NO:_____

IN THE SUPREME COURT OF THE UNITED STATES

Myron Hubbard
Plaintiff – Appellant
v.
Missouri Department of Mental Health
Defendants – Appellees

PETITION FOR WRIT OF CERTIORARI FROM THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT No: 19-2341

Myron Hubbard, pro se
211 Brook Pines Dr Apt 12108
Columbia, SC 29210
314-324-1274

The questions presented for review are:

1. Whether the Court of Appeals and District Courts breached its duty, departed from the accepted and usual course of judicial proceeding and is of such imperative importance as to call for an exercise of this Court's supervisory power, whether or not the Defendants committed Fraud Upon the Court and whether the Petitioner is entitled to relief pursuant to The Law of Void Judgments?

2. Should the United States Supreme Court assume Original Jurisdiction for misconduct committed upon it and pursuant 28 U.S. Code § 1251 for state attorneys taking adverse retaliatory actions against a citizen in another state?

List of Parties, Petitioner/Plaintiff/Appellant

Petitioner is Myron Hubbard, a citizen of the United States and currently temporarily residing at 211 Brook Pines Dr Apt 12108 Columbia, SC 29210.

Defendants/Appellee

At all times relevant to this matter, The Defendants are the State of Missouri Department of Mental Health, an executive department of the State of Missouri, located at 1706 East Elm Street Jefferson City, Missouri 65102, which St. Louis Psychiatric Rehabilitation Center, a facility of the Missouri Department of Mental Health, located at 5300 Arsenal Street St. Louis, MO 63139 and Metropolitan St. Louis Psychiatric Center, another facility of the Missouri Department of Mental Health, located at 5351 Delmar Blvd, St. Louis, MO 63112 are entities of, who are represented by Eileen Ruppe Krispin Assistant Attorney General of Missouri and Attorney General of Missouri Eric S. Schmitt.

List of Proceedings by Year,

2019 and 2018

Court **Docket No.**

8th Circuit U.S. Court of Appeals No: 19-2341

Case Caption

Myron Hubbard v. MO Dept. of Mental Health

Dates of Entries of Judgment

12/18/2019 and 10/24/2019

Court **Docket No.**

Missouri Western District Court 2:18-cv-04201-NKL

Case Caption

Hubbard v. Missouri Department of Mental Health

Dates of Entries of Judgment

06/17/19, 05/06/19, 03/12/19 and Filed 12/19/18

Court **Docket No.**

Circuit Court of Cole County,Missouri 18AC-CC00330

Case Caption

Myron C Hubbard v Department of Mental Health

Dates of Entries of Judgment

9/27/2018 Removed to Fed Court

2017 and 2016

Court **Docket No.**

Supreme Court of the United States No. 16-1226

Case Caption

Myron Hubbard v. Missouri Department of Mental Health, et al.

Dates of Entries of Judgment

07/17/2017 and 05/30/2017

Court	**Docket No.**
8th Circuit U.S. Court of Appeals	No: 16-1507

Case Caption

Myron Hubbard v. Missouri Department of Mental Health, et al.

Dates of Entries of Judgment

12/15/2016 and 10/24/2016

Court	**Docket No.**
Missouri Eastern District Court	4:15-cv-00722-RLW

Case Caption

Hubbard v. Missouri Department of Mental Health

Dates of Entries of Judgment

02/12/16

Court	**Docket No.**
22nd Circuit Court St. Louis, Mo	22047-02616-03

Case Caption

MOFSDCSE VS HUBBARD F-171354-1

Dates of Entries of Judgment

08/09/2016

2015, 2014 and 2013

Court	**Docket No.**
Supreme Court of the United States	No. 13-10695

Case Caption

Myron Hubbard v. St. Louis Psychiatric Rehabilitation Center, et al.

Dates of Entries of Judgment

02/23/2015 and 11/10/2014

Court	**Docket No.**
8th Circuit U.S. Court of Appeals	13-2877

Case Caption

Myron Hubbard v. St. Louis Psychiatric Rehab., et al

Dates of Entries of Judgment

03/17/2014 and 02/11/2014

Court	**Docket No.**
Missouri Eastern District Court	4:11-cv-02082

Case Caption

Hubbard v. St. Louis Psychiatric Rehabilitation Center

Dates of Entries of Judgment

08/12/13

TABLE OF CONTENTS

Index of Appendices

Tables of Authority

Table of Cases and Other Writings

[see all Court records, cases 4:11-cv-02082, 0:13-cv-02877, 4:15-cv-00722, 0:16-cv-01507, 2:18-cv-04201, No. 16-1226 and No. 13-10695]

18 U.S. Code § 1001

28 U.S.C. § 1251(b)

Action Marine, Inc. v. Continental Carbon, Inc., 243 F.R.D. 670, 68 Fed. R. Serv. 3d 1326 (M.D. Ala. 2007)

Alexandre v. Machan, 147 U.S. 72, 77, 13 S. Ct. 211, 213, 37 L. Ed. 84 (1893)

Allcock v. Allcock, 437 N.E.2d 392 (Ill.App.3 Dist. 1982).

Constance v. B.B.C. Development Co., 25 S.W.3d 571 (Mo. Ct. App. W.D. 2000)

Courtney v. Feldstein, 147 Mich. App. 70, 74 (Mich. Ct. App. 1985).

Am. Jur. 2d, Contempt §§ 1 et seq

Dick Bentley Productions Ltd v Harold Smith (Motors) Ltd [1965] 1 WLR 623

Donnelly v. Frank Shirey Cadillac, Inc., No. 05 C 3520, 2005 WL 2445902, at *2 (N.D. Ill. Sept. 29, 2005).

Duck Head Apparel Co., Inc. v. Hoots, 659 So. 2d 897, 904-05 (Ala. 1995)

Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc., 561 F.3d 1298 (11th Cir. 2009)

Estate of Wallace v. City of Los Angeles, 229 F.R.D. 163, 62 Fed. R. Serv. 3d 409 (C.D. Cal. 2005)

Eisert v. Town of Hempstead, 918 F. Supp. 601, 615 (E.D.N.Y. 1996)

Ex Parte Seidel, 39 S.W.3d 221, 225 (Tex.Crim.App.2001).

Fharmacy Records v. Nassar, 248 F.R.D. 507 (E.D. Mich. 2008)

Fusari v. Steinberg, 419 U.S. 379, 391 (1975)

§ 2:7.Elements of fraud—Representations: Actionable—Fraud in the absence of representations, Law of Fraudulent Transactions § 2:7

§ 2870 Fraud on the Court, 11 Fed. Prac. & Proc. Civ. § 2870 (3d ed.)

37 Am. Jur. 2d Fraud and Deceit § 225

Opinions Below

For cases from Federal Court:

The Order and Opinion of the United States Court of Appeals for the Eighth Circuit for this case are Appendix A and the previous cases are Appendices C and E. The United States District Courts Orders for this case and a previous case are Appendix B and D.

Jurisdiction

Petitioner filed Petition for Writs of Certiorari within 90 days after the 8th Circuit denying the petition for rehearing pursuant to the rules 13.1 and under 28 U.S.C. section 1254 (1) for Judgment and Order of the Eighth Circuit U.S. Court of Appeals entered on 12/18/2019 and 10/24/2019.

Constitutional and Statutory Provisions Involved

Federal Rules of Civil Procedure Rule 11.

18 U.S. Code § 1001

Missouri 575.020. Concealing an offense

Title VI

See Appendix F

Statement of the Case

The case herein involves the Court of Appeals and District Courts violating the Code of Judicial Conduct by breaching duty of care, clear mandatory reporting duties, allowing violations of rules and laws, fraud on the Court, severe violations of attorney Rules of Professional Conduct by Government attorneys, as to very far depart from the accepted and usual course of judicial proceeding and is of such imperative importance as to call for an exercise of this Court's supervisory power. Specifically, the Defendants asserted false claims, which the Court allowed without evidentiary support, that it had eleventh amendment immunity when it had none to the Plaintiff discrimination claims, because Title VI abrogated its eleventh amendment immunity to discrimination claims. The Defendants also falsely claimed exhaustion of administrative remedy were required to the Plaintiff discrimination claim when they weren't, also due to Title VI and without evidentiary support that it wasn't subject to Title VI, as the Defendants affirmatively concealed and actively suppressed the material fact it was subject to Title VI to demonstrate clear conscious wrongdoing. [see Case No. 4:11-CV-02082 and Appellate Case: 13-2877]. After Plaintiff expose these false claims and fraudulent arguments, the Defendants changed its position and began falsely claiming it didn't receive any federal financial assistance for purposes of employment, also without evidentiary support, as it continued to actively conceal and suppress the Material Facts that it was subject to Title VI, including assurance compliance agreements it signed agreeing to be compliant with Title VI, which would

have revealed it was subject to Title VI and expose its false claims as false, while making additional false claims and misrepresentations. [see Case: 4:15-cv-00722-RLW and see Appellate Case: 16-1507]. Moreover, the Defendants attorney committed other acts of misconduct mentioned below. The record clearly shows Plaintiff can be seen reporting the Defendants misconduct and the Court failing to take appropriate action, rather, shows the multiple Court rulings with the affect of the Court acting as an accomplice and having an affect of enabling the Defendants misconduct. Further, Eighth Circuit U.S. Court of Appeals failure to take appropriate action has allowed some of the Defendants misconduct of concealing material facts and misrepresentations to continue to this United States Supreme Court in previous cases, with the affects of the Defendants committing fraud upon it and giving it reason to assume its Original Jurisdiction for acts of fraud committed upon it. Lastly, the Missouri Attorney General Office launched actions against the Plaintiff involving government employees from another state while the Plaintiff was residing in another state, South Carolina, to create reason for this Court to assume Original Jurisdiction pursuant to 28 U.S.C. § 1251(b) for actions of a state against a citizen of another state, since the Plaintiff is a citizen of South Carolina and the actions was launched by Missouri Attorney General Office. [see Case 2:18-cv-04201-NKL and Appellate Case: 19-2341].

Facts Giving Rise to This Case

On November 30, 2011, Plaintiff, Myron Hubbard filed his initial claim against St. Louis Psychiatric Rehabilitation Center (SLPRC), Cause No. 4:11-CV-02082, but amended his complaint in that case adding Missouri Department of Mental Health (DMH) as Defendants, since SLPRC is a facility of DMH. Hubbard also amended his complaint and added additional claims of racial discrimination. The Defendants got the matter dismissed through the before mentioned fraud on the Court, before trial, before a full meaningful hearing and opportunity to be heard and would be allowed to prevail in the Court of Appeals. [see Case No. 4:11-CV-02082 and Appellate Case: 13-2877]. The Plaintiff filed Case: 4:15-cv-00722-RLW but Defendants got the matter dismissed through the before mentioned fraud on the Court, before trial, before a full meaningful hearing and opportunity to be heard and would be allowed to prevail in the Court of Appeals. [see Case: 4:15-cv-00722-RLW and see Appellate Case: 16-1507]. The Plaintiff appealed in a Writ of Certiorari to The United States Supreme Court, both in Case No. 16-1226 and No. 13-10695, but the court denied lastly May 30, 2017. The Plaintiff filed in state Court but the Defendants moved to federal Court Case 2:18-cv-04201-NKL and the Defendants got the matter dismissed through more fraud on the Court, before trial, before a full meaningful hearing and opportunity to be heard and would be allowed to prevail in the Court of Appeals. [see Case 2:18-cv-04201-NKL and Appellate Case: 19-2341].

REASONS WHY CERTIORARI SHOULD BE GRANTED

Review is warranted, since the Court of Appeals and District Courts breached its duty, departed from the accepted and usual course of judicial proceeding and is of such imperative importance as to call for an exercise of this Court's supervisory power, in addition, the Defendants committed Fraud Upon the Court and the Petitioner is entitled to relief pursuant to The Law of Void Judgments

While government employees covering up for government employees isn't unusual, the Eighth Circuit U.S. Court of Appeals and District Court have gone too far when it allows the violation of rules and laws with the effect of contributing and becoming a party to violations of rules and laws.

Fraud on the Court

The Plaintiff will demonstrate to this Court that the Defendant's attorney violated its duty of care with false claims, misrepresentations and nondisclosures, which were MATERIAL to the Court's judgment, made a difference to the outcome and the Court played a role in ensuring the critical material fact of the case remained suppressed, allowed the Defendant's misconduct and also violated its duty of care as well.

We will go over the previous cases and state specifically the MATERIAL FACTS the Defendants concealed in each case, the FALSE claims, FALSE statements and MISREPRESENTATIONS it made in each case.

Cases 4:11-cv-02082 and 0:13-cv-02877

When demonstrating the Defendant's attorney concealed the MATERIAL FACT that it was subject to Title VI, concealed the MATERIAL FACTS regarding the federal financial assistance it received, concealed the assurance compliance agreements it signed can easily be done by pointing to the Court record, since the Defendants NEVER disclosed to the Court nor admitted the basic MATERIAL FACT that it was subject to Title VI, NEVER disclosed to the Court the MATERIAL FACTS regarding the federal financial assistance it received to signal to the Court it was subject to Title VI, NEVER disclosed the MATERIAL FACTS of the assurance compliance agreements it signed to signal to the Court it was subject to Title VI. [see entire Court record]. Further, the Defendants never disclosed the MATERIAL FACTS it was subject to Title VI even after the Plaintiff Motioned the Court to Compel them to in a subsequent case where the Plaintiff specifically motion to compel disclosure of all federal assistance received, all federal financial assistance used for the purpose of employment, all assurance compliance and other agreement the defendants signed agreeing to be compliant with Title VI, a declaration from the Defendants stating whether or not it was subject to Title VI and answer to pleadings, albeit the Court denied the Plaintiff motion, so the Defendants avoided being compelled by the Court, as the Court played a role in ensuring the critical material fact of the case remained suppressed through its ruling. [Case 2:18-cv-04201-NKL Doc. 25 Filed 03/22/19 and Doc. 31 Filed 5/6/19].

The Defendants are represented by the Missouri Attorney General and Assistant Attorney General. The Defendants attorney had an additional duty to disclose, since they were Public officials with a fiduciary duty to the public and have a duty to provide honest services, as explained below. Missouri recognizes the standard situations that give rise to a duty to disclose, such as a fiduciary duty, superior knowledge, and partial disclosure. Constance v. B.B.C. Development Co., 25 S.W.3d 571 (Mo. Ct. App. W.D. 2000). § 2:7.Elements of fraud—Representations: Actionable—Fraud in the absence of representations, Law of Fraudulent Transactions § 2:7. Moreover, the Defendants attorney is a public official that put forth an additional duty to disclose material information. "A public official is a fiduciary toward the public, ... and if he deliberately conceals material information from them he is guilty of fraud." *Holzer*, 816 F.2d at 307; *see also United States v. deVegter*, 198 F.3d 1324, 1328 (11th Cir.1999) ("Public officials inherently owe a fiduciary duty to the public...."); *United States v. Sawyer,* 85 F.3d 713, 733 n. 17 (1st Cir.1996). United States v. Panarella, 277 F.3d 678, 696 (3d Cir. 2002). "Fraud in its elementary common law sense of deceit . . . includes the deliberate concealment of material information in a setting of fiduciary obligation." United States v. Panarella, 277 F.3d 678, 695 (3d Cir. 2002) (quoting United States v. Holzer, 816 F.2d 304, 307 (7th Cir. 1987), vacated and remanded for consideration in light of McNally v. United States, 483 U.S. 350 (1987)). Courts typically find that the source of a public official's duty to provide honest services inheres in the official's fiduciary duty to the

public. See, e.g., United States v. Sawyer, 85 F.3d 713, 733 n.17 (1st Cir. 1996).

In the District Court and Court of Appeals the Defendants made statements of, "Hubbard has not asserted a claim under Title VI," [Appellate Case: 13-2877 Page: 20 Date Filed: 11/20/2013] and, "Plaintiff then recites multiple statutes involving federal funding which he asserts waive Eleventh Amendment immunities, none of which apply to his claims" . . . "this Court does not have jurisdiction to address this matter." [Case: 4:11-cv-02082-JAR Doc. #: 76 Filed: 06/20/13 Page: 2 and 4 of 6], which are FALSE and can easily been seen to be false by simply looking at the record and the Title VI manual, specifically documents 70 and 71 filed 6/3/13 and where the Plaintiff wrote, "This is an action to vindicate violations of the Plaintiff job protected, constitutional and civil rights and to redress the unlawful, discriminatory conduct and employment practices of the Defendants. This action arises out of the illegal and wrongful discharge of Myron Hubbard on 12/1/2008 subsequent to willful violations of the Civil Rights Act of 1964 and, therefore, violations of 42 U.S.C. 2000d et seq. 42 USC § 2000D-7C," . . . . "COUNT ONE- WILLFUL VIOLATIONS OF TITLE VI" [Case: 4:11-cv-02082-JAR Doc. #: 70 Filed: 06/03/13 Page: 2 and 5 of 19]. The Plaintiff also wrote, "Title VI. . . prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance." [Case: 4:11-cv-02082-JAR Doc. #: 71 Filed: 06/03/13 Page: 3 of 7]. Here the record clearly demonstrates the Plaintiff did assert a claim under Title VI which establishes their statement, "Hubbard has not asserted a claim

under Title VI", [see above] to be FALSE. The Title VI laws and caselaw clearly establishes they clearly do apply to his claim and the District Court had jurisdiction, which demonstrates their statement of , "Plaintiff then recites multiple statutes involving federal funding, none of which apply to his claims", and , "this Court does not have jurisdiction to address this matter" [see above and below] to be FALSE as well, when it wrote the following and see below regarding 11th amendment immunity:

> The Supreme Court has established that individuals have an implied private right of action under Title VI (and Title IX and Section 504). The Court has stated that it has "no doubt that Congress...understood Title VI as authorizing an implied private right of action for victims of illegal discrimination." See Cannon v. University of Chicago, 441 U.S. 677 (1979)

https://www.justice.gov/sites/default/files/crt/legacy/2011/06/23/vimanual.pdf

These false statements and misrepresentations had the specific purpose and specific effect of obstructing Title VI from being asserted by the Plaintiff and a clear effort to actively suppress Title VI and evade Title VI liability. When looking for any truth in the statements there are none but examination reveals the Court hand in suppressing the truth, since it denied the Plaintiff amended pleading that contain his assertion of Title VI, while a single act here, the lengthy litigation would reveal a pattern to suppress

the truth and fact the Defendants were subject to Title VI, in addition to the Defendants fraud on the Court, by both Court of Appeals and the District Court , since the District Court also denied the Plaintiff Motion to Compel the Defendants to disclose in a subsequent case where the Plaintiff specifically motion to compel disclosure of all federal assistance received and other material facts that would reveal the Defendants were subject to Title VI. [see above and see Case 2:18-cv-04201-NKL Document 25 Filed 03/22/19 and Case 2:18-cv-04201-NKL Document 31 Filed 05/06/19].

Another overt false statement the Defendants made that can easily be proven to be false as the Court record contradicts it again is when the Defendants stated, "Hubbard has failed to allege that he has exhausted his administrative remedies." [Case: 4:11-cv-02082-JAR Doc. #: 56 Filed: 2/21/13 Page: 9 of 11]. The Court record contradicts them again as the Plaintiff wrote, "61. The plaintiff attempted other administrative remedies and has named the defendant in both an EEOC complaint and United States Department of Labor complaint. **Its only after exhaustion of these remedies** and being referred to the courts by the United States Department of Labor a claim was filed." [Case: 4:11-cv-02082-JAR Doc. #: 53-1 Filed: 10/29/12 Page: 9 of 11]. Here again we see the Defendants statement of, "Hubbard does not claim that he exhausted his administrative remedies," to clearly be FALSE and as explained below, exhaustion of administrative remedies is not required under Title VI. This further demonstrates the Defendants reckless disregard for the truth and recklessly make

false statements that are easily proven FALSE by the Court record.

We will now turn to the half-truth misrepresentations. A duty to disclose arises when a party "voluntarily discloses partial information but fails to disclose the whole truth" or when a party "makes a representation and fails to disclose new information that makes the earlier representation misleading or untrue." *See, e.g., Columbia/HCA Healthcare Corp. v. Cottey,* 72 S.W.3d 735, 744 (Tex.App.-Waco 2002, no writ). Blackmon v. American Home Products Corp. United States District Court, S.D. Texas, Galveston Division. October 1, 2004346 F.Supp.2d 907. As soon as the Defendants claimed 11th amendment immunity and exhaustion of administrative remedy requirements to the Plaintiff discrimination claims, it had a duty to inform the Court of the whole truth of the relevant information and material fact that it was subject to Title VI to prevent making it's representation misleading or untrue. [see above].

Before we have a discussion on this United States Department of Justice Title VI Legal Manual on these arguments. We will first look at what's the truth part of their half truth misrepresentation. The truth is states have 11th amendment immunity with some exception and exhaustion of administrative remedies is usually required for discrimination complaints with some exception. One of these exceptions is when a state receives Federal Financial Assistance and are subject to Title VI since, "Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination."

https://www.justice.gov/sites/default/files/crt/legacy/2011/06/23/vimanual.pdf

This United States Department of Justice Title VI Legal Manual clearly establishes the Defendants misrepresentations of, "All of plaintiff's claims against defendants are barred by the Eleventh Amendment to the United States Constitution," [Case: 4:11-cv-02082-JAR Doc. #: 55 Filed: 2/21/13 Page: 2 of 3] as FALSE and all statements misrepresenting exhaustion of administrative remedies is required as FALSE also, when it wrote the following:

> 4. No Administrative Exhaustion Requirement
>
> There is no requirement that a plaintiff exhaust administrative remedies prior to bringing a private Title VI civil action. See Fitzgerald v. Barnstable Sch. Comm., 555 U.S. 246, 255 (2009) . . . . Though Fitzgerald and Cannon addressed Title IX, courts have applied the same analysis to Title VI and Section 504 claims and held that litigants need not exhaust administrative remedies prior to bringing a Title VI claim in federal court. See, e.g., Wade v. Knoxville Util. Bd., 259 F.3d 452, 460 (6th Cir. 2001)
>
> . . .
>
> B. States Do Not Have Eleventh Amendment Immunity under Title VI
>
> In 1986, Congress enacted 42 U.S.C. § 2000d-7 . . . to abrogate states' immunity from suit for violations of

> Section 504, Title VI, Title IX, the Age Discrimination Act, and similar nondiscrimination statutes. . . Section 2000d-7(a) states:
>
> (1) A State shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of ... title VI of the Civil Rights Act of 1964, ... or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance.

https://www.justice.gov/crt/case document/file/934826/download

Now that we have established the falsity and misleading portions of the Defendants misrepresentations that, "All of plaintiff's claims against defendants are barred by the Eleventh Amendment to the United States Constitution," [Case: 4:11-cv-02082-JAR Doc. #: 55 Filed: 2/21/13 Page: 2 of 3] when they aren't and all it statements misrepresenting exhaustion of administrative remedies was required when they were NOT, and the Title VI manual proves it, we will now demonstrate further the Defendants misrepresentations were material. A material fact is one which might affect the outcome of the case under governing law. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). The Court of Appeals and the District Court included the Defendants misrepresentations of exhaustion of administrative remedies and 11th amendment immunity in their Court Orders with the effect of demonstrating it was

influenced, mattered in their decision and showed clear causality, as we will see the Defendants statements and then both Courts showing it mattered in their decision when the Defendants wrote, "Hubbard does not claim that he exhausted his administrative remedies", . . ."the Eleventh Amendment acts as a complete jurisdictional bar to all of Hubbard's claims against it". [Appellate Case: 13-2877 Pages: 17 and 19 Date Filed: 11/20/2013]. The Court of Appeals then wrote the following showing clear influencing effect, "Hubbard did not show he had exhausted administrative remedies " . . . "and the Eleventh Amendment barred Hubbard's other claims against defendants" [Appellate Case: 13-2877 Page: 2 Date Filed: 02/11/2014]. In the District Court the Defendants wrote, "Plaintiff then recites multiple statutes involving federal funding which he asserts waive Eleventh Amendment immunities, none of which apply to his claims. [Case: 4:11-cv-02082-JAR Doc. #: 76 Filed: 06/20/13 Page: 2 of 6]. The District Court then wrote showing the influencing effect when it wrote, "Plaintiff sets forth a number of statutes involving federal funding which he contends waive Eleventh Amendment immunities. (Id., pp. 2-3) None of these statutes apply to his claims." [Case: 4:11-cv-02082-JAR Doc. #: 78 Filed: 08/12/13 Page: 6 of 7]. In the District Court the Defendants wrote, "Plaintiff failed to exhaust his federal administrative remedies" . . ." However, he has not alleged or presented any documentation that he properly and timely filed a complaint with the EEOC and, nor has he alleged that he has undergone the proper procedures in order to proceed with his lawsuit." . . . "As such, this Court does not have jurisdiction to

address this matter." [Case: 4:11-cv-02082-JAR Doc. #: 76 Filed: 06/20/13 Page: 4 of 6]. The District Court then wrote showing influencing affect when it wrote, "Plaintiff has not alleged, or presented any documentation to show, that he properly and timely filed a complaint with the EEOC, nor has he alleged that he followed the proper procedures to proceed with his lawsuit in this Court. Generally, any claim that is not presented to the agency may not be brought in federal court and must be dismissed." [Case: 4:11-cv-02082-JAR Doc. #: 78 Filed: 08/12/13 Page: 6 and 7 of 7]. Here it is clearly seen the Defendants misrepresentations of exhaustion of administrative remedies and 11th amendment immunity were material to both the Court of Appeals and District Court Orders, since they both included the Defendants misrepresentations in their Orders with the affect of demonstrating it was influenced, showed clear causality and demonstrates it doesn't know the Defendants were subject to Title VI, therefore, showing the Defendants concealment and suppressing the Plaintiff assertions of Title VI with false statements had successful effects of influencing and showed it based its ruling on the defendants misrepresentations.

Case 4:15-cv-00722 and Appellate Case: 16-1507

In Case 4:15-cv-00722, the Defendants began to demonstrate it knew it prevailed on fraudulent arguments of exhaustion of administrative remedies and 11th amendment immunity, as it would abandon these fraudulent arguments and change its position after it knew it had been discovered, similar to a

pathological liar changing his lie after he has been caught, so the liar makes up another lie, the Defendants similarly began to make up another lie misrepresenting another false claim that it didn't use federal financial assistance for purpose of employment, when it did, while continuing to fraudulently conceal the MATERIAL FACT it was subject to Title VI to once again BLOCK the assertion of Title VI with the affect of influencing and defrauding the Court again.

When demonstrating the Defendants continued to conceal the MATERIAL FACT that it was subject to Title VI and other MATERIAL FACTS that would have signaled it was subject to Title VI again we will simply point to the Court record, which shows the Defendants NEVER disclosed to the Court the MATERIAL FACT that it was subject to Title VI or MATERIAL FACTS that would have signaled it was subject to Title VI. [see entire record]

Courts have ruled, "However, "[e]ven without a special relationship, there is always a duty to correct one's own prior false or misleading statement."" *Trustees of the Northwest Laundry & Dry Cleaners Health & Welfare Trust Fund v. Burzynski,* 27 F.3d 153, 157 (5th Cir.1994). Nazareth Int'l, Inc. v. J.C. Penney Corp., No. CIV.A. 304CV1265M, 2005 WL 1704793, at *6 (N.D. Tex. July 19, 2005). When demonstrating the Defendants never performed its duty to correct misrepresentations can be done by simply pointing to the record, since the Defendants NEVER corrected its misrepresentations and FALSE statements that it had 11th amendment immunity to the Plaintiff discrimination claims and NEVER

corrected it misrepresentations of exhaustion of administrative remedies were required nor did it correct its misrepresentation to the Court of Appeals that it didn't receive federal financial assistance for purposes of employment. [see Case 4:15-cv-00722 and Appellate Case: 16-1507 and entire Court record from the before mentioned cases]

When demonstrating the Defendants false claim that they misrepresented they didn't use federal funds for purpose of employment can easily be done by pointing to the Court record, the evidence in the Court record and mentioned below showing they did use federal funds for purpose of employment and their FALSE statement claiming they didn't when they wrote, "Hubbard has not alleged, **nor can he allege, that any federal funds received by the Defendants were designed to provide employment**. Thus, Hubbard's claim fails in this regard." [Case: 4:15-cv-00722-RLW Doc. #: 15 Filed: 07/13/15 Page: 7 of 10]. This statement clearly misrepresents it didn't receive any federal funds for purposes of employment, which is easily proven false by the evidence the Plaintiff submitted and the Defendants later changing its position, which signaled it knew the statement was FALSE but failed to correct its misrepresentation. [see evidence below showing they received federal funds for purposes of employment and Case 2:18-cv-04201-NKL Document 12-1 Filed 10/22/18 Pages 18 thru 25 100 and Document 12-2 Filed 10/22/18 Pages 14 thru 35 of 74].

When demonstrating the Defendant's misrepresentations of it didn't use federal funds for purpose of employment had an influencing affect can easily be seen in the District Court ruling, since it

included the Defendants misrepresentation in its order. The District Court wrote the Defendants misrepresentation showing clear influencing effect, when it wrote the following, "Defendants argue that Plaintiffs claim should be dismissed because he has not alleged, **nor can he allege, that the federal funds received by Defendants were designed to provide employment**." [Case: 4:15-cv-00722-RLW Doc. #: 35 Filed: 02/12/16 Page: 8 of 10]. The District Court would also write demonstrating the Defendants concealment of the MATERIAL FACT that it was subject to Title VI and the Defendants misrepresentation that it didn't receive federal financial assistance for purpose of employment were effective at influencing the Court, since it can easily be seen as it wrote demonstrating it doesn't know the Defendants were subject to Title VI when it wrote the following:

> Further, the Court finds that discovery would not reveal that DMH's purpose is anything other than the provision of mental health services. Id. Indeed, DMH provides programs for drug and alcohol abuse; mental illness; and developmental disabilities. . . . In addition, while DMH does provide "employment services" in its programs, these services are to enhance "community employment options for persons with developmental disabilities." . . ."The Court therefore finds that Plaintiff has failed to state a claim for relief under Title VI and his Amended Complaint should be dismissed on that basis. [Case: 4:15-cv-00722-RLW Doc. #: 35 Filed: 02/12/16 Page: 8 and 9 of 10].

The Court above statement makes it clear to any

reader it doesn't know the Defendants were subject to Title VI, which is the critical material fact of the case, which blocks its ability to see the fraud in procurement of judgment in the previous case, allowed the Defendants to sustain its res judicata arguments and allowed for Defendants to procure another judgment by fraud on the Court. [see above]. Further, the Court mistaken finding of fact that the Defendants weren't subject to Title VI, is clear the Defendants concealment, misrepresentations and its active suppression of the Plaintiff assertions were material, as the Courts demonstrates it doesn't know the Defendants were subject to Title VI.

Further, below we will show the Defendants would change its position and stop pretending it didn't receive federal financial assistance for purposes of employment, similar, how it stopped pretending exhaustion of administrative remedies was required and it had 11th amendment immunity to the Plaintiff discrimination claims once it knew it was discovered, as further evidence of conscious wrongdoing. Moreover, the District Courts and Court of Appeals specifically included the Defendants false claims and false arguments in their orders and can be seen clearly applying them to their opinions to create clear causality in their resultant opinion with the affect of establishing the judgments were procured by fraud. [see above mentioned cases Court orders]

In the Court of Appeals, the Plaintiff discovered Defendants fraud after the District ruling and motioned the Court of Appeals, "to present newly discovered evidence to expose fraud" [Appellate Case: 16-1507 Date Filed: 05/09/2016].

The Defendants continued to commit Fraud on the Court, with the effects of procuring a judgment by fraud. In the Court of Appeals, the Defendants continued its misconduct of misrepresentations with false statements and concealment of MATERIAL FACTS that can easily be proven, the first of which the Defendants blatantly FALSELY wrote, "Contrary to Hubbard's claims, neither Appellees nor their attorneys concealed any information regarding receipt of federal funds. [Appellate Case: 16-1507 Page: 17 Date Filed: 06/08/2016]. Here the falsity of their statement can easily be proven by pointing to the Court record, which clearly shows the Defendants are clearly misrepresenting their nondisclosure of MATERIAL FACTS, since the Court records shows the Defendants never disclosed any of the vital MATERIAL FACTS that it was subject to Title VI nor any other MATERIAL FACTS that would signal it was subject to Title VI. [see entire record] Another overt FALSE statement of the Defendants that can be easily exposed as FALSE by simply pointing to the record, which contradicts the Defendants statement of, "Moreover, Hubbard does not and cannot argue that he relied on any misleading representation on behalf of Appellees or their attorneys." [Appellate Case: 16-1507 Page: 17 Date Filed: 06/08/2016]. The Court record clearly shows the Plaintiff did assert he relied on the Defendants when he wrote, "The plaintiff relied on the defendant not to commit fraudulent concealment and responded and acted on its false assertions to his detriment." [Case: 4:15-cv-00722-RLW Doc. #: 16 Filed: 07/28/15 Page: 4 of 21]. So, the Defendants statements of, "Hubbard does not and cannot argue that he relied on any misleading representation", is

clearly FALSE, a blatant lie and the record proves it. In the Court of Appeals the Defendants would change its position since the Plaintiff was exposing the Defendants used federal financial assistance for purposes of employment in his motion to present newly discovered evidence to expose fraud [Appellate Case: 16-1507 Page: 13 - 18 Date Filed: 05/09/2016] and was no longer falsely declaring it didn't use federal financial assistance for purposes of employment, neither would it in the subsequent case, instead, it began stating, "There is no evidence that any federal funds received by the Appellees were designed to provide employment." [Appellate Case: 16-1507 Page: 19 Date Filed: 06/08/2016]. Although its position change from declaring it wasn't using federal financial assistance for purposes of employment to stating, "There is no evidence that any federal funds received by the Appellees were designed to provide employment", their statement is still FALSE and can easily be proven FALSE by pointing to the Appellate Brief, which clearly shows there was evidence the Defendants received federal funds that provided employment, therefore, their statement was another blatant lie and another false statement, of which the Defendants can clearly be seeing avoiding to answer, provide any explanation for at this point nor provide any proof or facts to rebut such evidence and received assistance from the Court of Appeals, as it denied the Plaintiff's motion to present newly discovered evidence to expose fraud, with the affect of evading to have to rule upon the evidence, protecting the Defendants fraudulent acts, preventing the Defendant's fraud from being expose, suppressing Title VI, protecting the Defendants res

judicata arguments, since judgments procured by fraud are VOID and beginning to establish a pattern of assisting and allowing the government attorney's misconduct. However, the Plaintiff's appellate brief reports of fraud and misconduct, puts forth proof the misconduct was reported to the Court of Appeals and put forth an obligation for the Court to take appropriate action as required by its Code of Judicial Conduct. [Appellate Case: 16-1507 Page: 13 - 18 Date Filed: 05/09/2016]. All of the Defendants misconduct that included its concealments of the MATERIAL FACTS, FALSE statements, failures to correct representation, violations of fiduciary duties to the public and violations of duty to provide honest services where all done by the Defendants to conceal their liability to Title VI and conceal their Fraud Upon the Court to sustain their res judicata argument. Further as explained below, the Defendants would demonstrate it didn't believe that it didn't use federal financial assistance for purposes of employment, that it fraudulently used to get the case dismissed, as it would change their position once again, to further demonstrate conscious wrongdoing that it knew its representations were FALSE but failed to correct them.

Case 2:18-cv-04201-NKL

When demonstrating the Defendants continued to conceal the MATERIAL FACT that it was subject to Title VI and all other relevant MATERIAL FACTS that would expose it was subject to Title VI and failed to correct its previous misrepresentations it committed to acquire the prior judgments, can easily be done by pointing to the

Court record, since the Defendants NEVER corrected these misrepresentations and NEVER disclosed to the Court the MATERIAL FACT that it was subject to Title VI nor other relevant MATERIAL FACTS, that would have exposed it was subject to Title VI. [see entire record].

In Case 2:18-cv-04201-NKL, the Plaintiff asserted factual evidence demonstrating the Defendants received federal financial assistance with purpose of employment, all of which the Defendants failed to deny receiving. The Plaintiff showed some examples of how ultimate beneficiaries were being harmed and affected and was included in the Plaintiff pleadings, of which the Defendants failed to deny, when he explained the discrimination and refusing to hire black male nurses was creating a staffing shortage, "affecting both nurses and patients, thereby, intended beneficiaries. " So in addition to the Plaintiff evidence showing, the Defendants acquired federal financial assistance for employment purposes, the Plaintiff demonstrated the Defendants were also subject to Title VI, since its discriminatory employment practices were negatively affecting the delivery of services to ultimate beneficiaries, of which it failed to deny. Further, the Defendants failed to deny each specific paragraph from the Plaintiff pleading, instead, offered false claims and arguments. [see below] and [see the Plaintiff evidence Case 2:18-cv-04201-NKL Document 12-1 Filed 10/22/18 Pages 18 thru 25 100 and Document 12-2 Filed 10/22/18 Pages 14 thru 35 of 74]

When demonstrating the Defendants suppressed the Plaintiff evidence and actively suppressed the Plaintiff attempts of exposing the

Defendants were subject to Title VI with FALSE statements, misrepresentations and FALSELY stated the law regarding Title VI. We will simply look at the Court record, the Defendants FALSE statements, misrepresentations, the Title VI manual and case law. In case 2:18-cv-04201-NKL the Defendants abandoned its previous misrepresentations of 11th amendment immunity, exhaustion of administrative remedy requirements and they didn't receive federal financial assistance for purpose of employment and began to pretend the purpose of the recipient matters when it stated the following:

> The "primary purpose" of Defendant, the Missouri Department of Mental Health, is to administer, maintain, and develop facilities and services for persons affected by mental disorders, developmental disabilities, and alcohol or drug abuse. . . . The purpose of DMH is not to provide employment for those nurses, and his claim fails in this regard. [Case 2:18-cv-04201-NKL Document 11 Filed 10/22/18 Page 8 of 10]

As clear misrepresentation of the law, since the factors involved don't include the purpose of the recipient, rather, the two primary elements are discrimination and the entity engaging in discrimination is receiving federal financial assistance, as already stated by the Court, the law, [see Title VI manual] and case law. The two elements for establishing a cause of action pursuant to Title VI are (1) that there is racial or national origin discrimination and (2) the entity engaging in discrimination is receiving federal financial

assistance. Jackson v. Conway, 476 F.Supp. 896, 903 (E.D. Mo. 1979), aff'd, 620 F.2d 680 (8th Cir. 1980).

When demonstrating the Defendants failed to answer the specific paragraphs of FACTUAL ALLEGATIONS of the Plaintiff's pleadings with the affect of failing to admit the basic fact it was subject to Title VI and other basic MATERIAL FACTS of the case and the Court record shows it NEVER disclosed the MATERIAL FACT that it was subject to Title VI. [see Case 2:18-cv-04201-NKL]. Instead, the Defendants filed a motion to dismiss with the following FALSE STATEMENTS to actively suppress the Plaintiff evidence and assertions of Title VI:

> Even assuming Hubbard's allegations that DMH accepted federal funds as true, none can save his Title VI claim. . . .The NLRP's purpose is to forgive student loans. . . .Lastly, the ARRA, a stimulus bill, funds a variety of projects and encourages economic recovery. Business Commc'ns, Inc. v. U.S. Dept. of Educ., 739 F.3d 374, 376 (8th Cir. 2013). Whether the ARRA had a benefit of increasing employment levels, does not mean that its specific purpose is to provide employment. Nelson, 873 F.Supp.2d at 1115; see also Martin, 704 F.Supp. 2d at 234. [Case 2:18-cv-04201-NKL Document 13 Filed 11/05/18 Page 6 and 7 of 8]

As seen above, the Defendants statements are without any supporting evidentiary facts, as the Defendants did NOT support their attorney, perjure

themselves and declare they weren't subject to Title VI in any affidavits, instead, the Defendants attorney sites 3 cases above but fabricates the caselaw in two and misleads in the other, which we will easily demonstrate misrepresents and misleads. When demonstrating the Defendants has fabricated misleading case law we will simply look at their statement and then the case law they cited. The Defendants wrote, "Whether the ARRA had a benefit of increasing employment levels, does not mean that its specific purpose is to provide employment. Nelson, 873 F.Supp.2d at 1115; see also Martin, 704 F.Supp. 2d at 234." [Case 2:18-cv-04201-NKL Document 13 Filed 11/05/18 Page 6 and 7 of 8]. Neither of the case law the Defendants cited, Nelson nor Martin in the Federal Supplements, mentions the ARRA, therefore, is misleading, misrepresents and is completely irrelevant to whether ARRA intitles a Title VI claim. Rather than using case law that states whether ARRA entitles a Title VI claim, the Defendants uses case law that doesn't state whether or not ARRA entitles a Title VI claim nor does it even mention ARRA and attaches it to its remark about ARRA, misrepresenting it supports it. The other caselaw they mention, Business Commc'ns, Inc. v. U.S. Dept. of Educ, is also irrelevant and meant to mislead, since it's a description of the ARRA, not the purpose of the ARRA. The Plaintiff provided case law and evidence that clearly showed the Defendants received federal funds from The American Recovery and Reinvestment Act (ARRA), which stated its purpose is to create jobs and provided case law stating such in Rogers v. Bd. of Educ. of Prince George's Cnty. United States District Court, D. Maryland. 859

F.Supp.2d 742 (D. Md. 2012), and provided the former Governor of Missouri, Jeremiah Nixon Executive Order 09-12, where it also stated "purposes" of ARRA were to preserve and create jobs and promote economic recovery. [Case 2:18-cv-04201-NKL Document 12-1 Filed 10/22/18 Page 18 and 19 of 100]. Therefore, the Defendants statements of, "Whether the ARRA had a benefit of increasing employment levels, does not mean that its specific purpose is to provide employment," [Case 2:18-cv-04201-NKL Document 13 Filed 11/05/18 Page 6 and 7 of 8] is a misrepresentation and the former governor Executive Order 09-12 and case law proves so.

Another statement easily proven to be FALSE is when the Defendants wrote, "The NLRP's purpose is to forgive student loans." [see above and Case 2:18-cv-04201-NKL Document 13 Filed 11/05/18 Page 6 of 8]. Here the Defendants shows no restraint, blatantly lies about the purpose of the NLRP and fabricates a purpose for the NLRP. This can easily be proven to be FALSE, since the NLRP specifically states its purpose and the Plaintiff provided it in his evidence when they wrote, "purpose of the NURSE Corps Loan Repayment Program (NURSE Corps LRP) is to assist in the **recruitment and retention of professional Registered Nurses (RNs),"**[Case 2:18-cv-04201-NKL Document 12-1 Filed 10/22/18 Page 23 of 100]. Further, The United States Department of Health and Human Services requires recipients legally certify themselves to be compliant with Title VI nondiscrimination mandate through assurance compliance agreements they sign as a requirement imposed by or pursuant to the Regulation of the

Department of Health and Human Services (45 C.F.R. Part 80), specifically, the Defendant's Department Director, Mark Stringer signed the Chief Executive Officer's Funding Agreement-Certifications and Assurances with the U.S. Department of Health and Human Services stating the Defendants, "Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964" [Case 2:18-cv-04201-NKL Document 12-2 Filed 10/22/18 Page 29 and 31], so recipients aren't ignorant they are subject to Title VI, rather, are informed and have been given clear NOTICE, as further proof their conduct were intentional.

The Defendants failed to answer the Plaintiff specific paragraphs of factual allegations in his pleadings, even after the Plaintiff filed a motion to compel them to [Doc. 25] and should have face the rule of failure to deny operates as an admission. Fed. R. Civ. P. 8(b)(6) (effect of failing to deny), which was consisted with its scheme to conceal the MATERIAL FACT it was subject to Title VI, conceal its offenses and conceal the judgments it procured by FRAUD. [Case 2:18-cv-04201-NKL]

Now that we have discussed the Defendants Fraud on the Court, we will discuss its affects on judgments, how the Court of Appeals and District Court breached its duty, departed from the accepted and usual course of judicial proceeding and why the Plaintiff is entitled to relief pursuant to The Law of Void Judgments. If the judgment was in fact procured by fraud and collusion, as charged, the fraud vitiated the whole proceeding and the defendants are entitled to equitable relief. Jones v.

Arnold, 359 Mo. 161, 166, 221 S.W.2d 187, 191 (1949). Res judicata consequences will not be applied to a void judgment which is one which, from its inception, is a complete nullity and without legal effect, Allcock v. Allcock, 437 N.E.2d 392 (Ill.App.3 Dist. 1982). Further since the order has no legal force or effect, it can be repeatedly challenged, since no judge has the lawful authority to make a void order valid. Bates v. Board of Education, Allendale Community Consolidated School District No. 17, 136 Ill.2d 260, 267 (1990) (a court "cannot confer jurisdiction where none existed and cannot make a void proceeding valid."); People ex rel. Gowdy v. Baltimore & Ohio R.R. Co., 385 Ill. 86, 92, 52 N.E.2d 255 (1943).

The issue here is fraud in the procurement of the judgments the Defendants received, which makes them VOID, as stated above, so we will discuss the parts, both the Defendants and District Court, omitted from their arguments and opinion, the other halves of their half truths, which can be seen to be deliberate and creating misrepresentation.

When looking at the Defendants representations of res judicata arguments the Defendants wrote, "However, a review Hubbard's claims points to allegations of fraud, which has previously been adjudicated." . . ." Therefore, the doctrine of res judicata bars Hubbard's claim". [Case 2:18-cv-04201-NKL Document 13 Filed 11/05/18 Page 2 and 3 of 8]. The District Court showed the Defendants influencing effect when it wrote the following, "Therefore, Mr. Hubbard's allegations regarding fraud have already been adjudicated and are barred by res judicata. [Case 2:18-cv-04201-NKL

Document 14 Filed 12/19/18 Page 4 of 6]. Neither the Defendant nor the Court tells the whole truth. It is equally true that the principle of res judicata may not be invoked to sustain fraud, and that a judgment obtained by fraud or collusion may not be used as a basis for the application of the doctrine of res judicata. Grummons v. Zollinger, 240 F. Supp. 63, 75 (N.D. Ind. 1964), aff'd, 341 F.2d 464 (7th Cir. 1965). While res judicata may prevent relitigating of claims that have already been adjudicated, it doesn't preclude judgments "obtained by fraud or collusion." Indeed, the Plaintiff is unable to find any case law saying such a ridiculous notion. In other words, if fraud on the Court occurred in the initial case, the wrongdoer can't simply do it again and procure another judgment by fraud and assert the fraud has already been adjudicated. At some point the wrongdoer have to obtain a valid judgment free of fraud, which will have preclusive effects, not judgments procured by fraud. [see above case law]. Moreover, Judge Laughrey quotes Judge White case law but omits and removes the portion regarding fraud as evidence she knows fraud nullifies her statement and evidence of conscious wrongdoing. Specifically, Judge Laughrey wrote, ""newly discovered evidence does not preclude the application of res judicata unless the evidence . . . could not have been discovered with due diligence." Id. at * 3 (quoting Saabirah El v. City of New York, 300 Fed. App'x 103, 104 (2nd Cir. 2008)), [see Case 2:18-cv-04201-NKL Document 14 Filed 12/19/18 Page 4 of 6], notice her quote doesn't contain anything about fraud, that's because she removed it, since Judge White and the case law she was quoting actually said, " "As a general rule, newly discovered

evidence does not preclude the application of res judicata unless the evidence **was either fraudulently concealed** or could not have been discovered with due diligence." Saabirah El v. City of New York, 300 Fed. App'x 103, 104 (2nd Cir. 2008) (citation omitted). [Case: 4:15-cv-00722-RLW Doc. #: 35 Filed: 02/12/16 Page: 5 of 10].

Missouri Rule 2-1.2 Promoting Confidence in the Judiciary states the following:

> A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety." . . ." *Actual improprieties under this standard include violations of law, court rules or provisions of this code."*

Below we will discuss the Court of Appeals and District Court allowance of the Defendants violations of law and Court rules.

Duty of care- a requirement that a person act toward others and the public with the watchfulness, attention, caution and prudence that a reasonable person in the circumstances would use. https://dictionary.law.com/Default.aspx?selected=599

When demonstrating the Court of Appeals, District Court and Defendant's government attorney breached its duty of care can easily be done by pointing to the Defendants attorney acts of fraud on the Court, as explained above, that included violations of law and court rules, specifically, Missouri Court Rule 4-8.4 Misconduct and 18 U.S. Code §1001 and the Court breaching its duty of care in allowing the Defendant attorney acts of

concealments, fraudulent statements and misrepresentations in a federal Court, which are violations of 18 U.S. Code §1001, as evidence by the Court record, that shows the Court fail to take appropriate action nor any action. [see above and entire Court record].

The Court of Appeal and District Court allowing the violation of Rule 11 for the Defendants factually unsupported false claims to the Court. "The court must, however, also abide by the "affirmative obligation of the trial judge to prevent factually unsupported . . . defenses from proceeding "" *Hines v. Foxwell*, CIVIL ACTION No. JFM-17-301, at *2 (D. Md. June 21, 2017). Indeed, the Defendants attorney false claims were permitted to prevail, in part, since the Court allowed them to go unsupported, while Rule 11 requires for "factual contentions have evidentiary support or . . . will likely have evidentiary support", of which the Defendants provided none, since their contentions were false, even after the Plaintiff motioned to compel disclosure. [Case 2:18-cv-04201-NKL Document 25 Filed 03/22/19]. Both the Court of Appeals and District Court can be seen allowing the Defendants false claims and statements of it had 11th amendment immunity to the Plaintiff discrimination claims when it didn't, exhaustion of administrative remedies were required to the Plaintiff discriminations claims when they weren't, that it didn't receive federal financial assistance for purpose of employment when it did, all asserted by the Defendants attorney, which she NEVER provided ANY evidentiary support from the Defendants in the form of declarations, certifications nor affidavits supporting such claims nor could she

since they were FALSE nor did the Court of Appeals and District Court require her to, even after the Plaintiff filed a motion to compel them to, rather, they denied the Plaintiff motion to compel. [Case 2:18-cv-04201-NKL Document 31 Filed 05/06/19].

This United States Supreme Court has written the following:

> If the court below neglects or refuses to make a finding one way or the other as to the existence of a material fact, which has been established by uncontradicted evidence, or if it finds such a fact when not supported by any evidence whatever, and an exception be taken, the question may be brought up for review in that particular.
>
> Alexandre v. Machan, 147 U.S. 72, 77, 13 S. Ct. 211, 213, 37 L. Ed. 84 (1893)

Both the Court of Appeals and the District Court neglectfully failed to find a finding of facts of the material facts of the new evidence presented by the Plaintiff that exposes the Defendants were subject to Title VI, but gave a finding of fact before the new evidence, based on the Defendants misrepresentation that they didn't receive federal funds for purposes of employment, with the affect of preventing itself from determining the Defendants fraud on the Court, even after the Plaintiff specifically, motioned the Court of Appeals for findings of facts. [Appellate Case: 19-2341 Page: 1 Date Filed: 11/01/2019]. Which allows it to have plausible denying ability, in part, to the Defendants fraud, but since the Defendants concealment and

misconduct went on for approx. 8 years most reasonable peers would consider it affirmative misconduct, and the Court of Appeals and District Court responsible.

The District Court allowed the prohibited participation of the Government attorney that violated the law, court rules and committed acts of misconduct, when Court rules and her rules of her profession says she can't. Specifically, Rule 4-3.7 and Rule 4-1.7. The Plaintiff wrote the following,

> "the Defendant's agent that is being alleged to have committed fraud upon the Court, therefore, has personal interest, since she can be found criminally, civilly and professionally liable. She is also a witness in this case. She also has strong motive to sabotage the administration of justice to save herself. Rule 4-3.7 for Lawyer as Witness states the following:
>
> (a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness,". . . "Rule 4-1.7 Conflict of Interest" . . ."a lawyer shall not represent a client if the representation involves a concurrent conflict of interest." A concurrent conflict of interest exist" . . . ."by a personal interest of the lawyer." [Case 2:18-cv-04201-NKL Document 16 Filed 01/15/19 Page 18 of 26]
>
> The Court failed to enforce Rule 8 and require a response from the Defendants even after the Plaintiff specifically motioned to, "Compel an answer to Pleadings for the Case Herein," [Case 2:18-cv-04201-NKL Document 25 Filed 03/22/19 Page 1 of 22] nor enforce its provision of failure to deny [see above] with the affects of

concealing their offenses and fraud on the court,violating 575.020.

U.S. Code for Judges state:

3 (B)(6) "A judge should take appropriate action upon receipt of reliable information indicating the likelihood that. . . a lawyer violated applicable rules of professional conduct." https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges

In demonstrating the Court of Appeals and District Court failed to take appropriate action, we will simply point to the record, which shows it failed to take appropriate action nor any action, rather, aided the misconduct as explained above. [see entire record]

The United States Supreme Court should assume Original Jurisdiction for misconduct committed upon it and pursuant 28 U.S. Code § 1251 for state attorneys taking adverse retaliatory actions against a citizen in another state

Jurisdiction commonly arises where "the crime occurred" and, since the Court of Appeals failed to take appropriate action it allowed the Defendants acts of concealing MATERIAL FACTS, misrepresentations, failing to correct misrepresentations and other acts of fraud on the Court to continue to this United States Supreme Court in U.S. Supreme Court cases No. 16-1226 and No. 13-10695, allowing it to assume original jurisdiction over misconduct committed upon it.

28 U.S.C. § 1251(b) states the following, The Supreme Court shall have original but not exclusive jurisdiction of: . . . All actions or proceedings by a State against the citizens of another State or against aliens. The Plaintiff also set forth in his pleadings [see Docs. 12-1 and 12-2] retaliation acts after and during his protected act of his discrimination filing, where the Defendants attorney's office, the Missouri Attorney General, who never became involves in the Plaintiff's child support matters, as evidence they were never involved in his son's child support case, which was before his discrimination filing, which was completely paid in full and closed without involvement of the Missouri Attorney General Office, but became involved in his open matter, after the Plaintiff's protected act of his discrimination claim and launched actions against the Plaintiff while he was in another state using a government South Carolina employee, who violated South Carolina state perjury laws by putting false information on state forms lying that the Plaintiff had a salary and about his earnings, then the Missouri Attorney General submitted the false evidence in a Missouri Court, thereby, violating further state and federal law. [See Case 2:18-cv-04201-NKL Doc.12-1 and Doc. 12-2]. Simultaneously, the other government employees where creating an immensely hostile work environment with profanity and the usage of the word NIGGER in the work place, but when the Plaintiff reported them to the EEOC, they increased the number of shifts they were giving him, thereby, his pay and the hostile work environment diminished, as clear evidence of conscious wrong doing. For Missouri government attorneys actions against the Plaintiff, who is a citizen of another

state, an additional cause for this Supreme Court to assume its original jurisdiction pursuant to 28 U.S.C. § 1251(b) has been sustained.

Conclusion

For the foregoing reasons, the Plaintiff respectfully request that this Court issue a writ of Certiorari and assume its Original Jurisdictions.

Respectfully,

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