No. 19-559

In the

U.S. Supreme Court of The United States

John E., John J. And
Judith A. Reardon,

Petitioners, PRO SE

v

Judge Noel Hillman, Jay Sanchez,
Desiree Ramsey and Ryan Merrigan

Respondents

On Petition For Writ of Certiorari
To The Third Circuit

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Questions for Review

1. Contrary to all 12 circuits, Is the court's failure to set aside a Void judgment that is due to the failure to give prior notice and right to be heard a fatal defect that can not be given legal effect and is the injured party entitled to relief due to the orders of the lower courts being void due to a standing Order of Judge Gerry that allows Due Process to notice and being heard to be denied to all litigants? A19,20,42;

2. Do mandatory, administrative, ministerial, or non-discretionary acts accord Absolute immunity under Rule 55(a) and (b)(1) for the clerk and 55(a) and (b)(2) for the judge and trump Due Process of law to notice and right to be heard before an order is entered?

3. Is the issue of the nature of the function a factual dispute that requires a plenary hearing?

4. Given that all 12 circuits have held that there is no discretion to not set aside a void order for violations of Due Process to notice or to be heard and given that this court held that judges have no immunity for lack of discretion that are such for void orders, are the 7 lower court judges liable for promoting and enforcing said void orders and intentionally denying our rights?

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Jurisdiction of this court is invoked under 28 U.S.C. 2101.

Statement of the Case

Mr. Reardon filed civil suits 1:15-cv-00244 and 1:15 -cv-05520. Mr. Reardon did serve the defendants in a manner not described in Rule 4 but the defendants were in fact served with the summons and complaint, and the clerk so noted on the docket that service was executed. A30-36.

The defendants, at all times, were kept informed of Mr. Reardon's actions in the court relative to these lawsuits. The defendants in said cases all had the option of challenging insufficient service of process or insufficient process under F.R.Civ.P. 12(b)(3) or (4) by way of Rule 12(a)(1)(A)(i) timely or under Rule 55 or Rule 60(b) but chose to remain silent and have remained silent from January and June 2015 to the present. See Insurance Corp. Of Ireland v Compagnie Des Bauxite , 456 U.S. 694, 704,705, Personal defenses waived if not timely sought; Commerce Casualty Insurance Co. v Consolidated Stone CO., 278 U.S. 177, 180, 1929, challenges under F.R.Civ.P. 12(b) required to be brought within 21 days or they are waived; Myers v Moore, D.C., ED Pa., 2014, defense bears the burden of proving Rule 12(b)(3) or (4) defenses; Sanderford v Prudential Ins. Co. Of America, 902 F.2d 897, 900, 11th Cir. 1990 and UNITED FOOD & COM'L WKRS. U., ETC. v. Alpha Beta Co., 736 F. 2d 1371, 9th Cir.,1984, service is valid and acceptable as long as party actually receives the summons and complaint, for which the defendants in cases 00244 and 05520 did so receive and the clerks and Judge Hillman were so informed of said service and for which the Clerks entered on the

docket that service had been executed. A30-36.

Mr. Reardon made numerous attempts to get default or default judgment or a trial date/hearing as to damages in said cases. Judge Hillman failed to require the clerk to so enter default and he so refused to do so as well and he also failed to carry out his ministerial duty to move his docket in a timely manner by failing to hold a hearing on said damages or to inform Mr. Reardon, who is pro se, that his service was defective and either dismiss the lawsuit so it could be re-filed and service made properly or to grant Mr. Reardon an extension of time to effectively serve all defendants and as a result of Judge Hillman's failures to carry out his administrative duties, in 2018 Judge Simandle did in fact dismiss these 2 cases with no right to be heard or to re-serve the parties as the statute of limitations has now run out and though Mr. Reardon sought leave to re-serve the defendants to Judge Simandle and he did deny said request.

The well settled law is that the defendant bears the burden of proving service of process was defective and that said law also requires the defendant to so do within the 21 days allotted by Rule 12(a)(1)(A)(i) and the defendants in these two cases of Mr. Reardon have never pled to said cases timely and have waived any objection to Rule 12(b)(2)-(5) and Judges Hillman, Simandle, Martinotti and Apellate Judges Restrepo, Bibas and Nygaard have placed the burden of proving proper service on the Petitioners when it is not our duty to so prove and for which the courts have acted as defense counsel for the respondents unconstitutionally, Improperly, and illegally and discriminated against the Reardons. See Jackson v

Birmingham Brd. Of Ed., 544U.S. 167, 174, 2005, discrimination is unequal treatment of 2 people or things under similar circumstances; Myers v Moore,, D.C., ED Pa., 2014 and UNITED FOOD & COM'L WKRS. U., ETC. v. Alpha Beta Co., 736 F. 2d 1371, 9th Cir.,1984, so long as party actually receives service of the summons and complaint said service should be valid; Tanner v.Hardy, 764 F. 2d 1024, 1028 [Ft. Nt. 4], 4th Cir. 1985, failure to carry out the administrative act of scheduling a hearing removes Absolute immunity from the Judge; and Balistreri v. Pacifica Police Dept., 901 F. 2d 696, 699, 9th Cir., 1990, dismissal of a pro se lawsuit for improper service is not grounds to dismiss for such.

When it became apparent Judge Hillman was not going to move these 2 cases I did seek a Writ of Mandamus to the Third Circuit to compel the court to act in a timely and proper fashion and was so denied this relief.

The Petitioner did then seek a Writ of Mandamus to this court for the same reasons and was denied here as well.

This Court held in Foman v Davis, 371 U.S. 378, 1972 that cases should be handled in such a way as to decide cases in a speedy, inexpensive and just manner to comply with F.R.Civ.P. 1 and these 2 collateral cases were not handled in accordance with this court's position on Rule 1 mandates.

When Mr. Reardon had no place to turn to assert his rights and to be heard he filed this lawsuit, 3:18-cv-01296, against Judge Hillman and the clerks for legal and equity relief. The defendants had till April 9, 2018 to file an answer to the lawsuit. On April 7, 2018 Mr. Reardon sent in a request for default if the

defendants did not so answer on April 9, 2018. A37-47.

It appears that the orders of April 6, 2018 was back dated as I did not receive the order till 6 days after it was allegedly filed and for which it only takes 2 days to receive timely mail from the Court. It further appears that the January 7, 2019 order was also back dated as it took 3 days to arrive at my house and it should have only taken 2 days at most.

On April 6, 2018 Judge Martinotti entered his dismissal order that claimed that the defendants had absolute immunity and could not be sued for their ministerial or administrative and mandatory or non-discretionary duties to enter default and to timely handle its docket. Judge Martinotti did cite the controlling law on such immunity questions by citing Hughes v Long, 242 F.3d 121, 125, 3rd Cir. 2001 and Buckley v Fitzsimmons, 509 U.S. 259, 269, 1993 that clearly holds that "it is the duty of the official asserting absolute immunity to prove they are entitled to such for the function in question", for which the clear law and facts are that ministerial acts are not judicial which affords or accords immunity and Judge Martinotti did not only deny the Reardons' of the right to notice and to be heard but failed to require the defendants to assert these personal defenses that they must assert pro se or by way of counsel and thus failed to prove they are entitled to such defense and Judge Martinotti did in fact show a personal bias for which he should have recused himself for. Raymark Industries, Inc. v Lai, 973 F. 2d 1125, 1132, 3rd Cir. 1992; Kaohwa Shipping Co., SA, v. China Steel Corp., 816 F. Supp.

910, 913, Dist. Court, SD New York, 1993 , a meritorious defense does not prevent the setting aside of Void orders; Insurance Corp. of Ireland Supra.; Caperton v Massey Coal Co., 129 S.Ct. 2252, 2254, 2259, 2263, 2009. A17-29 and 37-51.

This court has made it clear that personal defenses can be waived by the party if not timely raised. Thus the failure to timely claim insufficient service of process or insufficient process or lack of personal jurisdiction are waived if not done so timely. Since default is a ministerial act performed by either the clerk or the Judge, said act is no different than the establishment of a Jury list, there is no absolute immunity for such failure.

Cottrell v Norman, 2015 by Judge Hillman. See Also Blackstone's Commentaries, Book 1, Chapter 9, Page 342, A judge may be sued for failure to follow his/her prior rulings if warned and done out of wilful or malicious reasons and double costs is allowed against said Judge and Mr. Reardon informed Judges Hillman and Martinotti of their failure to abide by their past rulings and they wilfully failed to correct their errors. As did the 6 appellate Judges.

Judge Martinotti's legal position is unconstitutional since he claims that the clerk exercises discretion in entering Default when the clear law says he does not so exercise such and he relies on Judge Simandle's case of Bey v Bruey that the District Court judge claims that Rule 55 means something other than what the Statute, rules and case law say, and that is that the rule states the clerk performs a ministerial, mandatory, non-judicial and non-discretionary function in entering of default, that the clerk must enter default on demand and the clerk

therefore lacks any discretion to not so enter default on demand. The clerk's task provides him no discretion and judgment, and now, somehow, the Clerk performs a judicial function, since to hold it would be a ministerial function would strip Judge Hillman's Immunity if it is such a function, when in reality the Judge also performs the same functions Under Rule 55(a) or (b), in order to protect the liable conduct of the defendants' instead of the rights of the plaintiffs/ petitioners. (A) Does a Judge, therefore, perform a judicial function under Rule 55(a) or (b)(2) meaning the clerk also carries out a judicial function? or (B) does the clerk carry out a ministerial function and thus so does the judge? A17-29. The petitioners request this court to settle this dispute in the law on immunity and relative to judicial or ministerial, non-discretionary and mandatory functions that has never arisen for Rule 55 before. But for which all the other circuit court's and Judge Hillman have held the clerk must enter default upon demand which makes the action ministerial and mandatory affording or according no immunity.

What the lower courts have done is to say that because Default Judgment may be exercised by the judge it is a judicial function and thus the judge is absolutely immune. They have found that any such function performed by a Judge is Judicial and thus it is a Judicial Function and the Respondents are therefore immune, when they have failed to look directly at the function itself and see that the Clerk can perform the same functions as the court under Rule 55(a) and (b)(1) and that they exercise some form of function equivalent to a judicial function and is immune and thus the Judge is also immune when they do not.

The clear law by this court is that Mandatory acts are Ministerial and that Ministerial or Mandatory acts are not discretionary and any official who does not comply with the mandate of the mandatory act is liable to the injured party. Therefore when examining the function, as is required for immunity purposes, the functions of entering Default and Default Judgment, or of scheduling hearings in a timely manner or informing a pro se plaintiff that his service is defective and giving said plaintiff the right, timely, to re-file and reserve the summons and complaint or additional time to so serve the defendants or notify the pro se plaintiff of his right to amend are all functions that are Administrative or Ministerial in nature and not judicial functions and Mr. Reardon sought this relief in the original lawsuit or by way of leave to amend that was denied by Judge Martinotti on January 7, 2019 and not granted in the first instance before April 6, 2018.

The lower courts know that Immunity must be based on the nature of the function, and not the nature of the official. A17-26 but they have in fact found that because a judge performs some act under the Rules that such act is by nature Judicial for which Absolute immunity attaches. The fact of the matter is that the clerks Must enter default judgment and default on demand and that such acts are Ministerial, Non-Discretionary, Mandatory and Non-Judicial in nature, and this court has held that where a function compels an official to carry out some act and he fails or refuses to do so that the said individual may be held liable to the injured party. These are functions that do not provide absolute immunity to the

Clerk or Judge.

Given this state of the law and given the state of the function it is clear that the Lower Court Judges focused on the nature of the official by claiming that because the Judge performs the act of default and default judgment that it ipso facto becomes a judicial act/function but ignores the fact that the Legislature, and the case law hold that functions that are also performed by Non-Judicial Agents are in fact Non-Discretionary, Mandatory, Non-Judicial, Ministerial functions since they are performed by someone other than a Judge. They have turned the nature of the Function analysis into a Nature of the official so as to afford and accord the respondents protection from lawsuit for their abusive and willful conduct and actions. They have failed to require the defendants to prove they are entitled to absolute immunity and without a hearing or prior notice, that has not happened here, and this court needs to decide if a clerical function, which is non-discretionary, is a judicial function when the judge performs the same act or whether the Judge performs a ministerial function since it is also performed by the clerk. This has never been addressed by this court and needs resolution by this court for all complainants, especially those pro se. A1-29.

Judge Simandle, believes that the clerk's function to enter default upon demand is fact sensitive that accords Qusai-Judicial Immunity on the grounds that the clerk must decide if the complaint and summons have been properly effected by the plaintiff and he thus performs a judicial, not a ministerial, function that he is entitled to absolute immunity for, while the courts have said

quite the opposite. If the statute does not provide specifically that the clerk has a function other than to enter said default, the Legislature would have so found such and put it in the Statute and Rule 55 but that has not happened and the courts have so found that not to be the case. This dispute as to the courts directly answering Rule 55(a) or (b)(1) have not so found the clerk to have such immunity. Even the 3rd Cir. said that the taxation of costs, that requires factual findings, is still a ministerial act by the clerk and as such would not be entitled to absolute immunity. If the taxing of costs is ministerial the act of deciding damages is also non-judicial, non-discretionary, ministerial and mandatory and since it is such for the clerk, it must also be such for the judge. However Judge Martinotti and the 3rd Cir. focused on the nature of the official and found that because a judge performs a function under Rule 55(a) or (b)(2) it automatically is a judicial function and they have focused on the nature of the official and not the nature of the function that they know they are required to do. A17-26. This courts decisions are clear that ministerial acts accord no immunity and the mere fact the judge performs an act that the clerk also performs is not proof that since the Judge so performs such an act it elevates the act to being judicial. This dispute in the various circuits on whether a clerk is allowed absolute immunity for a function that the circuits are in disagreement over and are in disagreement with this circuit's findings and for which there is a dispute in the law as cited by the lower Courts, this court should clarify and resolve these Conflicts so all plaintiffs can know when a clerk and Judge are liable for ministerial, mandatory, non -discretionary and non- judicial

acts, and precisely under what facts and circumstances the courts and the parties can know when such occurs, especially for pro se plaintiffs.

The clerk failed to enter default and default judgment under Rule 55(a) or (b)(1) which are ministerial acts. The mere fact that the judge performs the same acts under Rule 55(a) or (b)(2) does not make them judicial acts but they too must also be mandatory ,non-judicial non-discretionary and ministerial functions which is what the court must focus on and are not judicial functions.

The findings of Judge Simandle regarding clerical immunity is premised on the claim that a Clerk performs a vital discretionary role for the Court/Judge for which if this were true they might so be immune, but the only alleged discretion of the Clerk is the determination as to whether it appears the party has been served or not. The clerk does not aid the court in assessing the legal and factual issues the court is required to do such as a Prosecutor, Doctor or Psychiatrist, who is involved with the factual findings of guilt or innocense it is clear that such would amount to being an arm of the court and entitled to Absolute immunity, but the clerk serves no such function and since the Clerk is the one identified in Rule 55(a) and (b)(1) it is clear that the clerk exercises no discretion that a party, as stated, would be required to do. Deciding if a person was served has nothing to do with the finding of facts and law and does not serve a Judicial function.

Judge Martinotti is also in error since the case of Bey v Bruey is a 28 U.S.C. 1915 case that gives the judge the right to sua sponte review a prisoner's case in order to ascertain if the lawsuit is just and proper and this was and is not an In

Forma Pauperis lawsuit and for him to rely on the rights under Section 1915 to a case that is not such giving him the right to prejudge a case is way out in left field and he neither has nor had any such authority to treat this case as though it were a Section 1915 case. Further, in Bey v Bruey the court notified the plaintiff of its intent to possibly dismiss his case and the Reardons' were denied of this notice and right to be heard. Judge Martinotti also dismissed without giving me a right to amend.

It should further be stated that Judge Martinotti relies on an order By Judge Gerry that he claims gives him the right to not only pre-judge a case but to do so without complying with the mandates of Due Process. Such a position throws away the absolute rights of the people that are absolutely guarantied to the people before their rights can be denied and as to void orders. Such an interpretation of Judge Gerry's standing order flies in the face of the law on Due Process and Void orders.

The only discretion the clerk has to do is with respect to Rule 55(b)(1) is to evaluate the basis for the damages, which he would not have such immunity for, but there is no precedent that says a clerk exercises any discretion with respect to the mere entering on the record of a party's default or default judgment. Such acts are not discretionary and require no discretion that holds to the claim of said act being discretionary and are thus equal to a judicial act. A17-29.

After Judge Martinotti's April 6, 2018 order dismissing this case Mr. Reardon filed a notice of Appeal to the 3rd Cir. challenging Judge Martinotti's

order on the grounds that it was void due to his denial of the Reardons' rights to notice and to be heard as per Due Process, which in effect makes the order void and must be set aside. A1-25.

The 3rd Cir., also, ignored the well settled law on void orders and upheld Judge Martinotti's order by, apparently, claiming that Immunity Trumps Due Process contrary to all 12 Circuit Courts of Appeals. A27-29 and pages 16-18 below.

The 3rd Cir. Court of appeals did enter it's order on August 28, 2018 upholding Judge Martinotti's dismissal order on the claim that Judge Hillman acted judicially to deny default judgment but failed to address the issue of equity relief sought against these defendants/respondents, they failed to address the issue of the entry of default and a hearing date as to damages for said cases that are considered as administrative acts, it failed to address the void orders law, and that the April 6, 2018 order is and was void and that the entry of default judgment is in fact a judicial act when it is in fact one to also be preformed by a non judicial official no differently than the creation of a jury list which denies absolute immunity from and did so fail and refuse to set aside the void order of Judge Martinotti when they know full well that there is no discretion to not set aside a void order and that Judge Martinotti was just in his assertion of these personal defenses and was permitted to plead these defenses on behalf of the respondents and thus said that a Judge can act as counsel for any party he wishes to so do and that there is no requirement or duty to comply with Due Process of

Law, and that the Appellate court can now do what the 3rd Cir. already ruled that it cannot so do, Laskaris v. Thornburgh, 661 F. 2d 23, 26, 3rd Cir. 1981 which holds that equity relief is available if the legal relief is not and Penn West Associates, Inc. v Cohen, 371 F. 3d 118, 125, 3rd Cir. 2004, which is to not hear a matter of first instance before all the facts and law have been aired in the District Court, which did not occur here, the clerks are only entitled to qualified immunity only after discovery is completed in conformance with Black v Bayer, 672 F.2d 309, 316, 3rd Cir. 1982. A17-29.

If we accept the premise of Judge Simandle the court would have us believe that because a clerk has to ascertain whether service was proper under the rules that the clerk thus performs some significant Judicial act according him immunity. This would then require the courts to say that a person making up a Jury list, performs a Judicial Function because the said person must ascertain if the prospective juror is of age, that he/she has no infirmities to sit as a juror and that said juror lives in the county to which he is summoned. The Court would have us believe these are fact sensitive matters of a judicial nature granting immunity for. The decisions held by the Courts below amounts to no more than the clerk investigating the basis for the default and Judge Simandle's order in Bey v Bruey even holds that prosecutor's are not immune for their investigative functions. Also, the Clerk noted in the docket that service had been executed. A30-36.

After the 3rd Cir. Denied my appeal I did file a Rule 60(b)(3), (4) and (6)

motion to Judge Martinotti to set aside his void order for excusable neglect and error by the court as to facts and law, U.S. v Beggerly ,524 U.S. 38, 42,43, 1998 and to set aside his order of April 6, 2018 on the grounds that it is void for failure to grant notice and right to be heard before action is taken. United Student Aid Fund v Espinosa, 130 S.Ct. 1367, 1376-1377, 2010. A1-16.

On January 7, 2019 Judge Martinotti did in fact deny the relief from his void order by relying on the void order of the 3rd Cir. claiming that the defendants were immune and there was no other issue to be resolved by the court. This October motion, by Mr. Reardon, did challenge Judge Martinotti's earlier order on the grounds of it being void due to denial of Due process for which the 1st , through the 11th and D.C. circuits have all agreed that if the order is void for want of due process it must be set aside and there is no discretion for not so doing and their failure is a non-discretionary, ministerial, mandatory and non-judicial act, is unenforceable in any other court, and does not settle the rights of the injured party. Antoine v Byers & Anderson Inc., 508 U.S. 429, 435, 1993, Judges don't have absolute immunity for mandatory, ministerial or administrative acts; Sabariego v Maverick, 124 US 261, 293, 31 L Ed 430, 8 S.Ct. 461, 1886; In re Charter Communications, Inc., 393 F. 3d 771, 784, 8th Cir. 2005. See Raymark Industries, Inc. v. Lai, 973 F. 2d 1125, 1132, 3rd Cir. 1992, setting aside a void order is merely a formal act.

Judge Martinotti did enter an original void order in 2018, and refused to set it aside in 2019 and the 3rd Cir. Also failed to set aside the void order of 2018 and

has treated this pro se plaintiff differently than other pro se or counseled plaintiff's and has shifted the burden of proof as to Rule 12(b)(2)-(5) defenses to the plaintiff, Mr. Reardon, and did not require the defendants to carry their burden of proof the law requires of them due to these judges acting, and supporting the act of acting, as defense counsel for the respondents/defendants in all 3 cases. These cases have been dismissed and denied the right to be heard by these Judges based upon technicalities. Schiavone v. Fortune, 477 US 21, 27, 1986 and Foman v Davis, 371 U.S. 178, 182, 1962. Cases should not be dismissed on technicalities.

In February 2019 Mr. Reardon did file a new appeal so challenging the validity of the earlier court orders on numerous grounds. On March 5, 2019, D.U. S. ATT. Daniel Meyler did ask the 3rd Cir. to summarily dismiss the appeal on the grounds that the court had found the Respondents were entitled to Absolute Immunity. This is a violation of R.P.C. 3.3 and is a fraud. The void order cannot be sanctioned based upon a claim of Immunity.

On March 11, 2019 Mr. Reardon filed his appeal brief and Appendix to the 3rd Cir.

On March 14, 2019 the 3rd Cir. In fact submitted the appeal to the summary motion panel. A1-2,27-29,48-51.

The standard in the 3rd Cir. Is that review of Rule 60(b)(4) matters are plenary, Alston v. KEAN UNIVERSITY, 2015 and the court did deny the Reardons' of such a review by summarily holding the appeal would be dismissed

summarily despite Mr. Reardon asking for plenary review on 3/7/19 in reply to the respondents request for a summary decision.

The nature of the official is a judicial issue but the nature of the function is a factual issue and the Reardons' were denied a plenary hearing to ascertain the validity of the factual claim of the Defendants in case 3:18-cv-01296 as to (a) whether the Function claimed is supported by appropriate facts; (b) whether Rule 55(a) or (b) are ministerial, mandatory and non-discretionary and what facts support such a claim, and (c) how can a party be denied of such a hearing to establish a valid claim by a party to a lawsuit if Due Process is denied?

Legal Arguments

1. Void orders and their consequences.

The courts said in Sea-Land Serv., Inc. v. Ceramica Europa II, Inc., 160 F.3d 849, 852 (1st Cir.1998); ILGWU Nat. Retirement Fund v. Meredith Grey, Inc., 986 F. Supp. 816, 819, Dist. Court, SD New York 1997; States v. Martin, 378 F.3d 353, 358, 4th Cir. 2004; Carter v. Fenner, 136 F.3d 1000, 1005 (5th Cir.1998); Antoine v. Atlas Turner, Inc., 66 F.3d 105,108 (6th Cir.1995) (quoting United States v. Indoor Cultivation Equip. from High Tech Indoor Garden Supply, 55 F.3d 1311, 1317 (7th Cir.1995)); Johnson v. Arden, 614 F. 3d 785, 799, 8th Cir. 2010; Export Group v. Reef Indus., Inc., 54 F.3d 1466, 1469 (9th Cir.1995); Wilmer v. Board of County Comm'rs. of Leavenworth County, 69 F.3d 406, 409; (10thCir. 1995); Oldfield v. Pueblo De Bahia Lora, SA, 558 F. 3d 1210 , 1217, 1218, 11th Cir. 2009

and Bell Helicopter Textron v. Islamic Republic, 734 F. 3d 1175, 1179, D.C. Cir. 2013.

> .....Under Rule 60(b)(4) there is no discretion to not set aside its prior order if it is void due to lack of personal or subject matter jurisdiction or for failure to give notice or right to be heard as per Due Process of Law.

Windsor v. McVeigh (1876) 93 US 274, 282, 23 L.Ed 914; McDonald v.Mabee (1917) 243 US 90, 93, 37 Sct 343, 61 L.Ed. 608, Chicot County Drainage Dist. v. Baxter State Bank, 103 F. 2d 847, 848, 8th Cir. 1939; Berl v. Crutcher, 60 F. 2d 440, 445 5th Cir. 1932 and Brown v. RJ Reynolds Tobacco Co., 576 F. Supp. 2d 1328, Section III, Dist. Court, MD Florida 2008; Standard Oil Co. of Ind. v. Missouri, 224 US 270, 282, 1912; Postal Telegraph Cable Co. v. Newport, 247 US 464, 476, 1918; International Life Ins. Co. v. Sherman, 262 US 346,, 351, 1923; Roberts v. Anderson, 66 F. 2d 874 , 876, 10th Cir. 1933; In re Noell, 93 F.2d 5, 6, 8th Cir. 1937; In re Central R. Co. of New Jersey, 136 F. 2d 633, 639, 3rd Cir. 1943; United States v. Sacher, 182 F. 2d 416, 420, 2nd Cir., 1950; Swindell-Dressler Corporation v. Dumbauld, 308 F. 2d 267, 273, 3RD Cir., 1962; Meyer v. Curran, 397 F. Supp. 512, 517, Dist. Court, ED Pennsylvania 1975; Morrissey v. Brewer, 443 F. 2d 942, 951, 8th Cir. 1971; United States v. Bifield, 702 F. 2d 342, 348, 2nd Cir. 1983; Reshard v. Britt, 839 F. 2d 1499,Ft. Nt. 7, 11th Cir., 1988 and Richards v. Jefferson County, 517 US 793; Ft. Nt.4, 1996.....

> .....An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (See Rose v. Himely (1808) 4 Cranch 241, 2 L ed 608; Pennoyer v. Neff (1877) 95 US 714, 24 L Ed 565; Thompson v. Whitman (1873) 18 Wall 457, 21 l ED 897.

Sabariego v Maverick, 124 US 261, 293, 31 L Ed 430, 8 S.Ct. 461, 1886:

> A judgment of a court without hearing the party or giving him an opportunity to be heard is not a judicial determination of his rights and is not entitled to respect in any other tribunal.[void orders, state or federal.]
>
> ....Lubben v. Selective Service System Local Bd. No. 27, 453 F.2d 645, 14

A.L.R. Fed. 298 (C.A.1 Mass. 1972) and Hobbs v. U.S. Office of Personnel

Management, 485 F.Supp. 456 (M.D. Fla. 1980).

Elliot v Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340, 1828:

> the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." [enforcement of void orders is such.]

World-Wide Volkwagen Corp. v. Woodson, 444 U.S. 286, 291 (1980):

> "A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. Pennoyer v. Neff, 95 U.S. 714, 732-733, (1878)." [void orders, state or federal.]

United Student Aid Fund v Espinosa, 130 S.Ct. 1367, 1376, 1377, 2010:

Rule 60(b), however, provides an "exception to finality," Gonzalez v. Crosby, 545 U.S. 524, 529, 125 S.Ct. 2641, 162 L.Ed.2d 480 (2005), that "allows a party to seek relief from a final judgment, and request reopening of his case, under a limited set of circumstances," id., at 528, 125 S.Ct. 2641. Specifically, Rule 60(b)(4)—the provision under which United brought this motion—authorizes the court to relieve a party from a final judgment if "the judgment is void."[9] 1377...

> A void judgment is a legal nullity. See Black's Law Dictionary 1822 (3d ed. 1933); see also id., at 1709 (9th ed.2009). Although the term "void" describes a result, rather than the conditions that render a judgment unenforceable, it suffices to say that a void judgment is one so affected by a fundamental infirmity that the infirmity may be raised even after the judgment becomes final. See Restatement (Second) of Judgments 22 (1980); see generally id., § 12. The list of such infirmities is exceedingly short; otherwise, Rule 60(b)(4)'s exception to finality would swallow the rule. "A judgment is not void,"

for example, "simply because it is or may have been erroneous." Hoult v. Hoult, 57 F.3d 1, 6 (C.A.1 1995); 12 J. Moore et al., Moore's Federal Practice § 60.44 [1][a], pp. 60-150 to 60-151 (3d ed.2007) (hereinafter Moore's). Similarly, a motion under Rule 60(b)(4) is not a substitute for a timely appeal. Kocher v. Dow Chemical Co., 132 F.3d 1225, 1229 C.A.8 1997); see Moore's § 60.44[1][a], at 60-150. Instead, Rule 60(b) (4) applies only in the rare instance where a judgment is premised either on a certain type of jurisdictional error or on a violation of due process that deprives a party of notice or the opportunity to be heard. See United States v. Boch Oldsmobile, Inc., 909 F.2d 657, 661 (C.A.1 1990); Moore's § 60.44[1] [a]; 11 Charles A. Wright, Arthur R. Miller, & Mary Kay Kane, Federal Practice & Procedure § 2862, p. 331 (2d ed.1995 and Supp.2009); cf. Chicot County Drainage Dist. v. Baxter State Bank, 308 U.S. 371, 376, 60 S.Ct. 317, 84 L.Ed. 329 (1940); Stoll v. Gottlieb, 305 U.S. 165, 171-172, 59 S.Ct. 134, 83 L.Ed. 104 (1938).

The Judges below refused and failed to rule on the Rule 60(b)(4) claims by Mr. Reardon and their orders are in violation of the law on Due Process and void orders. A1-47.

Mr. Reardon clearly informed the courts of the orders being void and cannot be given any legal effect and must be set aside and they have all refused to rule on this issue of their void orders or to set aside their void orders. A1-47.

2. These are Administrative, Ministerial, Non- Discretionary or Mandatory Functions.

The law holds that mandatory acts are ministerial and the courts have held that by the failure to carry out a ministerial act the official is liable. Judges Martinotti, Restrepo, Nygaard and Bibas all focused on the issue of immunity by claiming that if absolute immunity exists that there is no foul or harm caused by the denial of Due Process to notice and right to be heard before one's rights are decided in violation of Due Process. If a pro se, or other plaintiff, is denied the

right to contest the claim of absolute immunity, how can a process be fair if the court is going to sua sponte make such a pre-determination or pre-judgment of such? In this case, not only did these Judges miss the mark on void orders, they also missed the mark on judicial acts allegedly carried out by the Clerks of the Court and Judge Hillman.

The court said in Hoxworth v Blinder Robinson and CO., 980 F. 2d 912, 917, 3rd Cir. 1992:

> Defendants first argue that Rule 55 cannot be used to impose a default against a defendant who has filed an answer and actively litigated during pretrial discovery. To resolve this issue, we turn first to the language of the Rule itself, which provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed.R.Civ.P. 55(a) (emphasis added).[11] By its very language, the "or otherwise defend" clause is broader than the mere failure to plead.

Cottrell v Norman, 2015, Judge Hillman presiding:

> Default judgment is governed by Federal Rule of Civil Procedure 55, which states, in relevant part, as follows:
>
> When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.
>
> Fed. R. Civ. P. 55(a). After default is entered pursuant to Rule 55(a) the \ plaintiff may seek the court's entry of default judgment under either Rule 55(b)(1) or Rule 55(b)(2). Nationwide Mut. Ins. Co. v. Starlight Ballroom Dance Club, Inc., 175 F. App'x 519, 521, n.1 (3d Cir. 2006) (citing 10A Wright, Miller & Kane,Fed. Prac. & Proc. § 2682 at 13 (3d ed. 1998)). After default judgment is entered, "the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true." Comdyne I, Inc. v. Corbin, 908 F.2d 1142, 1149 (3d Cir. 1990) (citing 10 Wright, Miller & Kane, Fed. Prac. & Proc. § 2688 at 444 (2d ed. 1983)).

In re Paoli RR Yard PCB Litigation, 221 F. 3d 449, 453, 3rd Cir. 2000: 461:

> The clerk of court's role in taxing costs awards, while quasi-judicial, is essentially ministerial.

Fuller v. MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, 888 F. Supp. 2d 1257 - Dist. Court:, M.D. Florida. Jacksonville Division,2012:

> (a clerk "candidly conceded that the function is operational and ministerial"); Ferlita v. State, 380 So.2d 1118, 1119 (Fla. 2d DCA 1980) (stating that "[a] clerk acts in a purely ministerial capacity, and has no discretion to pass upon the sufficiency of documents presented for filing"); Pan Am. World Airways v. Gregory, 96 So.2d 669, 671 (Fla. 3d DCA 1957) (describing the clerk's duties, when acting as an officer of the court, as "ministerial and as such he does not exercise any discretion").

The clerk does not use any discretion to the propriety of service, he is only to look at the affidavit of service and see if it appears to show the defendants have been served and I provided an affidavit of service showing service had been executed. A30-36.

City of New York v. Mickalis Pawn Shop, LLC, 645 F. 3d 114, 128, 2nd Cir., 2011:

> Fed.R.Civ.P. 55(a). Although Rule 55(a) contemplates that entry of default is a ministerial step to be performed by the clerk of court, see Pinaud v. Cnty. of Suffolk, 52 F.3d 1139, 1152 n. 11 (2d Cir. 1995) (describing "the entry of a default" as "largely a formal matter" (internal quotation marks omitted)), a district judge also possesses the inherent power to enter a default, see Beller & Keller v. Tyler, 120 F.3d 21, 22 n. 1 (2d Cir.1997).

See Also Raymark Industries, Inc. v. Lai, 973 F. 2d 1125, 1132, 3rd Cir. 1992 as to default being a formal matter.

BAC LOCAL 2, ALBANY v. Moulton Masonry & Const., 779 F. 3d 182 Court of Appeals, 2nd Cir. 2015:

> Under Rule 55(a) of the Federal Rules of Civil Procedure, "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or other wise defend ..., THE CLERK MUST ENTER the party's default."

The entry of default is therefore not discretionary.

This court has held that the test of Judicial conduct is as to the nature of the Function and not the nature of the official, and by Judge Martinotti saying that the defendant/respondents are immune as the acts complained of are judicial is to put the cart before the horse and his findings are of the nature of the official and not the nature of the Function which is the bench mark of this court. How can the denial of an investigation before hand as to any alleged claim that the entry of Default, which is non-discretionary, ministerial, and mandatory, be a judicial function when the clear law says it is not?; and how such non-judicial functions allow immunity of any kind as per the court's decisions? By the lower court's actions as acting as defense counsel and sanctioning of such, and by their claiming that the Function is judicial not cause the appearance of adverse bias by the courts that this court has barred as per Caperton v Massey Coal Co., 129 S.Ct. 2252, 2254, 2259, 2263, 2009.

Thus, by dismissing this case peremptorily, sua sponte and without Due Process the 3rd Cir. has held that it is the nature of the official that is controlling here and not the nature of the function and that Due Process is not necessary to such claims.

The courts have also said that administrative functions, such as moving its docket along speedily or failing to schedule a hearing, such as a hearing for damages due to default, or by failing to notify the plaintiff that his service is defective and either dismissing the case and allowing time to re-file and re-serve

or to grant an extension to properly serve are administrative function which absolute immunity is not proper. The court's failed to do these 3 things and now the courts have dismissed these cases without the right to be heard on them. As the courts said in Tanner v. Hardy, 764 F. 2d 1024, 1028 [Ft. Nt. 4], 4th Cir. 1985:

> However, the court suggested that "[w]hen a judge acts in a non-judicial capacity [and merely performs a mandatory, ministerial function such as scheduling a hearing] he pro tanto loses his absolute immunity and is subject to liability as any other state official." Id. at 4 n. 7.

I sought leave to amend as per Rule 60(b)(4) and U.S. v Beggerly Supra as to Judge Hillman's administrative functions and as per Tanner above and the lower courts denied me this right. Had I been given notice of the court's intent to dismiss I would have sought leave to amend as to these issues. A38-46.

Balistreri v. Pacific Police Dept., 901 F. 2d 696, 699, 9th Cir., 1990:

> Pro se cases should not be dismissed for improper service.

Kaohwa Shipping Co., SA, v. China Steel Corp. , 816 F. Supp. 910, 913, Dist. Court, SD New York,1993:

> Meritorious Defenses are no reason for not setting aside void orders for violations of Due Process to notice and being heard.

The 3rd Circuit apparently does not go by these cases as noted by the dismissal of the Reardons' cases and this court should settle this dispute in the law to adequately inform all plaintiffs, but most importantly pro se cases, of the guidelines for such proceedings and to protect and honor our rights.

There is no immunity but Qualified at best.

3. Liability for Mandatory, Administrative, Non-Discretionary or

Ministerial Functions.

Antoine v Byers & Anderson Inc., 508 U.S. 429, 435, 1993 :

> Indeed, we have recently held that judges are not entitled to absolute immunity when acting in their administrative capacity. Forrester v. White, 484 U. S. 219, 229 (1988). 436 (absolute immunity from state law tort actions available to executive officials only when their conduct is discretionary).

In re Charter Communications, Inc., 393 F. 3d 771, 784, 8th Circuit 2005:

> Ministerial acts have long been recognized as nonjudicial by the Supreme Court. See, e.g., Custiss v. Georgetown & Alexandria Turnpike Co., 6 Cranch 233, 10 U.S. 233, 236, 3 L.Ed. 209 (1810).

Rule 55 is clear that acts that are mandatory are ministerial that such acts do not afford or accord absolute immunity and the Judges have focused on this claim of immunity and Nature of the official and not the nature of the Function to over-ride the very intent of Due Process.

In fact, the Judges in these proceedings also failed to comply with Bogan v. Scott-Harris, 523 US 44, 51-52, 1998:

> Even the authorities cited by respondent are consistent with the view that local legislators were absolutely immune for their legislative, as distinct from ministerial, duties. In the few cases in which liability did attach, the courts emphasized that the defendant officials lacked discretion, and the duties were thus ministerial. See, e. g., Morris v. The People, 3 Denio 381, 395 (N.Y. 1846) (noting that the duty was "of a ministerial character only"); Caswell v. Allen, 7 Johns. 63, 68 (N.Y. 1810) (holding supervisors liable because the act was "mandatory" and "[n]o discretion appear[ed] to [have been] given to the supervisors").....
>
> Respondent's heavy reliance on our decision in Amy v. Supervisors, 11 Wall. 136 (1871), is misguided for this very reason. In that case, we held that local legislators could be held liable for violating a court order to levy a tax sufficient to pay a judgment, but only because the court order had created a

> ministerial duty. Id., at 138 ("The rule is well settled, that where the law requires **52** absolutely a ministerial act to be done by a public officer, and he neglects or refuses to do such act, he may be compelled to respond in damages to the extent of the injury arising from his conduct"). The treatises cited by respondent confirm that this distinction between legislative and ministerial duties was dispositive of the right to absolute immunity. See, e. g., Cooley 377 (stating that local legislators may be held liable only for their "ministerial" duties); Mechem § 647 (same).

Page v. Schweiker, 786 F. 2d 150 , 153, 3rd Cir,. 1986:

> It is well-established that, absent "compelling circumstances," an appellate court will not reverse on grounds raised for the first time on appeal:
>
> This prudential policy seeks to insure that litigants have every opportunity to present their evidence in the forum designed to resolve factual disputes. By requiring parties to present all their legal issues to the district court as well, we preserve the hierarchial nature of the federal courts and encourage ultimate settlement before appeal. It also prevents surprise on appeal and gives the appellate court the benefit of the legal analysis of the trial court.

Despite Judges Martnotti, Restrepo, Bibas and Nygaard knowing that all the facts and the law were not aired in the U.S. District Court back in 2018, the Appellate court thus failed to follow it's own practice and did deny relief from the Void orders of Judge Martinotti and the 3rd Circuits decisions on August 28, 2018. If a case is dismissed sua sponte without notice or right to be heard before hand, how is a party given the right to be heard on all the facts and law before an appeal may be properly taken? The 3rd Cir. Knows that an appeal in the first instance is and was not permitted to be heard by the Appellate court in the first instance or that compelling circumstances existed as to denial of Due Process and they have proven their own bias and/or incompetence or have intentionally,

wilfully, or deliberately denied these pro se appellants of their rights. See Blackstone's Commentaries, Book 1, Chapter 9, Page 342.

The position of the 3rd Cir. Holding to the claim that matters of first instance to the appellate court is troubling to the petitioners and should be to the court since Judge Martinotti himself said in his January 7, 2019 order that I should have submitted my complaints to the 3rd Cir. Back in 2018 and totally contrary for the 3rd Cir.'s decision, A1-31 and 40-47, which I did and the third Circuit refused to address said issue.

4. The claim of absolute immunity does not trump Due Process of law to Notice and be heard.

KAO HWA SHIPPING CO., SA, v. China Steel Corp., 816 F. Supp. 910, 913, Dist. Court, SD New York, 1993:

> Rule 60(b)(4) of the Federal Rules of Civil Procedure authorizes relief from void judgments. A judgment is void and subject to vacatur if the court lacks either subject matter jurisdiction or personal jurisdiction, regardless of whether a meritorious defense exists. Triad Energy Corp. v. McNell, 110 F.R.D. 382, 385 (S.D.N.Y.1986); Leab v. Streit, 584 F.Supp. 748, 760-61 (S.D.N.Y. 1984); 11 Charles A. Wright & Arthur R. Miller, Federal Practice and Procedure § 2862 (1973) ("Wright & Miller"). Unlike motions made pursuant to other subsections of 60(b), the Court has no discretion regarding motions to vacate void judgments under Rule 60(b)(4). The court must vacate a void judgment. Triad Energy Corp. v. McNell, 110 F.R.D. at 384 (citations omitted); Leab v. Streit, 584 F.Supp. at 760 (citations omitted); Wright & Miller § 2862. In addition, as a void judgment cannot acquire validity by way of laches, a judgment may be attacked as void at any time. Triad Energy Corp. v. McNell, 110 F.R.D. at 385; Wright & Miller 2862. See also Kopec v. GMG CONSTRUCTION CORP.; Standard for Review, Dist. Court, ED New York 2011. See 11 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure §2862

A PRACTITIONER'S GUIDE TO POST- JUDGMENT MOTIONS Deborah Alley Smith CHRISTIAN & SMALL LLP Birmingham, Alabama

> Rule 60(b)(4) provides a party relief from a void judgment. A void judgment is one entered by the court without authority or jurisdiction and results from the court's lack of personal or subject-matter jurisdiction or the exercise of jurisdiction in violation of constitutional requirements. See 11 C. Wright, A. Miller & M. Kane, Federal Practice &Procedure § 2862 (1995). A court has no discretion under this subsection; if a judgment is void, it is to be set aside, and if it is valid, it stands. Fisher v. Amaraneni, 565 So.2d 84, 87 (Ala. 1990); Wonder v. Southbound Records, Inc., 364 So. 2d 1173 (Ala. 1978).

The Judges below focused on this claim of Absolute Immunity for the Ministerial, Mandatory, Administrative, Non-Discretionary and Non-Judicial Functions to override the very right of Due Process to notice an being heard and that it trumps Due Process of law. The Judges below failed to comply with the mandates of Due Process and have turned a non-judicial act into a Judicial act.

Further, Judge Martinotti's pre-disposition was such that he should have recused himself for this bias and he failed to so do. If this court remands this case it should be to different judges other than the 7 below.

This court should also pass judgment on the question of whether a judge is immune for the intentional denial of rights as per Blackstone and Pierson v Ray, 386 U.S. 547, 567, 1967.

Relief Sought

This pro se petitioner prays that this court will grant this petition of Certiorari and overturn the void orders of the courts below and honor and protect these pro se petitioners' Due Process rights and settle if there is any defense that

trumps Due Process or whether Ministerial, Mandatory, Non-Discretionary, Non-Judicial or Administrative Functions under Rule 55 grants immunity in such cases as the law seems clear to this pro se petitioner, as to all pro se parties, and the lower court judges apparently need clarification as to these claims.

The petitioner also pleads with this court to order the defendants to pay double all costs so put out by Mr. Reardon in these 3 mentioned cases till this petition. This court should settle this clearly contradictory findings of the Courts below so all plaintiffs, especially pro se, may know the proper law for all such Lawsuits as well as to establish wether Judges perform a ministerial, non-judicial non-discretionary and mandatory acts under Rule 55(a) and (b)(2) or whether a clerk performs a judicial function under Rule 55(a) or (b)(1) that accords him absolute immunity or wether the rules are mandatory or ministerial functions which do not grant immunity for such conduct, especially when the clerks have said that service had been executed. A30-36.

This court needs to settle the dispute of whether a clerks Non-Discretionary , Mandatory, and Non-Judicial, and Ministerial functions under Rule 55(a) and (b)(1) are such as found by the various circuit courts and thus whether the Judge performs such an act and can be held liable, or whether the Court in fact performs a Judicial act under Rule 55(a) and (b)(2) and therefore the clerk performs a Judicial Function for which he is immune from liability as found by Judges Simandle and Martinotti and Judges Bibas, Restrepo, Nygaard,. Ambro, Krause and Porter of the 3rd Cir.

The court is also called upon to settle the disputes in the law between the various circuit courts and those below, and that the court order the lower courts to provide the Reardons with a plenary hearing as to the absolute immunity claims of the respondents and that such is a mandate for all plaintiffs.

The petitioner asks this court to establish if the nature of the function is a factual dispute that requires oral testimony and proof to make such a claim, especially when the courts have denied the injured party any right to be heard on or whether a ministerial, non-discretionary or mandatory act is of a judicial nature according a judge Absolute Immunity and is such for the clerk as well or whether the clerks perform a non-discretionary, ministerial or mandatory function and thus the Judge does as well.

The Petitioners ask this court to find that the standing order that allows the court to ignore and not comply with the absolute right to Due Process of law, that such an order is unconstitutional and this court needs to set aside such an order to protect the rights of all litigants who come before them. See petition pages 12-19 above and A42 which so proves that no such order can stand and be enforced by any Judge. It would be a mandate that denies litigants' of their absolute rights to notice and being heard before hand and is unconstitutional and I ask the court to settle this alleged order as such.

This court should settle our Rule 60(b)(4) matters that are mandates, and since the lower courts have refused to comply with this mandate that this court issue an order confirming the lower court Judges liable for lack of discretion.

Antoine v Byers Supra.

This petitioner asks that this court rule that Judge Hillman's failure to carry out his ministerial or administrative function that caused these cases to be dismissed is to be set aside.

The petitioners merely seek the right to be given their rights to default and default judgment in cases 1:15-cv-00244 and -05520 and a trial date as to damages or be given the right to have 3 weeks to re-serve the parties in those cases in return for the dismissal of this lawsuit and petition.

The petitioner's ask this court to throw out Judge Gerry's order if it is in fact as Judge Martinotti claims due to it violating a plaintiff's Due Process right to notice and being heard before adverse actions are taken in their lawsuit.

The petitioner's pray this court will rule that Judge Hillman's Failures to administratively, timely and ministerially handle his docket the court direct the lower courts to admit that cases 1:15-cv-00244 and -05520 should not have been dismissed for improper or untimely service and that the court in fact be ordered to enter default and default judgment in said cases or immediately hold a hearing as to damages or the petitioner be granted 3 weeks to re-serve the defendants in said cases.

The petitioners also pray this court will settle whether judges can be held liable for intentional denials of Rights, as here, for which this court has never addressed before.

Conclusions

It is clear that the functions complained of are not judicial according ABSOLUTE Immunity, that the Respondents are not entitled to absolute immunity, that qualified immunity must wait till after discovery, and that the Lower court's orders are void and cannot be given any credence or validity and this court should grant this petition and protect and honor these pro se petitioners' rights to Due Process to notice and being heard on a suit that involves Mandatory, Ministerial, Administrative, Non-Judicial, and Non-Discretionary Functions that they can be held liable for and reverse the findings and decisions of the Courts below.

The actions of the lower court has been to hold these pro se complainants strictly to the rules and laws and to assert defenses for the defendant as their counsel and to relax the laws and rules for defendants who are required to know and comply with the laws and Rules. The lower court's have clearly committed legal error, abuse of discretion, committed discrimination and has failed to undo the wrongs against the petitioners contrary to Lawrence v State Tax Commission, 286 U.S. 276, 282, 1932.

That Judge Hillman did intentionally deny the Reardon's of the following rights: (1) Default and Default Judgment; (2) a hearing date as to damages; (3) to fair proceedings contrary to Due Process; (4) to timely handle the 2 cases of -00244 and -05520 which caused them to be unjustly dismissed and an order so declaring such; (5) setting aside the dismissal order in said cases since Judge Hillman failed to inform these pro se petitioner's of their defective service and (6)

to the equal protections of the law or granting an order that gives the petitioner's right to move before the U.S. District Court to re-open the 2 mentioned cases.

The petitioner's be granted the relief immediately as stated above since the defendants Sanchez, Ramsey and Merrigan failed to carry out their mandatory duty to enter default and default judgment and thus to fair proceedings and the equal protections of the law.

It is clear from the law and the accompanying documents that (1) I was not give the right to litigate the issues of immunity based upon the function and factual development thereof; (2) The orders are void for denial of Due Process; (3) That the Appellate court cannot validate a void order as it did; (4) That I am not under any restraint to appeal any void order immediately when denied the right to litigate my claims; (5) that R 55 issues are in fact mandatory for the clerks and judge; (6) that all judges did what the well settled law bars them from doing which is to validate the void orders; (7) The 7 judges are liable; (8) That Judges Restrepo, Nygaard, Bibas, Porter, Ambro and Krause did intentionally deny the Reardon's of their right to relief from the void orders of Judge Martinotti; (9) Judge Martinotti did deny me of Due Process of law and the equal protections of the law by dismissing this case without giving us our Due Process rights to notice and being heard, to the equal protections of the law and for making claims he has the right to prejudge a case in violation of Due Process and by claiming that he has the obligation of complying with the Void orders or the 3rd Circuit Court of Appeals decisions when they were (a) stated to be non-binding and (b) were void

for giving validity to Judge Martibnotti's void order with no discretion to so do and he did so do intentionally as did the Appellate Court Judges; (10) Judge Martinotti denied us of our rights to a fair and impartial hearing and tribunal; (11) That Judge Martinotti did intentionally issue and order that was void and by giving said order credibility,, credence and validity when he has no discretion to so do; (12) That Judge Martinotti did give credence, credibility and validity of the 3rd Cir. Decision of August 2018 and his April 2018 order with no discretion to so do; (13) That Judges Restrepo, Bibas and Nygaard did give credence, credibility and validity to Judge Martinotti's April 2018 order with no discretion to so do; (14) That Judges Ambro, Krause and Porter did give credence, credibility and validity to Judge Martinotti's April 2108 and January 2019 orders and the 3rd Circuits order of August 2018 with no discretion to so do; (15) all judges denied the Reardons' of fair and impartial hearings and tribunals and the equal protections of the law and did deny such rights intentionally and the Reardons' are entitled to the relief being sought and (16) All 8 Judges were made aware of their past decisions and they intentionally ignored them to the detriment of the plaintiffs.

Dated: 9/29/19

John E. Reardon, Petitioner, Pro Se