eventually the trial date arrived, and I was barred from presenting the evidence to my claim, which was publicly embarrassing. There was nothing I could do, and it was an arbitrary judgement in favor of the Defendant [*Marbury v. Madison* 5 U.S. 137 (1803)].

#### Additional Opinions

There has been a lack of responsibility regarding candor on the part of the Defendant's Attorney. There is also strong suspicion that there has been a lack of responsibility on the Court's end, from the top Court of Appeals to the bottom District Court of Small Claims in the State of Maryland. There are also two types of sanctions, private and public, which I feel should be given in this case. Either one or the other, because I have previously argued that the Defendant's attorney lacks a Duty of Candor as per Chapter 300. Maryland Attorneys' Rules of

Professional Conduct – Appendix 19-B. Ideals of Professionalism, including MD Rules Attorneys, Rule 19-305.3. I would also like to cite Rule 11. (b). 1. of the Federal Rules of Civil Procedure (Article 2 of the Constitution of MD Declaration of rights) (Article VI of the U.S. Constitution) (Doctrine of Preemption) if required. I filed a motion for sanctions in the Circuit Court because Attorney Joseph Smith attempted to delay any settlement I pursued. There was a lot of merit given to one. (2) *Motion for Sanctions*. A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5 but must not be filed or presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within any other time limit the court sets. If warranted, the court may award reasonable expenses to the prevailing party, including the attorney's fees incurred for the motion. The motion for sanctions filed in the Circuit Court may also be allowed under a different section of Rule 11.

There is also concerns regarding the decisions that the judges (mostly the Circuit Court, withal the District Court Judge and the Court of Appeals) have made, and whether they are ethical or undue an influence of some kind, even corruption. Some of the ethical guidelines that judges must follow are written in the court rules and canons of ethics. They must be neutral and objective in all respects. They are not permitted to influence the jury in any way or control the events in a trial in a manner such that one party wins. A judge who engages in such behavior would be

reprimanded by the judicial ethics board, and any rulings made by the judge would be overturned by a higher court. They are also prohibited from engaging in many outside activities. They cannot, for instance, own stocks in companies that have cases pending before them. They cannot be members of any group that knowingly discriminates against members of society. The state judicial code for judges prohibits actions that may or may not be illegal, but also any activity that has even the appearance of impropriety. Under that strict code of conduct, a judge must avoid any conduct that could cause potential concern (Maryland Code of Judicial Conduct (Maryland Rule 16-813)). The decisions made by the judges in my case were very obstructive, on account of illusion as well as being under the veil of indifference. The direct truth lies in the medical records that were filed. The Courthouse personnel would not answer any questions regarding why the case continued for so long or why there were no comments on record. I mentioned in my opening statement that it was more than likely that the dockets were cleared and that my case was re-prioritized unfairly. The endoscopy records were accepted and docketed, but the court responded that they could not accept them and that they had to be shown in trial. There may be conflicting views regarding how one can go about submitting medical evidence. I strongly feel that the defendant is culpable in my case and that a review as well as an overruling should be noted.

## Enumerations of Error

## Court of Appeals of Annapolis

#1 I have not received any of the Circuit Courts or District Courts comments regarding my case August 10th, 2017; not even the final judgement. #2 I requested a hearing on the last motion that I filed. I simply asked the Deputy clerk if I could file a motion for one or speak with the Court Administrator, and she said "no" [Constitution of the United States of America 1789 (rev. 1992) Amendment XIV Section I] [*Brown v. Board of Education of Topeka*, May 17, 1954 in US Supreme Court] [*Craver v. Craver* 298 N.C.231, 258 S.E 2d 357 (1979)] [*Wisconsin v. Constantineau* (1971)] (if possible to persuade the court). #3 After I filed a valid motion that weighed in against this response, the Defendant did not reply, and the court made a judgement in favor of the Defendant just like the Circuit Court.

The Defendant again claims that the Statute of Limitations was passed on the case 4# The Defendant, in his only response, has included the learned intermediary doctrine. This doctrine should be pre-empted by Federal laws regarding strict liability, which I have mentioned in my petition's supplement as well. #5 The Defendant has also mentioned the propounding of his interrogatories. Their propounding of their interrogatories was unjustified, and they made the same claim regarding the Statute of Limitations, which was false [Maryland Code of Judicial Conduct. Maryland Rule 16-813].

## Circuit Court of Rockville Maryland

1# Attorney Joseph Smith used the Statute of Limitations as a false claim that my appeal or case should be dismissed. 2# The attorney used precedents that did not involve strict liability regarding health products, but instead that of automobiles. #3 I, the plaintiff, filed a motion for sanctions, default or an order in opposition to the Appellee's memorandum, wherein I stated that I had engaged in a privileged communication with my provider. The judge ruled against the motion while a reasonable member of the judiciary would have ruled in favor. #4 Attorney Smith filed a motion stating that I must submit a brief instead of a memorandum upon my appeal, and that my appeal should be denied. I filed a reply to this motion saying that I believed submitting a memorandum was unnecessary as a pro-se litigant, Maryland Code & Court Rules: MD rule 18-102.6: ensuring the right to be heard. (ABA RULE 2.6). The court received my motion. No reply was obtained from the Defendant. Essentially the rulings of the District Court of Rockville were repeated. I wanted to appeal because I sense something is unreasonable and unfair. I cannot continue with this process any longer. The behavior of staff at this court is not hospitable. They are aware of what significance my case holds and I will emphasize this to the judge because ultimately the judge reads and made a decision on matters involving this case.

## The District Court of Rockville Maryland

1# The District Court of Rockville accepted interrogatories before answer. 2# I must clarify that I did file statements of my own to illustrate the extent



of the incident for which I was suing, and some discovery requests as well, which were denied.) 3# The Defendant's Attorney, Joseph Smith, filed motions for dismissal and interrogatories during the District Court proceedings of this case, which were denied a few times or at least once (Rule 11 of the Federal Rules of Civil Procedure. #4 Attorney Smith also used the Statute of Limitations various times in this matter to dismiss my case, which was false because I filed my complaint within the deadline of Maryland's Statute time frame. The attorney lacked candor in the court (ABA model Rules 8.4) (Rule 3.3) #5 I mentioned that I had the privilege of confidentiality between my doctor. I have the burden of proof, however, communications between me and my doctor are not the only evidence I possess and again, I believe that the basis for interrogatories were unfair and erroneous.

## ARGUMENT

### Main Argument

The argument is simple, despite the long paperwork, so I, the plaintiff, appeal to the court to please read and consider this. CVS's Attorney, Joseph Smith, lied about the Statute of Limitations by state rules and rule 11 of the federal rules of civil procedure [*Pavelic & LeFlore v. Marvel Entertainment Group* 493 U.S. 120 (1989)]. They denied the claims, but more specifically, in their very original answer, they denied **General Liability**. What is one supposed to make of this? There was no firmness in their responses. There are many holes in the Civil Procedures of this case, which include very errors committed by the judges, and I do not wish to be

disrespectful but these seem to stem from lethargy of the courts. Injustice garlands these lower courts of Maryland. The case files entrusted with them are disorganized. When the defending side requested proof, I tried to furnish it, upon which the court did not rule based on admissibility and responded with very indefinite answers. I do not believe I had to cite anything because I am pro-se and I could not be retained by the counsel.

I maintained the right to file suit when I did, I also maintain the right for a new hearing. Not only that, but this is a federal right granted by the US Constitution that preempts any state law because of the supremacy clause of Article 6 according to *Ray v. Atlantic Richfield*, which simply illustrates a federal law preemption using USC codes in case of sea tankers. It is a binding precedent. [Amendment XIV of the US Constitution, Section 1, & Article 6's Supremacy Clause] [*Ray v. Atlantic Richfield Co*, 435 U.S. 151, 98 S.Ct. 988, 1978 U.S. 18 Lexis (U.S. 1978)]. In addition to this, in both the cases, *Brown v. Board of Education* and *St John Dixon v. Alabama State board of Education*, a request for a hearing is considered <sup>13</sup>[*Brown v. Board of Education of Topeka*, May 17, 1954 in US Supreme Court] & [*St John Dixon vs. Alabama State Board of Education* (1961) US fifth Circuit Court of Appeals] (if the court can be persuaded). In *Craver v. Craver*, a judge's award to a plaintiff is also deemed contrary to law [*Craver v. Craver* 298 N.C.231) 258 S.E 2d 357 (1979)]. Only the party who appeals a case properly should be judged in favor of. The Plaintiff was also appointed counsel by the judge in the case of *Craver v. Craver*.

Nonetheless, in the Court of Appeals, an attempt at a request for a hearing for the motion by speaking to the court administrator was denied. I was told that I could not even file for one (I have a recording of a conversation that I had with a Deputy Clerk that validates my testimony) [*Brown v. Board of Education of Topeka*, May 17, 1954 in US Supreme Court] (Amendment XIV of the US Constitution, Section 1, & Article 6's Supremacy Clause). In the case of *Marbury v. Madison* 5 U.S. 137 (1803), according to the Doctrine of Stare decisis and Article 6 of the US constitution's supremacy clause [*Ray v. Atlantic Richfield Co*, 435 U.S. 151, 98 S.Ct. 988, 1978 U.S. 18 Lexis (U.S. 1978)]. I would like to cite this precedent because judicial review was considered and thus created. Judicial powers and Executive powers were also separated. It was decided that an oath was taken to the Constitution, and I feel the same way. In Maryland, it is illegal to record someone without their consent, but I have gone ahead to do so because I have no control over this improper activity. I have problems with defending my rights and preserving my own life according to the US Constitution, as per [*Walder v. Paramount Publix Corp.* 132 F Supp. 912 (S.D.N.Y. 1955)]. Whereas a corporation that has been dissolved lacks the capacity to be sued, in the same way that a person who has been declared mentally incompetent lacks the capacity to be sued. Should I not be treated an equal? The Court Deputy Clerk is very imposing and does not allow me to speak with the Clerk. This is not the only conversation I have recorded, I have almost all the Court of Appeals Conversations recorded. CVS's side did not respond and tried to say that I never served them my petition for a writ. I

would like something along the lines of affirmative action because I believe that the ruling made is discrimination on the behalf of the Court regarding me and my case [*Fisher v. University of Texas* 579 U.S. \_ (2016)]. In this case, a white student was allowed to study at a diverse institution that was very selective. The Defendant has used a precedent that was in a different field before. Hence, I will use this case because I feel that I have been discriminated against because I lack a law degree and because of race as well. There are errors that have been made, which are wrong or injurious. To sum everything in a plain statement, I object and I would like to have the court overrule the lower courts via a Writ of Certiorari.

#### Argument for Original Liability

I must state, for the original liability in this case, that I had a buyer-seller relationship with CVS Pharmacy and was seriously aggrieved by the sale of their prescription drugs according to three doctrines. The proximate cause of this injury involved the sale and use of controlled and potent substances such as Klonopin, Remeron, and Neurontin under the care and control of CVS Pharmacy. I know that CVS is culpable of strict liability (*Res ipsa loquitur*, possibly according to the Doctrine of *Respondeat Superior*, and the Magnuson Moss Warranty Act (P.L. 93-637) (15 U.S.C. § 2301 et seq) (Article 2 of the Maryland Constitution or Article 6 of the US constitution, the Supremacy Clause) (the laws preempted in this case would be any state law that is in conflict with this particular situation)). CVS's lack of duty and failure to duly warn me of a defective product led to my

injury, gastritis, and overconsumption or intoxication by medication that was filled directly and purchased from the Defendant. I would like to argue that the Defendant, CVS, is liable to the damages I suffered according the Doctrines of Strict Liability, *res ipsa loquitur*, and *respondeat superior* because of negligence and other issues that I will elaborate upon.

The Defendant did not act with reasonable care, and I believe this is the crux of their liability. As a result, I had to seek medical attention and my life was put in jeopardy. One of the doctrines, according to which the Defendant is culpable, is that of Strict Liability. CVS Pharmacy did not take any precautions to ensure my safety while using, electronically filling, and buying these drugs. I, the Plaintiff, have suffered a serious personal injury to my health, gastritis', as well as muscle and weight loss. Negligent Entrustment: Maryland has adopted § 390 of the Restatement (Second) of Torts to the effect that one who supplies directly or through a third person a chattel for use of another whom the supplier knows or has reason to know to be likely because of his youth, inexperience, or otherwise, to use it in a manner involving unreasonable risk of physical harm to himself and to others whom the supplier should expect to share in or be endangered by its use, is subject to liability for physical harm resulting to them [*Broadwater v. Dorsey*, 344 Md. 548, 688 A.2d 436 (1997)].

There are also elements in this issue which involve a duty, as well as a breach of that duty, of reviewing and interpreting physician orders, a lack of information provided by their staff (failure to warn),

and the company overall regarding the product use as well as the hazards, which ensures CVS's liability. There was also actual overuse because of their failure to warn along with the review that actually caused the gastritis and the gastritis itself. I am citing the Magnuson Moss Warranty Act (P.L. 93-637) (15 U.S.C. § 2301 et seq.) (Article 2 of the Constitution of Maryland or Article 6 of the US constitution, the Supremacy Clause). The final and additional key element to this doctrine is the right of the supplier to control the chattel, and in Maryland, the right of control is measured at the time of the negligent act of the "entrustee", not at the time the chattel is entrusted. Also, lack of safety measures taken by CVS with the sale of prescription drugs. The prescriptions I purchased are considered "potentially harmful" because they can be misused. However, the pharmacy at the time kept contacting me about refills and failed to provide adequate instructions and warn me of the harmful effects/defects, even upon request. I still do not know of the actual use of these drugs and the pharmacy is supposed to be aware of the full details of how long these medications should be used. The packaging I had and the bottles from the pharmacy never contained instructions about the length of using these prescriptions drugs. This is a foreseeable error that is being repeated, and I continue pursuing this case because I had asked for instructions but they were never fully provided. Hence, CVS is culpable of ultra-hazardous activities. I do not know where I would find such information even on the internet. The Defendant had absolute control, as a company, of the situation. I am a student not a living encyclopedia. I could not have foreseen of any danger because the

pharmacy would not educate me about the full use of the product. Even if the pharmacy were considered as a user because they received the product from a supplier or "Drug Company", they would be liable because the term "user" includes a person who passively enjoys the use of a product, such as passengers in automobiles (in some states or laws, the term bystanders is used). For this reason, I may even deserve greater protection because I did not have the same opportunities to be educated about the product from the manufacturer.

Another doctrine which proves CVS to be at fault in this case is the *Res ipsa loquitur*. Negligence is key to establishing this doctrine. In Maryland, there are three elements a person must prove in a personal injury case in order to create an inference of negligence on the part of a Defendant: (1) A casualty of some kind that does not ordinarily occur in the absence of negligence, (2) caused by an instrumentality exclusively of the Defendant's control, and (3) not caused by an act or omission by the Plaintiff [*Holzhauer v. Saks & Co.*, 346 Md. 328, 335-336 (1997)].

(1) The first element of this case was, again, the gastritis. It would not have occurred if not for a lack of reasonable care. (2) The injury was caused by prescription drugs, which, according to the right of the supplier to control the chattel, was CVS Pharmacy's fault. (3) I, the plaintiff, did not have this injury by an act or omission of my own. In a pharmacy, a pharmacist's tasks involve dispensing prescription medicines to the public; ensuring that different treatments are compatible; and checking the

dosage and ensuring that medicines are correctly and safely supplied and labelled (pharmacists are legally responsible for any dispensing errors).

One final Doctrine I would like to state is the Doctrine of Respondeat Superior. The prescriptions I purchased were filled via the CVS My Pharmacy website. They were paid for and picked up in the store from a cashier. The cashiers, representatives, or agents were following protocols that they were supposed to follow and did not do anything beyond what they were supposed to. However, the company, CVS Pharmacy, as the principal benefited from my injury in the end by being rewarded for the "unusually" long treatment) as well as other subsequent visits for other things that the pharmacy kept receiving prescriptions and filling.

Therefore, I must testify that CVS is culpable for the injury that I sustained.

### CONCLUSION

This case is unique. In suffering a great damage to my health during my early college experience, I have suffered greatly and immensely while dealing with CVS pharmacy's control over my life, especially my treatment for insomnia. A lot of people do not realize how much control they had over my life and because of that control, they hurt me a lot and I almost died. It is hard for someone outside of my person to see what I see when I went through these things. I was on drugs and did not have the capacity to focus on small details and the influence of these drugs have affected my life a great deal. I am serious when I say that people do not realize exactly what



happened and how CVS had control over my future and my path in life, because I was under the influence of medication and under treatment of the Pharmacy. CVS had control and I will say that corruption and conflicts, especially of those interest, is keeping this company in control.

I must mention with regard to my incident with CVS, I was a hostage because of how technology separates people. It is dangerous because a predator could take advantage of a client and hurt them. Especially a younger client, as most of them do not understand how the medical system works and their parents are often not there for support. The pharmacy should have a system to alert people. Apart from the prescribing physician acting like the ultimate authority, the pharmacy took advantage of me. Again, I was under the influence of drugs and could not act properly. Nonetheless, why has CVS being taken so dearly into account by the courts? I seek proper relief. In order to be more exact of the relief I seek, the same as I did at the Court of Appeals, I wish my condition to be cured and the proper sum of general damages to be paid so I get my life back to normal. I appeal to this court in good faith for a Writ of Certiorari as well as an overruling.

\*\*\*Also, I will be including a dispute that was made with Paypal against Hatcher Legal that was escalated to a claim because there was only one attorney who took me in and charged me money. They basically told me that they could not handle my case and told me that the Supreme Court could not handle all cases, which is basically not true. All attorneys, at one point or another, basically lied to me. I had to

make claim somewhat of an administrative hearing for a refund. It should at least be persuasive.

I believe it would be wrong and even injurious not to review this case as soon as possible.

I certify that the foregoing is true to the best of my knowledge and records.

Nathan Sebastien Ackermann  
6040 Chatsworth Lane  
Bethesda MD 20814  
202-758-8850  
nathantab54@gmail.com