19-7686

No. 19-1266
No. 1:16-CV-10218

ORIGINAL

IN THE SURPEME COURT OF THE UNITED STATES
DECEMBER TERM, 2019

MAURICE BUFORD, PRO SE

Petitioner

v.

LABORER'S INTERNATIONAL UNION LOCAL 269 AND 4

Respondent

ON PETITTION FOR A WRIT OF CENTIORARI TO THE SURPREME COURT OF THE UNITED STATES

United States Court of Appeals for the Seventh Circuit,
Decided Before:
Circuit Judges
Frank H. Easterbrook, Ilana Diamond Rovner, Amy C. Barrett

PETITION FOR REHEARING

Maurice L. Buford
8348 S. Phillips Ave.
Chicago, IL 60617
(312) 788-0210
(773) 410-0894

Prepared by and Respectfully
Submitted, ***Pro Se*** Petitioner

December 17, 2019

CIVIL CASE

INTRODUCTION

TO THE HONORABLE CHIEF JUSTICE AND THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES

Comes now ***"Appellant-Petitioner"*** Maurice L. Buford and through ***"Pro Se Petitioner"*** Buford who Respectfully petitions this most Honorable Supreme Court for Writ of Certiorari pursuant Rule 13 in the above captioned matter **Maurice Buford v. Laborers Local 269 and 4** case No. 19-1266, after a per curium opinion from the United States Court of Appeals for the Seventh Circuit, decision on September 20, 2019 which affirmed the United States District Court for Northern District of Illinois judgement, issued on January 14, 2019 for the reasons of law and facts listed thereafter. Therefore, Mr. Buford Respectfully moves this most Honorable Court for rehearing and consider this case with merits briefing, and oral arguments pursuant 28 U.S.C. 1254 this petition is filed within 90 days of the court of appeals decision in this case.

QUESTION(S) PRESENTED

I. Whether Discrimination/Duty of Fair Representation violated by the Labor International Union 269 under Title VII 42 U.S.C. 2000(e) (*Goodman v. Lukens Steel Co.*, 482 U.S. 656 (1987) and section 1981, Harassment and Segregation under 42 U.S.C. 1981 (*Jones v. R.R. Donnelly & Sons Co.*, 541 U.S. 369 (2004) statute of limitations supersedes the limitations of the "hybrid" 301/unfair representation under the Labor Management Relations Act (LMRA) 29 U.S.C. 185..... 7

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CERTIFICATE OF INTERESTED PERSONS

The undersigned Pro Se Petitioner on record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28 have an interest in the outcome of this case. These representations are made in order that the Justices of this Honorable Supreme Court may evaluate possible disqualification or recusal.

Petitioner	**Respondents**
Maurice L. Buford	Laborer's International Union 269 and 4
Counsel for Petitioner	**Counsel for Respondent**
Maurice L. Buford, *Pro Se* 8348 S. Phillips Chicago, IL 60617 Telephone: 312-788-0210 Contact: 773-410-0894	Robert S. Cervone Dowd, Bloch, Bennett & Cervone 8 South Michigan, Ave Chicago, IL 60603 Telephone: 312-372-1361
Entities with an interest	**Persons with an interest**
I.W&G Inc. Alfred Arrequin (Owner) 999 Touhy Ave, Suite 450 Des Plaines, IL 60018 Telephone 708-576-8421	Timothy W. Moore.....(Business Agent 269 and 4) Ben Gomez.(I.W&G Supv./Lab. Steward 269 and 4) Jesus Hazier.....(I.W&G Laborer 269 and 4) Steve Enis.....(I.W&G Laborer 269 and 4) Bob Adamkyke.....(I.W&G Laborer 269 and 4) Juan Stanford.....(I.W&G Laborer 269 and 4) Tom Vacala.....(I.W&G Superintendent) Benson McGarry.....(I.W&G/Garth Operator)

Prepared by and Respectfully Submitted,
"Pro Se" Petitioner Maurice L. Buford

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APPENDICE EXHIBITS

Note: Appellants Brief previously contained Exhibits **#11-#99** the documents are numbered in increments of eleven, such as....**#11, #22, #33.** Also, this Writ contains those previous documents, and additional Exhibits in increments of eleven such as....**#012, #023, #034.** This Writ contains a **Rule 33** that is sorta hodge podge please don't penalize me, Buford was a construction worker and therefore did not know how to do clerical organization at that time. This Writ also contains a **Rule 56** which contains Exhibits **A-Z** and **O** was omitted due to clerical era, also it has Exhibits **A2-X2** and **1-4.** Some of the Exhibits in this Writ contains Exhibits within exhibits, ***"Pro Se"*** Buford Hopes and Prays that this does not cause any confusion to this most **Honorable Supreme Court and its Honorable Supreme Justices thereto,** because with all due respect ***"Pro Se"*** Buford have prepared this Writ of Petition of Certiorari to the best of his knowledge, belief and abilities.

Volume I- Appendix contains Exhibits (#012) - (#288)

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1. *Vaca v. Sipes , 386 U.S. 171 (1967) and No. 114*

2. *Hines v. Anchor Motor Freight, Inc., supra.* 424 U.S. 554 (1976)

3. *United Parcel Service, Inc., v. William Mitchell*, 451 U.S. 56, 101 S. Ct. 1559, 67 L. Ed. 2d 732, (1981) U.S. LEXIS 86.

4. *EEOC v. Lehi Roller Mills Co., No.* 2:08-CV-00591 *DN* 2014 *WL* 175987, *at* *2 (*D. Utah May* 1, 2014)

5. *Jones v. R.R. Donnelly & Sons Co.,* 541 U.S. 369 (2004) 42 U.S.C. 1981) Indeed, an employer may file a section 1981 within four years of the violation.

6. *Hout v. City of Mansfield,* 550 F. Supp. 2d 701, 727 (N.D. Ohio 2008). Therefore, a claim that the duty of fair representation was breach on account of discrimination, and a claim of discrimination in failing to fairly represent the employee are essentially the same.

7. Once jurisdiction is established, unions may be held liable for creating or contributing to a hostile work environment in instances where union officials either directly engage in in discriminatory behavior, or "fail to file grievance reports" and "conduct fair investigations" in response to harassment claims by union members and employees. Both local and national unions can be named a defendant in suits bringing harassment claims (*EEOC v. National NEA, Alaska,* 422 F.3rd 840 (9th Circuit 2005). This Supreme Court have "consistently held that unions breech both their duty of fair representation and Title VII" when they maintain a policy, whether formal or informal, of "refusing to file grievable discrimination claims". (*Goodman v. Lukens Steel Co.,* 482 U.S. 656 (1987).

9. *Darth v. Collins* 411 F.3d 931, 933 (11th Cir. 2006) The Court has previously held that "the relief granted under Title VII is against the Employer," not against the individual employees whose actions would constitute a violation of the act, regardless of whether the employer is a public company or a private company".

10. *Reeves v. Sanderson Pluming Prods., Inc.,* 530 U.S. 133, 148 (2000) ("[A] plaintiff's prima facie case, combined with sufficient evidence to find that "the employers asserted justification is false" may permit the trier of to conclude that the employer unlawfully discriminated against the employee.")

11. *United States v. Wonson,* (1812) (citations omitted)

12. *Texas v. United States of America,* (April 17, 2016) (citations omitted) The Court has previously held, authored by Honorable Judge Hansen that.... Fabrications, misstatements, half-truths, artful omissions, and the failure to correct misstatements may be acceptable, albeit lamentable, in other aspects in life; but in the courtroom, when the attorney knows that both the Court and the other side are relying on complete frankness, such conduct is unacceptable.

13. *Lane v. Franks,* 573 U.S. 228, 134 S. CT. 2369; 189 L Ed. 2nd 312 (2014)

JURIDICTIONAL STATEMENT

"Pro Se" Petitioner Maurice L. Buford petitions from (1) the September 20, 2019 ruling and opinion of the United States Court of Appeals for the Seventh Circuit affirming the judgement memorandum opinion and order that was entered by the Honorable Gary Feinerman for the District Court for the Northern District of Illinois.

"Pro Se" Petitioner timely filed a writ within 90 days of the date above. This Honorable Supreme Court of the United States has Jurisdiction over this Petition for Writ of Certiorari for rehearing under **28 U.S.C. 1254(1).**

CONSTITUTIONAL ADMENDMENTS AND STATUTORY PROVISIONS INVOLED

1st Amendment:

Freedom of (or From) religion. "Freedom of speech". Freedom to assemble. Freedom to petition the government.

5th Amendment:

Right to due process, Right to just compensation for the takings.

6th Amendment:

Right to legal counsel, Right to face my accusers, Right to trial by impartial jury.

7th Amendment:

In Suits at common law, where the value shall exceed twenty dollars, the Right to trial by jury in civil cases shall be preserved, and no Facts found by a jury cannot be reexamined in any other Court in the United States.

8th Amendment:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

9th Amendment:

This listing of a right in any part of the Constitution does not imply that other unlisted rights do not exist. Supreme Court decisions have found a handful of important rights that fall under this Amendment, such as..... "The right to privacy"

14th Amendment:

Right to citizenship of any person born in the United States. Right to equal protection of the national and state laws. Right to be free of any law that abridges the privileges or immunities of a citizen. Right to be free of law that deprives a person of life, liberty, or property without due process.

17th Amendment:

The Supreme Court ruled that the Seventeenth Amendment gives the Right to an additional jury trial, following the loss of the first jury trial.

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Declaration Article 3

Everyone has the right to life, liberty, and security of person.

Declaration Article 6

Everyone has the right to recognition everywhere as a person before the law.

Declaration Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Declaration Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Declaration Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Declaration Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Declaration Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor attack upon his honor and reputation. Everyone the right to the protection of the law against such interference or attacks.

Declaration Article 23

(1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. (2) Everyone, without any discrimination, has the right to equal pay for equal work. (3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. (4) Everyone has the right to join trade unions for the protection of his interests.

STATEMENT OF THE CASE

This petition of writ of certiorari initially arises from the Racial Discrimination, pursuant to **42 U.S.C. 2000(e) and section 1981** for Harassment, Segregation, and Wrongful Termination toward Buford by the company called I.W&G Inc, which consisted of...Tom Vacala (I.W&G. Superintendent) "false incident report", Mike Direnzio (I.W&G. Safety Manager) "false statements", Benson McGarry (I.W&G./Garth Con. Operator) "false police gun report", Ben Gomez (I.W&G. Supervisor/269 Union Steward), "false statements/harassment" Steve Enis (269 Laborer) "false statement/ incident report" Jesus Hazier (269 Laborer) "racial slur-dumb ass fucking nigger/harassment, Juan Stanford (269 Laborer) "false statements/harassment" and Bob adamkyke (269 Laborer) [harassment] and then back dating over exaggerating ***"fabricated pretextual"*** incidents after the fact, and pursuant to **18 U.S.C. 1546 (false statements)** that they claimed Buford violated such as..., threatening behavior, physical altercations, safety violations and poor work performance, ***See United States v. Ashurov,*** **726 F. 3d 395 (3rd Cir. 2013) states:**

> **It is a crime under 18 U.S.C. 1546, to knowingly making a false statement Under oath a document required by the immigration laws. It is also a Crime "to knowingly present "any such document" which contains any such false statement"**

Buford is a highly decorated and certified skilled laborer of over 19 years and has union steward knowledge. ***See Maurice L. Buford's Certificates of Completion and Work Ethnics referral forms/job search Exhibits (#012)*****Vol. I, Pg. 1-36.** However, these illegal acts of Discrimination/Duty of Fair Representation occurred through Ben Gomez (269 Union Steward), "segregation/false statements thereafter, and directly contributing to a hostile environment by harassment" pursuant to **42 U.S.C. 2000(e),** under the direction of Timothy Moore (269 Business Manager) "contributing to a hostile environment after the fact" and by not conducting a fair investigation or filing Maurice Buford's (269 Laborer) grievance", **[Breach of Duty (D.F.R.) Violation of Title VII].** ***See Steel v. Louisville & N.R.R*** **(1940),** ***See Vaca v. Sipes , 386 U.S. 171 (1967) and No. 114. See attached thereto Compliance Declaration of Writ (#1).***

This petition also arises from the January 14, 2019 ruling from the district court *Judge* **Gary Feinerman** granting Defendant-Appellee Laborers Local Union 269 and 4 [Respondents] summary judgment and closing Plaintiff-Appellant Buford's [Petitioners] case due to clerical errors, oversights, and mistakes, in connection to his rule 56 response, after denying Plaintiff Buford assistance of counsel pursuant to **28 U.S.C. 1915** which was extremely bias, unfair, and

violations to his ***"Universal Declaration of Human Rights, Article 3, 7, 8, and 10"*** and violations of his ***"Constitutional 6th, 7th, 17th, and 14th, Amendment Rights."*** Now, before ***"Pro Se"*** Buford moves forward with this petition he must state an argument of dismay which is, eleven months before district courts *Honorable* **Gary Feinerman** actually closed this case, he threatened to "dismiss the suit as a sanction" for plaintiff applying the wrong choice of words to express his opinion, ***See District Judge*** **Gary Feinerman** ***Court Order Exhibit (#023)*****Vol. I, Pg. 37,** and with all due respect to this most *Honorable* **Supreme Court** and its *Honorable* **Justices** thereto, Plaintiff-Petitioner Buford was most certainly not trying to under mind the judicial integrity of these *Honorable Federal Courts*, it's just the fact that Plaintiff Buford at that time, felt as if .... **"the whole world was against him."**

However, ***"Pro Se"*** Buford filed a Motion for Relief pursuant to Fed R. Civ. P. 60 on January 23, 2019, which was also denied by the court on January 27, 2019. Appellant Buford filed a timely Notice of Appeal on February 12, 2019, an appeal brief on June 4, 2019 ***See Appellants Brief Exhibit (#034)*** which was supplemented by ***"Pro Se"*** Buford on June 7, 2019 due to Omissions, Appellee filed response brief on July 3, 2019 an additional response and arguments were filed by Appellant on August 16, 2019, and shortly thereafter on September 20, 2019 the district court's decision was affirmed by the seventh circuit court of appeals. Appellant-Petitioner Buford strongly believes his claims are **"colorful"** and that his case has not been assessed properly in all fairness of the law, and for these reasons..... ***Article 5, 7 Human Rights, 1, 5, 6, 7, 8, 9,*** **and** ***14th Amendment Violations.***

Congress has charged this Supreme Court with the responsibility of enforcing federal prohibitions on employment discrimination, including *Title VII of the Civil Rights Act* of 1964, 42 U.S.C. 2000e ("Title VII"). The issue in this Writ of Petition of Certiorari is whether Title VII discrimination claims against unions are subject to the requirements and limitations applicable to non-Title-VII-based claims that a union breached its duty of fair representation. Because of the importance of these issues to the effective enforcement of Title VII, petitioner respectfully offers its views to this most *Honorable* Supreme Court and its Supreme Justices thereto pursuant **Fed. R. Cert. P. 13.1.**, and arguments on the next page for grating this writ is as follows.

REASONS FOR GRANTING THIS PETITION

On February 12, 2019 ***"Pro Se"*** Buford's appeal was opened before appellate court *Chief Judge* **Diane P. Wood** and *Circuit Judges* **Frank H. Easterbrook** and **Michael Y. Scudder,** then thereafter the appellate court *Circuit Judges* **Frank H. Easterbrook, Ilana Diamond Rovner,** and

Amy C. Barrett for the Seventh Circuit issued an opinion/final judgement on September 20, 2019, the court allowed both parties the opportunity to file appeal briefs under **Fed. R. App. P. 3** adduce evidence, and present arguments but also make facts of find. The district court allowed pretextual paper statements to be used as admissible evidence to form an opinion against Buford [Appellant] which were totally inconsistent and/or contradictive to official I.W&G. work documents, and the court of appeals affirmed the actions of the district court in their opinion, which contained erroneous finds also. In the opinion and after briefing the court stated in a footnote that "we have agreed decide the case without oral arguments because the briefs and record adequately presents the facts and legal arguments, and oral arguments would not significantly aid the court". **Fed. R. App. P. 34(a)(C)** ***"Pro Se"*** Petitioner Buford does not "concur" with this decision, or statements that is in the court's opinion, because the court of appeals order also contains pretextual statements or an opinion that is to the best of ***"Pro Se"*** Buford's Knowledge and belief is not sufficiently complete or correct, regarding conflicts in law (Arguments I &V) and clarifications of procedural rulings related to (Arguments II) or undecided (Arguments I.A, III, IV) ***See Appeals Court Final Judgement Exhibits (#045)*****Vol. I, Pg. 68-73** and corrections to the appeals court order are as follows:

ARGUMENT

I. Whether Discrimination/Duty of Fair Representation violated by the Labor International Union 269 under Title VII 42 U.S.C. 2000(e) (*Goodman v. Lukens Steel Co.*, 482 U.S. 656 (1987) and section 1981, Harassment and Segregation under 42 U.S.C. 1981 (*Jones v. R.R. Donnelly & Sons Co.*, 541 U.S. 369 (2004) statute of limitations supersedes the limitations of the "hybrid" 301/unfair representation under the Labor Management Relations Act (LMRA) 29 U.S.C. 185. Pursuant to 160(b) Prevention of Unfair Labor Practice.

During the two weeks and three days after a black construction worker, [Maurice Buford] started working at I.W&G., Inc., on July 1, 2014 under the direct supervision of Jerry Jankowski [I.W&G. Foreman] as a demo laborer. Ten days after he started his employment, on July 10, 2014 he was **"segregated"** on July 10, 2014 from skilled construction work and placed on a belittling clean-up crew "under the direct supervision of Ben Gomez [269 Labor Steward]" who participated by giving Buford assignments and work directions, and on occasions Buford worked by himself away from all the other construction workers, which is the first Two Violations/Breach of Duty, Conflict of Interest, and malicious discriminatory actions towards Buford by the "Laborers International Union 269" [Ben Gomez] pursuant to **Title VII Civil Rights Act of 1964** and **Title 5 U.S.C. 7116 (FLRA)** that occurred, ***14th Amendment Violation. See Declaration of Writ, (#2)***

Segregation: **Title VII is violated where employees who belong to a protected group "Unions" are segregated by physically isolating them from other employees or from customer contact.**

Unfair Labor Practices: **Are actions taken by employers or unions that are illegal under the National "Labor" Relation Act (NLRA) and other labor laws. Some of these rules apply to the interactions between the employer and the union; others protect individual workers from "unfair" treatment by an employer or union.** *See* **the statute 5 U.S.C. 7116 (a)(1)-(8), (FLRA) (Added** Pub. L. 95-454, title VII, 701, **Oct. 13, 1978,** 92 Stat. 1204.**)**

Union Representative, Union Steward, or Shop Steward: **Is an employee of an organization or company "who represents and defends the interests of his/her fellow employees" but who is also "a labor union official." As a result, the union steward becomes "a significant link and conduit of information between the union leadership" and rank-and-file workers.**

Collective bargaining agreement sample steward clause 5.6 (a) and (c) states;

> **(a) The Home [employer] agrees to recognize such Union stewards, duly appointed by and "acting as agents of the Union", who may receive complaints and process grievances through the grievance procedure The Union shall provide the Home a with a written list of such stewards and alternates, if any.**
>
> **(c) The** *"Union Steward"* **shall not direct any worker [Buford] how to perform or not perform his/her work, shall not countermand the order of a supervisor and shall not interfere with normal operations of home [employer] or any other worker. In** *Oakwood Healthcare Inc.,* **(348 N.L.R.B. 37 (2007)**

and where Ben Gomez "Union Steward/I.W&G. Supervisor", company workers and other 269 Laborers "harassed, intimidated, and used "racial slurs-nigger" towards him. ***See Bowen v. Missouri Dep't of Soc. Servs.,* 311 F.3d 878, 884 (8th Cir, 2002)**

Universal Declaration of Human Rights-Article 5 **states: No one shall be subjected to cruel, inhuman or "degrading treatment" or punishment.**

In *Faragher* **and** *Ellerth,* **this Supreme Court of the United States established that employers are vicariously liable for harassment when a tangible employee action is taken. A tangible employment action is a significant change in employment status, such as "firing, demotion, and reassignment" (*Burlington Industries, Inc. v. Ellerth,* 524 U.S. 742 (1998) and**

(*Faragher v. City of Boca Raton,* 524 U.S. 775 (1998). Even if a tangible employment action is not taken, unions as employers may still be liable for creating a hostile environment under Title VII.

EEOC Harassment: **The basis of race and/or color violates Tile VII. Ethnic slurs, racial "jokes" offensive or derogatory comments, or other verbal or physical conduct that creates an intimidating, hostile, or offensive working environment or interferes with the individual's performance.**

Harassment: becomes "unlawful" when;

(1) Enduring the offensive conduct prerequisite to continue employment, or

(2) The conduct is so severe or pervasive enough that a reasonable person would consider the workplace intimidating, hostile, or abusive. Also, if a supervisor's harassment results in an obvious change in an employee's salary or status, the conduct would be considered unlawful workplace harassment.

A. Plaintiff-Petitioner *"Weingarten Rights"* were Violated by Employee I.W&G. after Denying Him Representation Under Direct Threat, Duress, Coercion, and The Union Participated by Not Responding.

On July 16, 2014 Tom Vacala "I.W&G. Superintendent" made it a goal to search the entire job site for Buford, in order to force him to sign a blank comment section incident report dated a whole before on July 14, 2014 the alleged physical altercation (***pretexts***) between Buford and co-worker Juan Stanford "269 laborer" which was only a verbal disagreement about wheelbarrow placement that could not have possibly occurred until July 15, 2014 (***Back Dated and Fabricated***) under direct "***Threat, Duress, and Coercion***" after request for representation "Union Steward Gomez" was made by Buford in which Vacala refused him of by stating....

"He's working (269 Steward Gomez) **and if you don't sign it, you're going home today".** After Buford signed it, only just to secure his job. Vacala then stated.... **"Now if anybody says one thing about you, you're out of here, done"** ***See United States v. Weingarten*** **713 F.3d 704 (2d Cir. 2013)** ***See attached thereto Compliance Declaration of Writ (#3).***

after this incident with his employer, Buford presented this issue to union steward "Gomez" who failed to respond, represent, or defend Buford's interest because he was participant in the plot to get Buford released, which is a violation of his ***"Duty to Act, Breach of Contract and/or Unfair Labor Practice" See Aguinaga v. United Food Com. Wkrs.*** **993 F.2d 1463 (10th Cir. 1993)**

Union Steward Job: **Is there to make sure the company lives up to your contract. When there is a problem with management, and you need help. One of the most vital functions of a Union Steward is to....."Prevent management from intimidating employees/union members"** ***also....***

Duty of Fair Representation: **The NLRA requires "all stewards" to fairly and equitably represent all employees in a bargaining unit without regard to membership, religion, nationality, age or sex.**

Unfair Labor Practice Statute 1716(a)(1) **states;**

(a) For the purpose of this chapter it shall be an unfair labor practice for an agency;

(1) To interfere with, restrain, or coerce any employee in the exercise by the of any right under this chapter;

B. Whether Plaintiff-Buford was Wrongfully Terminated Pursuant to 15 U.S.C. 2087(b)(1) The Whistle blower Protection Act 1989.

Then shortly thereafter three days later when "Jesus "Jesse" Hazier 269 laborer referred to Buford as "dumb ass fucking nigger" on July 17, 2014, and after he reported to Tom Vacala at about 11:30 a.m., then roughly at around 2:00 p.m. Vacala "wrongfully terminated" Buford. ***See Article 5* and *23 Human Rights and 1st Amendment Violations*** and, ***See* Employment Rights Act 1996, (c 18) approach to employment protection. *See also,* Contracts of Employment Act 1963,** for the first modern UK law on ....."**the requirement to give reasonable notice before dismissal**" ***See Green v. Wright* (1875-76 LR 1 CPD 591** and ***See also Hill v. C. Parsons & Co.* [1972] 1 Ch 305.**

Now as ***"Pro Se"*** Buford moves forward with his arguments,

***Whistleblowing:* Is when an employee reports an employer who is breaking the law to an external law enforcement agency. Whistleblowing employees are "protected by law from being fired or mistreated by their employer. If they are fired or otherwise mistreated for whistleblowing, they may file a claim against their (former) employer. *See Shockey v. City of Portland,* 313, Or. 414, 424-31, 837 P.2d 505 (1992).**

***See also Draper v. Astoria School Dist. No.1C* 995 F. Supp. 1122 (D. Or. 1998). In Draper, the district court concluded that by providing that "the court shall" actual damages or $250, whichever is greater," the "Whistleblower law's remedies are mandatory," and applying the OTCA to whistleblower claims would contradictorily limit the mandatory actual damage award to $200,000. *See also* Whistle blower Protection Act 1989 15 U.S.C. 2087**

Now, before ***"Pro Se"*** Buford ends this argument about I.W&G. violating the Whistle Blower Act I will state that, defendants' laborers union local 269's attorney Robert S. Cervone by his own admission in his appellee brief confirmed that the racial slurs towards and reported by Buford was true in stating ....

> **"The fact that Buford "made Vacala aware" of the coworker's (*Hazier*) "269 laborer" comment does not constitute evidence that *Vacala's* decision (to fire) was racially motivate", and it was in reference to Buford's adverse employment action". *(See Garcetti v. Ceballos* 54 U.S. 410 (2006)**

See Cervone's Response Brief Exhibit (#056)*Vol. I, Pg. 17-18, Lines 23-28**, Let the record reflect that ***"Pro Se" Buford "does not concur" because Buford made Vacala aware of Hazier's racial slur because it was degrading to him as a **"African American Citizen"**, and if the reasons or ***"Material Evidence"*** before or after the fact of the termination is ***"Pretext"***, then his termination was **"Racially Motivated and/or Discriminatory". *Article 19 and 23 Violation*** However, the

fact of the remains, and as a matter of law pursuant to **15 U.S.C. 2087(b)(1)** which states....

> **"An employer "cannot fire" an employee (any person[citizen]) for reporting an illegal act."** ***See Job Security 1 below*** and ***See also Lane v. Franks*** **573 U.S. 228, 134 S. CT. 2369; 189 L Ed. 2nd 312 (2014)**
>
> **"This Court held that "truthful" testimony before a federal Grand Jury is "clearly" protected speech under the First Amendment."**

Therefore, I,W,G's Superintendent Tom Vacala **"Blatantly Violated Buford's First Amendment Right** when he terminated him (Buford) for **"whistleblowing",** and 269's Business Representative Timothy Moore allowed it to happen by conducting his investigation in bad faith, or by not conducting it at all. Arguing even further, what this case basically boils down to is.... **"If 269 Union members/I.W.G. employees are giving reasons that is not the true reasons why Buford was fired,** then **"Buford total testimony must be the truth and nothing but the "Truth",** ***See attached thereto Compliance Declaration of Writ (#4)*** and just for the record....,

On or about July 1, 2014 Buford started working as a demo laborer for I.W&G., a construction company for exactly two weeks and three days. The first (9) days under the direct supervision of I.W&G's Forman Jerry Jankowski, and the last (8) days under the illegally positioned I.W&G's Supervisor/269 Union Steward Ben Gomez. He and several coworkers belonged to the Laborers' International Union Local 269 **(a protected group)**, which had a contract with I.W&G. The agreement guaranteed that "Employees will not be discriminated against because of his race." **(which indeed happened to this dumb as fucking nigger for reporting foul play)** but did not require just cause to fire a union member.

Note: With all due respect to the Honorable Justices of this Supreme Court, in the above blackened statement Buford is being sarcastic, but also "realistic" because the saying on a construction site is...."Shut up, Be quit, Keep your head down, Shovel moving, Don't tell the Truth and..... "You won't get Fired".

Job Security 1: **Only non-union employees that are hired "at will" meaning they can be fired for no reason, although there are exceptions. Employers "cannot" terminate a worker for discriminatory reasons such as race, religion, age and the like. Nor can they fire an "at will" employee for being a "whistleblower".**

Arguing even further, why would I.W&G. claim that they fired Buford under the **"at will clause"** then make up reasons showing **"just cause"** if did not need reasons for firing Buford. ***See Highstone v. Westin Engineering, Inc.,*** **No. 98-1548** which states....

"an at-will relationship with employer "must be clear" to the employees"

or why did I,W&G., Local Union 269 and 4 go to such extreme, outrages, willful lengths as....

"filing a false police report against Buford "one or two" day after he was terminated."

"Pro Se" Buford recently visited the Chicago Police Headquarters Record Division on at 3510 S, Michigan Ave, Chicago, Il 60653 on December 2nd 2019 to investigate this police reports authenticity and consistency, there was a cited record of the above actions in their legal system in connection to this alleged (Fraudulent) report against Buford" However, with all due respect to this most Honorable Supreme Court and its Justices thereto, let me for one moment analyze the situation, pin point the problems and reveal the unbelievable circumstances to malicious unwarranted situation....**(1) How is that the initial police report that was written by the reporting officer and dated July 19th, 2014 got docketed a whole day before on July 18, 2014 he wrote it, or before the alleged incident was reported to him, or could have actually occurred, (2) why is it that the police never not one time came to Buford's residence to question him about this alleged incident, (3) why is it that this person unbeknownst to Buford that alleged he got threatened with a gun did not say anything about it until a whole ten days later, or immediately report it on the day he alleged it occurred to a friend, coworker, immediate supervisor, superintendent or even "God" for that matter, and/or like he was instructed to do by the foreman's every morning during the tool box talks at the job site. (4) why is it that this conscious comprehensive person that alleges he got threatened by another person with a gun, continue to come to work side by side with the person that he says did it, well the solution to this scenario is "a person that was never threatened at all."** This alleged incident never occurred and ***"Pro Se"*** Buford has yet to find out the identity of the person who alleged this report, because if he did Buford would have been pursued a **"Defamation of Character Suit"** against this person. ***See Timothy Ridiculous Exhibit (J2)*****Vol. III, Pg. 177-182** ***See Chicago Police Reports "Fraud" Packet Exhibit (#067)*****Vol. I, Pg.116-120.** ***Article 12***

Therefore, this alleged incident with Buford never happened this is just a classic example of.... **"Back dated fabricated Pretextual hearsay" pursuant to 801(a)(1)(c)** which has deprived Buford of his....**Life (Career in Construction), Liberty (Just Reputation), and Property (Loss of Home)** by way of ...."**Assignation/Defamation of character"** ***See Levinsky's, Inc. v. Wal-Mart Stores, Inc.,*** **127 F3d. 122 (1st Cir. 1997)** and this "**Violates Buford's Human Rights** as

well as **his 1st, and 14th.** ***See also 49 CFR 1570.5(a) Fraud of international Falsification of Records.*** Because pursuant to **18 U.S.C. 1324c** this is a direct violation of the ....

Penalties of the Document Fraud Act" and **"According to Chapter 73 of Title 18 the United States Code in connection to the "Sarbanes-Oxley Act**

"Anyone who knowingly falsifies "documents to impede, obstruct or influence an investigation" shall be fined or face a prison sentence of up to 20 years"

See U.S. v. Melendez, Case No. 03-80598

and filling a false police report is a crime and can be charged as a misdemeanor or a felony....This is an example of speech that is not protected by the **First Amendment** and is in fact considered.... **"a crime in itself."** ***See Att. Compliance Declaration of Writ Exhibit, (#5)***

However, back to the previous **Whistleblowing** subject matter because, I.W.&G. Inc., was trying to cover the fact of the **"illegal act"** that "Jesus Havier" used racial slurs towards another employee on their premises, and because....

Job Security 2: **Workers with union jobs "can only be fired for just cause" and the misconduct must be serious enough to merit such action. Before an employee can be fired, he or she can go through a grievance procedure, and if necessary, arbitration.**

therefore, I.W&G. fired Buford for and I'm actually tired of repeating the racial comment from "Hazier", so with all due respect this most *Honorable* Supreme Court and its Justices thereto, I'll just state... you already know because Buford **"never displayed any threatening behavior in clashes with coworkers".** The only incident that Buford can be accounted for which was **"merely a verbal disagreement about wheelbarrow placement".** between him and **Juan Stanford,** which should not have warranted an incident report from Vacala. ***See Grievance of Morrissey*** **149 Vt. 1, 15, 538 A.2d 678,686 (1987)** During a quarrel, a coworker and fellow union member called Buford a racial slur. With all due respect to the *Honorable* Justices of this Supreme Court, this is where I must say....

Hold on what a minute because, "Nowhere in any of the documentation pertaining to this case *"factual or Pretextual"* does it state that Buford had a "quarrel with a coworker (Hazier) who called him a racial slur.

Now, let ***"Pro Se"*** Buford make this clear and correct for the record....

During one quarrel, a coworker (Hazier) statement is "vicariously Erroneous." However, a fellow coworker and union member (Hazier 269) called Buford a racial slur statement is "judicially correct". By the Appellate Court's own admission, they have verified that the "racial slur actually occurred". Therefore, this was "direct racial discrimination", a violation

of Title VII and since they (The Union) let it go unrepaired by letting Buford be fired instead of Hazier this makes Local Union 269 and/or I.W&G. liable under contract. ***See Bennett v. Local Union No. 66,*** **958 F.2d 1429 (7th Cir. 1992)*** ***See also Compliance Declaration of Writ (#4)***

See also Darth v. Collins **411 F.3d 931, 933 (11th Cir. 2006) The Court has previously held that "the relief granted under Title VII is against the Employer, not against the individual employees whose actions would constitute a violation of the act, regardless of whether the employer is a public company or a private company".**

and just for the record, and with all due respect to this most Honorable Supreme Court .... ***"Pro Se"*** Buford strongly believe the Appellate Court was literally trying to make the racial slur seem like an isolated situation so the Union nor the Company could therefore be liable, or apparently, the appeals court did not assess Buford's case properly and in all fairness because, that section of their opinion/order was **"pretext in part."** However, to correct the record to last point of this argument Buford states that Moore and union members at I.W&G. conspired with the company to falsify ***(pretextual)*** reports ***(after the fact)*** so that the company could ***(cover-up the real reason why they)*** fired him. ***(pretextually is omitted)*** Because the way that the Appellate Court worded this statement is **"also pretext"**, Therefore, ***"Pro Se"*** Buford objects to everything else in their opinion as **"moot".** ***See Appellants Additional/Response Arguments Exhibit (#078)*** **Vol. I, Pg. 121-154,** ***if desired revisit-Appeals Court Final Judgement Exhibit (#045)*** **Vol. I, Pg. 68-73.**

However, and arguing even further, why should Buford have to show and/or prove "racial animus" when "discrimination" which is its own "word", that stand alone and has its own definition, while discrimination itself is slapping him right in the face, such as.... on the date of July 17th, 2014 while Buford was being terminated, Buford heard Moore coerce and/or solicited false statements from Steve Enis behind the trailers at the work site. ***See Article 12 Human Rights Violation, See attached thereto Compliance Declaration of Writ (#6)***

5 U.S.C. 7116 (e)(2)(A) (FLRA) **states:**

> **The expression of any personal view, argument, opinion or the making of any statement which;**
>
> **(2) corrects the record with respect to any false or misleading statement by any person, or shall not, if the expression contains no threat or reprisal or force or promised of benefit or was not made under coercive conditions, and**
>
> **(A) constitute an unfair labor practice under any provision of this chapter.**

Soliciting false testimony: **A person is guilty of suborning perjury if he/she attempts to induce a "witness" to give "false testimony under oath in court or other proceeding, and the "witness" who actually gives "false testimony" which means untrue statements. Testimony will be false if it is untrue when it was given and known to be untrue by the witness or person giving it. A "statement" contained within a "document" is "false" if it was untrue when used and known to be untrue by the person using it. A person who swears to tell the truth but then lies "undermines the legal system".**

and after the fact of Buford's malicious unreasonable firing, and him presenting a grievance to his "so-called union representative" on September 14, 2014, four days later the I.W&G. company workers and 269 laborers surfaced forged and/or brought forth pretextual documents to "Moore" in which he docketed on September 18, 2014 to justify Buford's release. ***See* 18 U.S.C. 1621 (willfully), 1623 (knowingly), and *Article 12 Human Rights Violation.*** Also, and after Buford was wrongfully terminated a (***pretextual***) incident report in particular surfaced in connection to Steve Enis "269 laborer" with two (2) inconsistent dates of July 2, 2014 (**Top**) and July 3, 2014 (**Bottom**) that Enis never reported to Jerry Jankowski our immediate supervisor, was not signed by Buford or, written or signed by Jankowski Buford's supervisor an "I.W&G. Foreman" that he work for and with, in zone 4 on his first day of July 1st , 2014, because it never occurred. Furthermore, Buford could not have been insubordinate to a worker who had no authority over him. ***See Rule 56 Response (#77)*Vol. III, Pg. 153-237 *See internal, Steve Enis* (fabricated) *Report Exhibit (Q2)*Pg. 216** and it never occurred, (Coerced by Moore and Forged after the fact). ***See Rule 56 Response (#77)*Vol. III Pg. 153-237 *See internal, Jerry Jankowski transcribed recording Exhibit (M2)Pg.* 184-195** that totally contradicts Enis's pretextual hearsay. ***Hear official audio CD is enclosed pursuant to 18 U.S.C. 2511(2)(d) Exhibit (1:16-CV-10218)-1 *[Substantial "material" Admissible Evidence] See United States v. Ashurov,* 726 F. 3d 395 (3rd Cir. 2013) states:**

> **It is a crime under 18 U.S.C. 1546, to knowingly making a false statement under oath a document required by the immigration laws. It is also a crime "to knowingly present any such document which contains any such false statement" *See also United States v. Saybolt,* 577 F.3d 195 (3rd Cir. 2009) states:**
>
> **A prosecution under 18 U.S.C. 286 for conspiring to defraud the government by submitting a false, fraudulent or fictitious claim to the government requires proof that the defendants conspired to submit a "*materially*" false statement. On the other hand, Section 287 simply outlaws submitting a false claim does not require proof of materiality.**

Conspiracy: **a secret plan by a group to do something unlawful or harmful, the action of plotting.**

and with all due respect to most this Honorable Supreme Court and its Justices thereto, Buford states, the proof is in pudding.

Defamation of Character: **Is a false statement communicated to someone else to damage your reputation and good character, defamation through writing is, "libel",** ***1st Amendment Right.***

C. The Court of Appeals 7th Circuit Incorrectly Affirmed District Court Judgement on Duty of Fair Representation 42 U.S.C. 2000(e) Pursuant to 29 U.S.C. 160(b).

However, Buford sought help through Timothy Moore his "local union 269 business agent" who did not, or conducted his investigate in Bad Faith (Racial Prejudice) or his assertion that he was fired because of his race and for reporting to the company "Vacala" of being called "a dumb ass fucking nigger" ***See Driver v. U.S. Postal Service, Inc., 328 F.3d 863, 868-69 (6th Cir. 2003)*** by a co-worker/local union 269 member "Hazier", ***See Article 5 Civil Human Rights Violation*** and "Moore" apparently did not review Buford's grievance because the scheme of things were already set, and that's why he repeatedly refused to file it against the company (I.W&G.) which is a "Breach of Duty and/or Duty of fair Representation" which is discrimination in itself. ***See Articles 7-8 Human Rights, 14th Amendment, Title VII Violations. See Vaca v. Sipes, 386 U.S. 171, 38, U.S. 203(1967) See Wells v. Chrysler Group LLC, 891 F.3d 662 (6th Cir. 2018)***

In *Wells,* this court adopted the Seventh Circuit test established in *Bugs v. International Union Allied Industrial Workers of America,* Local 507 AFL-CIO, 674 F.2d 595, 598 n.5 (7th Cir. 1982), The have held that plaintiffs are required to prove a breach of duty of fair representation.

Indeed, district courts in this circuit-following the Seventh Circuit's test in *See Bugs v. International Union Allied Industrial Workers of America,* Local 507 AFL-CIO, 674 F.2d 595, 598 n.5 (7th Cir. 1982)-have required Title VII plaintiffs to prove that a union breached its duty of fair representation. *Beshears v. Hennessey Indus., Inc.,* No. 3:12-00087, 2012 WL 6093457, at *2 (N.D. Tenn. Dec. 7, 2012)

> but ***See Hout v. City of Mansfield,*** **550 F. Supp. 2d 701, 727 (N.D. Ohio 2008). Therefore, a claim that the duty of fair representation was breach on account of discrimination and a claim of discrimination in failing to fairly represent the employee are essentially the same.**

Then ***See also, EEOC v. Lehi Roller Mills Co., No.*** **2:08-CV-00591** ***DN*** **2014** ***WL*** **175987,** ***at*** ***2 (*** ***D. Utah May*** **1, 2014)** ***See*** **Rule 56 Response to Summary Judgement (#77)Vol. III,** ***internal, (J2)*****Pg. 177-181 and** ***(K2 insert)Pg. in between 181-182, Tim's transcribed recording Exhibits,*** **Hear official audio CD is enclosed pursuant to 18 U.S.C. 2511(2)(d)** ***Exhibit*** **(1:16-CV-10218)-2*[Substantial "material" Admissible Evidence]***

Breach of Duty: **A violation in the performance of or failure to perform an obligation created by a promise, duty, or law without excuse or jurisdiction by a fiduciary (as an agent**

or corporate office) in carrying the functions of his or her position.

Duty of Fair Representation: **It is a violation of 5 U.S.C. 7116 (b)(1) for labor organization to interfere with, restrain or coerce an employee in the exercise by the employee of any right under the Statute. (FLRA)**

Once jurisdiction is established, unions may be held liable for creating or contributing to a hostile work environment in instances where union officials either directly engage in in discriminatory behavior, or "fail to file grievance reports" and "conduct fair investigations in response to harassment claims by union members and employees. Both local and national unions can be named a defendant in suits bringing harassment claims (*EEOC v. National NEA, Alaska,* 422 F.3rd 840 (9th Circuit 2005). This Supreme Court have consistently held that unions "breech both their duty of fair representation and Title VII" when they maintain a policy, whether formal or informal, of "refusing to file grievable discrimination claims". (*Goodman v. Lukens Steel Co.,* 482 U.S. 656 (1987).

Buford after being denied of his Legal Union Rules and/or Rights to an impartial arbitration obligation, that was violated by "Ben Gomez"(Union Steward) and "Timothy Moore" (Business Rep.), he sought justice with the **"National Labor Relation Board" (NLRB)** on September 10, 2014 but to no avail found relief, dismissed on November 13, 2014. ***See National Labor Relation Board Complaint/Dispositions Exhibits (#089)*****Pg. 159-179,** Then thereafter Buford filed a complaint with the **"Illinois Department of Human Rights" (IDHR)** against IWG on October 16, 2014 which was dismissed. ***See Illinois Department of Human Rights I.W&G Complaint/Answer Exhibits (#100)*****Vol. III, Pg. 180-201.**

Now before ***"Pro Se"*** Buford moves forward with his arguments I will make assertions that, on or about August 29, 2017 ***"Pro Se"*** Buford requested the fact finding notes prepared by Nancy Stiles from the IDHR in connection to IWG's fact finding conference pursuant to Rule 34 in which they declined the request, letter attached thereto exhibit. Therefore, ***"Pro Se"*** Buford pursuant to **Rule 45(D)(2)-(4)** issued ***"Subpoena to I.D.H.R. for "Fact Finding Notes" prepared by Nancy Stiles".*** However, the **Office of Attorney General** responded with a **"Non-Party IDHR's Motion to Quash Subpoena",** when ***"Pro Se"*** Buford finally received an answer to the subpoena, it was to his surprise and disbelief that IDHR sent a duplicate copy of Barbara J. Hogan (BJH) final disposition and one paper note form Stiles. ***See Motion to Quash Packet/Judge Kim's Orders thereto Exhibit (#111)*****Vol. III, Pg. 202-230.** As I stated before, this is not the person who investigated Buford's claim ***See Att. Compliance Declaration of Writ (#7)*** and it's my belief that this was purposely done because the notes that ***"Pro Se"*** Buford acquired is merely a smidgen of the documents that Nancy Stiles authored at IWG's Fact Findings, her files resembled an old school telephone book, (Buford personally reviewed these notes at the IDHR building before subpoena

was served) and there were tons of pretextual information that she (Stiles) acquired from 269 union steward "Ben Gomez" and other IWG's employees. ***See Nancy Stiles Fact Finding Notes Exhibit (#122)*****Vol. III, Pg. 231-251.**

However, Buford filed a "request for review" ***See Request for Review Motion/Letter Exhibit (#133)*****Vol. I, Pg. 252-292** with the **"Human Rights Commission" (HRD)**, who has held Buford's case/complaint review in limbo for five years to this date of December 2019, However, Buford also thereafter filed a claim with **(IDHR)** against the Laborers International Union 269 on March 12, 2015, ***See Illinois Department of Human Rights Union Complaint/Dispositions Exhibit (#144)*****Vol. I, Pg. 293-326** this case was also held in limbo for ten months ***See* 29 U.S.C. 160(b)** and then due to their "lack of jurisdiction" was transferred from the Human Rights Department to the **"Equal Employment Opportunity Commission"** on January 20, 2016, so Buford could continue his pursuit to relief, and where he received his **"Right to Suit" (EEOC)** letter. ***See Right to Suit Letter Exhibit (#155)*****Vol. I, Pg. 327-329.** Since Buford could not find any kind of substantial relief at the lower level administrative agencies, he then sued the union in Federal Court on October 31, 2016, ***See Discrimination Complaint Exhibit (#166)*****Vol. III, Pg. 33-35** for several legal findings of fact:

(1) The union **violated Title VII Civil Rights Act of 1964, 42 U.S.C. 2000e2(c)(3),** by supporting segregation, a discriminatory race-based wrongful termination after Buford reported illegal actions and/or racial slurs from active 269 union member(s), and breach of its duty of fair representation for not conducting an impartial investigation, and thereafter not filing his grievance, ***See Jenkins v. Schluderberg, Etc., Co.* 217 Md. 556 (1958), *See also Baker v. Board of Educ,* 70 N.Y. 2d 314 (N.Y. 1987)** and any/or everything else that was violated by them under the section **2000e Code;** (2) It **violated 42 U.S.C. 1981, section 1981** by directly participating in hostile employment discrimination, segregation. harassment, that through an active 269 union steward "Ben Gomez" violated. And finally, coercing and/or directly soliciting "false information from active 269 union member(s) one in particular such as "Steve Enis". The district court erroneously entered summary judgment for the union because Buford did offer substantial *"material"* evidence that could support his claims. ***See Att. Thereto Rule 56 Exhibit (#77) Pretextual Incident Reports and 269 Laborer/IWG Worker Statements Compared to Official I.W&G. Documentation, Exhibits* Vol. III** in which the so-called evidence is undoubtedly inconsistent to "times, dates, locations, and performance" in connection to Buford at the job site, ***See* McDonnell Douglas Corp v. Green, 411U.S. 792, 802 (1973) which states:**

After an employee has satisfied his burden of establishing prima facie case of discrimination, the burden of production shifts to the employer "to articulate some legitimate, non-discriminatory reason" for its termination decision. ***See*** **Jones, 617 F.3d at 1278-79., which states: Once the employer has done so, the burden shits back to the employee to show that the proffered reason is pretextual.**

See also EEOC v. Lehi Roller Mills Co., No. 2:08-CV-00591 DN 2014 WL 175987, at *2 (D. Utah May **1, 2014)** and pursuant to the Violation date(s) of July 10, 2014 through August 18, 2014, Right to Suit received on August 2, 2016 and date filed then thereafter on October 31, 2016. Section 10(b) of the NLRA provides a six-month limitation provision for unfair labor practice suits, but pursuant to **29 U.S.C. 160(b) (1976), The Courts have "declined to apply this time period" to "duty of fair representation actions".** ***See first UAW v. Hoosier Cardinal Corp.,*** **383 U.S. 696, 86 S. Ct. 1107, 16 L. Ed. 2d 192 (1966),** ***Echols v. Chrysler Group.,*** **633 F.2d 722 (6th Cir. 1980),** ***Pitts v. Frito-Lay,*** **700 F.2d 330 (6th Cir. 1983),** ***Smith v. General Corp.,*** **747 F.2d 372 (6th Cir.1984),** ***West v. Conrail,*** **481 U.S. 35 (1987),** ***United Parcel Service, Inc., v. William Mitchell,*** **451 U.S. 56, 101 S. Ct. 1559, 67 L. Ed. 2d 732, (1981) U.S. LEXIS 86.,** ***See also Lawson v. Truck Drivers,*** **698 F2d 250 (6th Cir. 1983).** However, **Illinois State Law** pursuant to **805 ILCS 5/12.80** "claims against a dissolved corporation" such as **"Laborers' Union Local 269"** has a **5-year limitation,** and furthermore, in ***Jones v. R.R. Donnelly & Sons Co.,*** **541 U.S. 369 (2004), rev'g 305 F.3d 717 (7th Cir. 2002)** which was presented with the question of whether section 1981 hostile work environment, wrongful termination, and failure-to-transfer claims were governed by Congress' 4 -year catchall statute of limitations (28 U.S.C 1658), or by the most analogous state statute of limitations....

> **This *Honorable* Court, in its opinion authored by the *Honorable Justice* Stevens, held that section 1658 applies to any claim "arising under" an act of Congress which was enacted after December 1, 1990 – and therefore is governed by section 1658's 4-year statute of limitations-if plaintiff's claim against the defendant was made possible by apost-1999 enactment."....42 U.S.C. 1981 Indeed, an employer may file a section 1981-pursuant to 28 U.S.C. 1658....**

"<u>within four years of the violation</u>"

Given that the 1991 Civil Rights Act enlarged the category of conduct for which employers could be liable, the 1991 Act qualified as "an Act of Congress enacted after December 1, 1990" subject to the "catchall 4-year statute of limitations," this *Honorable* **Supreme Court's Unanimous** concluded Therefore, pursuant to the **"Cited Record Evidence"** above this deems Buford's claims under Title VII Civil Rights Act of 1964 - section 1981 timely.

ARGUMENT

II. Whether the district court order that denied the appointment of counsel under 28 U.S.C. 1915 violated plaintiff 5th, 6th, 7th, and 14th Amendment of his Civil Human Constitutional Rights, and clarification of procedural due process of a "Person" who cannot afford counsel.

Now, for the sake of reasons for granting this writ and arguing further, "Petitioner" Buford believes that the district court did improperly limit the record summary judgment and/or violated his due process Constitutional **28 U.S.C. 1915** because although in opposing summary judgment, Buford may have violated the district court's local rules to cite record evidence to support his response to the defendants' proposed fact findings. ***See* N.D. ILL. L.R. 56.1(b)(3).** Even though pro se litigants must comply with the court rules, ***See McNeil v. United States,* 508 U.S. 106, 113 (1983), *"Pro Se"*** Buford's mistakes were clearly unintentional, inadvertent, clerical errors, oversights and/or omissions at best pursuant to **Fed. R. Civ. P. 60(b)(1),** and was not to undermine or abuse the dignity of the court because (1) At that time Buford did not know the meaning (legal definition) of "cite record evidence" **(Buford is leaning as he progresses forward)** ***See Additional Response/Arguments Exhibit (#078)*Vol. I, Pg. 121-154** (2) No attorney would assist him (Buford) pro bono or otherwise because he could not afford them (3) Buford supplied the court with material evidence ***See Rule 56, all internal Exhibits (#77)*Vol. III** that contradicted and/or disputed Defendant(s) pretext material evidence to "the best of his "abilities" at that time. ***See Att. Finney v. Lockheed Martin Corp,* Case# 13-CV-00869-MSK-MYW or BNB, Appeal# 15-1140 (2016).**

However, ***"Pro Se"*** Buford "did not fail to show pretext" behind his termination, and the fact(s) in light, was not most favorable to Buford" or "liberally construed in this case", nor did the district court "apply any type of lenience to thereto". In all actuality and with all due **Respect** to this most *Honorable* **Supreme Court** and its *Honorable* **Justices thereto,** Buford truly believes to the best of his knowledge and belief is that the district court's *Honorable* **Gary Feinerman** set him up to fail because (4) Buford "did not" leave to proceed ***Pro Se Informa Pauperis*** pursuant to **28 U.S.C. 1915(a)** " by choice" like the Foolishness of "faretta" ***See Faretta v. California,* 422 U.S. 806, (more) 95 S. Ct. 2525; L. Ed. 2d. 562; 1975 U.S. LEXIS 83,** but Buford's leave to proceed was done **"by force of the court"** because words such as "Discretion, Complexity, Abilities" and "infancy" allows the district court the convenience of **"not honoring"** the **Rules and Regulations, of a Person(s) Rights,"** that have been set forth by Congress, because the fact

of the remains, and as a matter of law.....***28 U.S.C. 1915(d)(e)(1)*** **states:**

> **(d) The officers of the court shall issue and serve all process and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases.**
>
> **(e)(1) The court may request an attorney to represent "Any Person" unable to afford counsel.**

Therefore, the court was bias in denying Buford of his **"Right to Counsel"** pursuant to ***1915(d)(e)(1),*** an ***Article 7 Human Right 6th, 8th,*** and ***14th Amendment Violation*** for the reasons due to "complexity" and "Buford's abilities". ***See District Court Order Exhibit (#11)*** **Vol. II, Pg. 33-35** because there was no way possible for the *Honorable* "Gary Feinerman" to make a conscience, comprehensive and/or correct decision on Buford's legal capabilities or mental competency without a formal hearing or evaluation, pursuant to **18 U.S.C. 4241 and 4247.** ***See Dusky v. United States,*** **362 U.S. 402 (1960).** The district court new for fact this case was complex from the start, that Buford's legal consciousness was not that of a certified lawyer, and on Buford's second request for counsel due the case being in its "infancy", ***See District Court Order Exhibit (#22)*****Vol. II, Pg. 36-38,** although the court new for a fact that Defendants Local Union 269 and 4 would make an appearance, "yet he was still denied **"indigent person"** (Buford) counsel again. ***See Bute v. Illinois,*** **333 U.S. 640 (1948).** Even though the district court denied Buford "Without Prejudice" on the second request, it was **"Highly Prejudice"** of the district court to deny him of his Constitutional Right to effective counsel pursuant to **28 U.S.C. 1915(e)(1),** thereafter the defendant(s) 269 and 4's lead attorney Robert S. Cervone made his appearance. ***See Strickland v. Washington,*** **466 U.S. 668 (1984).**

Arguing even further, after the defendant's attorneys made their initial appearance on January 4, 2017, ***See Attorney Appearance/Defenses to Complaint Forms Exhibit (#177)*****Vol. I Pg. 327-329** instead of district court **"Appointing Plaintiff Effective Assistance of Counsel forthwith *sua sponte*", which Buford previously requested of the court, on two separate occasions pursuant to 28 U.S.C. 1915(e)(1) or Rule 333,** ***See Oliver, 333 U.S. 257 (1948)*** *Judge* **"Gary Feinerman"** coerced Buford [Plaintiff-Petitioner] in preparing his own version of a Rule 26.1, by saying to....."**go on google and research, it will tell you everything you need to know"** which is an ***Article 2, 7, 8, 10, 12 Human Rights, 6th, 7th*** **and** ***14th Amendment Violations. See District Court Jan. 31st , 2017 Order Exhibit (#188), See Plaintiff's Rule 26 Exhibit (#66)*****Vol. II, Pg. 153-237,** ***See Att. Compliance Declaration of Writ Exhibit (#8)***

However, the federal ***in forma pauperis*** statute pursuant to **28 U.S.C. 1915**, "ensures that indigent litigants that have meaningful access to the federal courts." "**not the internet**" ***See Bruce v. Samuels,* 136 S. Ct. 627, 629 (2016) (citation omitted).** Statute section **28 U.S.C. 1915(a)(1)** "permits an individual to litigate a federal action "*in forma pauperis*," and to proceed without paying otherwise-applicable court fees, "if the individual files an affidavit stating, among other things, that he or she is unable to prepay fees 'or give security therefor.'" ***See Coleman v. Tollefson,* 185 S. Ct. 1759, 1762, (2015) (citation omitted).** Under section **1915 (d)(e)(1),** a court may appoint "an attorney to represent "[any person]" unable to afford counsel." ***See Gideon v. Wainwrig,* 372 U.S. 335 (1963) (citation omitted),** and ***Brewer v. Williams,* 430 U.S. 387 (1977) (citation omitted)** ***See also Turner v. Rogers* 564 U.S. 431, 131 S. Ct. 2507 (2011)** arguing even further, "Nowhere in this Rule does it state... **"Only Criminal Defendants or Civil Defendants are guaranteed legal counsel"**. Because, If any and/or all person(s) [citizens] born in the United States are protected by [its] law it was , **"Extremely Unconstitutional"** for the district court to deny Buford his rights under rule **28 U.S.C. 1915(e)(1)**, for any reasons other the fact of him "**not being poor** in which he should've been secured [in] by the law because if **[THE LAW DEFINES] a "Poor Person as an Indigent",** and an **"Indigent Person as Poor"**, then therefore a.... **"Poor Plaintiff which is a Person [in a Civil Case] is an Indigent Persons too"**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; "nor deny to any person within its jurisdiction

"Equal Protection Of The Laws".
14th Amendment

Moreover, the 7th Amendment does not apply to the states such as, IL., MI., etc. ***See Walker v. Sauvinet, 92 U.S. 90 (1876),*** However, it does apply to the **"Federal Courts of the United States"** ***See Wonson, (1812). 7th and/or 17th Amendment States...."In Suits at common law, where the value in controversy exceeds 20 dollars, the right of trial by jury shall be preserved."*** The district court Violated Buford's 7th Amendment Due Process by grating defendant's summary judgement.

ARGUMENT

III. Whether unofficial *"pretextual"* papers written statements without the correct times, dates, locations, or signatures, and *"without declaration"* under the penalty of perjury under 28 U.S.C. 1746 18 U.S.C. 1621 and 1623. *United States v. Dunnigan,* 507 U.S. 87 (1993) should have been excepted by the district or appeals court as admissible *"material"* evidence to form a conclusion against Buford in this case.

Now arguing even further, for reasons of granting this writ for Petitioner Buford states that during the discovery process of this case the district court *Judge* **Young B. Kim** ordered "Plaintiff" Buford to "sign Declarations pursuant to **28 U.S.C. 1746** penalty of perjury under **"Threat, Duress, and Coercion of dismissal of this case"**, in connection to interrogatories sent to him from defendant(s) International Laborer's Union 269 and 4's attorney Robert S. Cervone, because he pretextually stated to the courts that ***"Pro Se"* Buford** did not respond to his request to produce which was not true. ***See Cervone's Letter/Court Order/Declaration From Cervone Exhibit (#199)*Vol. I, Pg. 338-345.** However, declarations presented by ***"Pro Se"*** Buford to Cervone for defendant's witnesses to sign were undoubtedly denied by the district court(s) *Magistrate Judge* **Young B. Kim.** ***See Sample Declarations to Defendant Wittiness Exhibits (#200)*Vol, I, Pg. 346**

Note: *"Pro Se"* Buford was imitating the legal process that was being presented upon him. Therefore, interrogatories and request to admits with declarations attached pursuant to 28 U.S.C. 1746 in connection to them, should have been signed by defendants' witnesses and/or not been denied by the court stating.... "he must find a different discovery method" because as the ol' adage goes.... "what's good for goose, is good for the gander"

Therefore, it is ***"Pro Se"*** Buford's strong knowledge and belief that the district court(s) *Judge* **Young B. Kim** was **"totally bias and extremely prejudice"** for allowing defendants' witnesses the privilege of **"not signing"** plaintiffs declaration to them, ***See District Court Orders July 6th ,(#211)*Vol. I, Pg. 379-380,** ***and Sept 5th, Exhibits (#222)*Vol. I, Pg. 381** ***"Denying Plaintiff's Declarations to Witnesses"***, which Petitioner strongly believes was a violation of his due process. ***See Tumey v, Ohio,* 273 U.S. 510 (1927) (lack of impartial trial judge) *14th Amendment Right Violation.*** Also, Moore 269 B.A. declaration in defendants Motion for Summary Judgement was excepted as admissible evidence by the court, however "Buford's Declaration" ***See Rule 56 Appellant Brief Exhibit (#77), Buford's Declaration (D2)*** which **"was cited"** thereto on **(Pg. 8, Line 3)** ***See Actual/Factual Declaration* Pg. 158-160** that was omitted by ***"Pro Se"*** Buford due to a clerical error/oversight **(merely technical),** and was denied by the district court(s) knowing that Buford had more than just personal knowledge, but had factual knowledge of what really occurred on the job site because he was there, and by this, Buford strongly believes his **14th *Amendment*** due process rights were violated here also. Because who would've thought it was a time limit on telling truth, and nothing but the truth. ***See Tumey v. Ohio,* 273 U.S. 510 (1927) (lack of impartial trial judge)** ***See also Ihenacor v. Price,* ELH-18-3342 (D. Md. Mar. 28, 2019).**

Declaration or Affidavit **states: A declaration/affidavit must be based on the "declarant's personal knowledge". The personal knowledge requirement for a declarant on summary judgement is minimal; if reasonable persons could differ as to whether the witness has personal knowledge of the facts stated, the declaration testimony is "admissible."**

U. S. Code 1746(1) states:

> **Wherever under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is "required or permitted to be supported, evidence, established, or proved by the sworn declaration", verification, certificate, statement, oath, or affidavit, in writing of the person which is "subscribed by him , as true under the penalty of perjury, and dated, in substantially the following form:**

I declare (or certify, verify, or state) under penalty of perjury under the laws of The United States of America that foregoing is true and correct. Executed on.... (date) and (signature) (Added Pub. L. 94-550, Sec.1(a), Oct. 18, 1976,90 Stat. 2534.)

Therefore, with all due respect to this most *Honorable* **Supreme Court** and *Honorable* **Justices** thereto, the *Honorable* **Gary Feinerman** in his "Memorandum Opinion" which he stated....

> ...."**We are hard-pressed to see how [the] (Buford's) affidavit could constitute compliance with [Local] Rule 56.1. ....[The] (Buford's) affidavit in no way constitutes a concise response to each numbered paragraph in the [Local Rule 56.1(a)(3)] statements.**

See Memorandum Opinion Order Exhibit (#88)*Vol. III, Pg. 317 of Pgs. 4-5, L. 1-29)** This is a classic example of...."the lower Courts not Liberally Construing in the light most favorable to Buford, or Appling any type of lenience thereto. Furthermore, to the best of Buford's Wisdom, Knowledge, and Understanding of the law is that...."**Declarations and/or Affidavits is to prove the truth period."** Arguing even further, and with all due **Respect** to the *Honorable* **Supreme Courts Justices** of this *Honorable* **Court**, ***"Pro Se" Buford is also hard-pressed to know how the District Court formally known as the...."**Justice System"** could've, would've, or should've excepted tissue paper statements/documentation without Declaration as ***"Substantial Evidence"*** in this suite, or in any other .... **"Court or Legal Proceeding in the United States of America".**

Therefore, the documents submitted by Cervone from Defendants so-called witnesses without Signature under the penalties of perjury pursuant to **1760 28 U.S.C. 1746** should not have been, or be allowed, nor is credible or worthy as admission of evidence in this colorful case. ***See Sutter v. Easterly,* 354 Mo. 282, 189 S.W.2d 284 (Sept 4, 1945) Sup. C. Mo. Div. One**

A. Whether Local Union 269 and IWG employee's "*Obstructed Justice*", through its attorney Robert S. Cervone's "*Violations of Candor Rule* 3.3."

Petitioner Buford now argues that the pretextual documents and statements supplied by defendant's local union 269 and 4's attorney Cervone's so-called witnesses who has the potential of not even existing, was clearly a strategic tactic to cover all their illegal actions they had committed. Pursuant to ***18 U.S.C. 1001*** this "undermines the integrity and prestigiousness of this Honorable Supreme Court" and is blatant "Obstruction of Justice" pursuant to ***18 U.S.C. 1503, 1505, 1512*** and should be dealt with accordingly pursuant to the law. ***See Hubbard v. United States,* 115 S. Ct. 1754,1764 & n.15.** ***See also False Statement Accountability Act of 1996,* P.L. 104-292, H.R.3166, (Oct. 11, 1996)** and ***See* this Manual at 902 *et seq.***

***See United States v. Ashurov,* 726 F. 3d 395 (3rd Cir. 2013) states: It is a crime under 18 U.S.C. 1546, to knowingly making a false statement under oath a document required by the immigration laws. It is also a crime "to knowingly present any such document which contains any such false statement"**

> **The Supreme Court in *Arthur Andersen* held that the "nexus" requirement that the Court found in *Aguilar* with respect to 18 U.S.C. 1503, which applies to the existing official proceedings, also applies to 18 U.S.C. 1512 which covers foreseen proceedings. Therefore, the government must prove that the defendant knew that his actions would likely affect foreseen proceedings.**

And finally, to be clear, it is "not necessary" under **18 U.S.C. 1512** to show that the defendant's actions had their intended affect. In an illustrative case in 1997...,

> **The Sixth Circuit held that "an endeavor to obstruct justice violates the law even if...the plan is doomed to failure." It is the president's attempts to stop grand jury proceedings that matter, not whether or not he succeeded, or was likely to succeed.**

Although the so-called Defendants Witnesses "***Pretextual Statements and Documentation*** did affect Buford's legal proceedings, the relevant federal criminal provision–**18 U.S.C. 1512(c)(2)**

> **Makes it a crime to obstruct "any official proceeding or attempt to do so." The statute specifies that "an official proceeding need not be pending or about to be instituted at the time of the offence" *See Arthur Andersen LLP v. United States* 544 U. S. 696 (2005)**
>
> **Prosecutors bringing charges under 18 U.S.C. 1525 must show that an official proceeding, such as a grand jury investigation was foreseen, and that the defendant knew that his actions would likely affect those proceedings.**

However, seeing as though Petitioner has thoroughly argued pretext in the previous afore mentioned arguments, and as not to be so repetitive ***"Pro Se"*** Buford states...

Pretexts: **May be based on half-truth or develop in context of a misleading fabrication.**
Pretexts: **Are used to conceal the true purpose or rationale behind actions and words.**
Pretexts: **Usually describes false reasons that hide the true intentions or motivations for a "Illegal Action"** ***See McDonnell Douglas Corp v. Green,*** **411 U.S. 792, 802 (1973)**

After an employee has satisfied his burden of establishing prima facie case of discrimination, the burden of production shifts to the employer "to articulate some legitimate, non-discriminatory reason" for its termination decision. ***See*** **Jones, 617 F.3d at 1278-79., which states: Once the employer has done so, the burden shits back to the employee to show that the proffered reason is pretextual.**

Then ***See also EEOC v. Lehi Roller Mills Co., No. 2:08-CV-00591 DN 2014 WL 175987, at *2 (D. Utah May*** **1, 2014)**

Therefore, the ***McDonnell v. Douglas,*** **test *"should not apply" See Hout v. City of Mansfield,* 550 F. Supp. 2d 701, 727 (N.D. Ohio 2008)** Because once a lie hits the light only the truth remains. Therefore "Racist and Prejudice" are one in the same, and together these form **"Racial Prejudice",** which equals **"Discrimination"** because;

Racist: **Is a person who shows or feels discrimination or prejudice against people of other races; and....**

Prejudice: **Is harm or injury that results or may result from some action or judgement.**

However, ***See Finney v. Lockheed Martin Corp,*** **Case# 13-CV-00869-MSK-MYW or BNB, Appeal# 15-1140 (2016)** because with all due respect to most *Honorable* **Supreme Court** and its *Honorable* **Supreme Justices** thereto, ***"Pro Se"*** Buford must state again that he **"did not fail to establish pretext"**. Therefore, Buford's prima facia of racial slurs being used towards him and Buford being wrongfully terminated in connection with 269 laborers/IWG employees **"fabricated, un-sensible, inconsistent, and contradictable statements/documentation"** prima facia **pretextual hearsay** such as... threatening behavior, physical altercations, safety violations and poor work performance, and supervisor placement, for these actions a reasonable factfinder could rationally find them unworthy of credence and hence infer that the "employer did not act for the asserted non-discriminatory reasons." ***See Morgan v. Hilti, Inc.,*** **108 f.3d 1319, 1323 (10th Cir. 1997) (citation omitted);** ***See also Reeves v. Sanderson Pluming Prods., Inc.,*** **530 U.S. 133, 148 (2000)....states;**

("[A] plaintiff's prima facie case, combined with sufficient evidence to find that the employers asserted justification is "false" may permit the trier of fact to conclude that the employer unlawfully discriminated against the employee.")

And furthermore, the district courts *Honorable* **Gary Feinerman** by his own admission stated in his own choice of words within his Memorandum Opinion that **Material *evidence submitted by 269 Laborers/IWG employees was* Pretext"**, by stating....

> **"First, that the statements that Moore heard or read are not hearsay because they are used not for the truth of the matters asserted, rather to show their effect on Moore during his investigation into Buford's termination."** ***See District Court Memorandum Opinion/Order Exhibit (#88)*Vol. III, Pg. 325-326 Line. 22-24**

"Pro Se" Buford does not concur because the statements were present as **"the truth"**, but 269 laborers/IWG employees didn't realize that Buford could analyze the situation and reveal the flaws. (lop holes) Furthermore, Buford does concur with the fact that the false statements and Documentation was recognized by the court which caused an adverse action in Moore illegally denying Buford of his Right to duty of fair representation and also, caused him not to conduct a fair investigation on Buford's behalf.

Now let us pause for a moment ant think about this....if Ben Gomez the 269 steward that reports to Moore the 269 Business Rep. about the activities on the job site, and is the person who is supplying the most pretextual information, wouldn't be safe to say.... Moore knew the illegal acts he was committing against Buford. That's neither here nor there now, because the fact remains and as a matter of law the statements presented were ***"Pretext"***. Therefore, with all due respect from ***"Pro Se"*** Buford again, what this most *Honorable* Supreme Court Justices may take into deep consideration is that several 269 union members, and especially the **"fact"** that **"[A] Union steward "Ben Gomez" who is an official agent for the Union" and is required to "Protect members [Buford] of the Union"**, wrote and submitted "false statement/reports" to the Courts ***See Gomez Letter Exhibit (#77)*Vol. III, internal Exhibit *(S)*Pg. 110-111, *Compared to Pro Se Buford's Analyses of the letter* Pg. 5, Section B2(i) *and Work Placement Sheets Exhibit (T)*Pg. 112-116,** through lead attorney Robert S. Cervone should make them liable for "**Discrimination, Duty of Fair Representation, and Obstruction of Justice**", because ***"Pro Se"*** Buford **"did not fail to establish pretext".** ***See also Defendants Request to Admit Answers* Rule 56 (#77) Vol. III, internal *Exhibit (G)*Pg. 82-83, Request #13-14.** Then ***See also Exhibit (K)*Pg. 94 Line 9, *and* 95 Line 3. (verification of Gomez as supervisor for Buford)** there is tons of pretext inside **Vol. III** and throughout this entire case against Buford. ***See EEOC v. National NEA, Alaska,* 422 at 840**

Therefore, the **"Laborers International Union of North America"**, Timothy W. Moore **"its Business Agent and its Union Steward"** Ben Gomez should be "disciplined" for the willful

dishonesty of them making false statements, because "fabrication, hearsay, and Pretextual evidence is one in the same pursuant 801 federal rules of evidence, and the company with the unions actions were, which is to the best of ***"Pro Se"*** Buford's knowledge, belief and understanding is a direct violation of these Rules **801(a)(1)(c), 801(a)(1)(c)(A), 801(d)(1)(B)(i) and/or 801(c)(1)(2).** ***"Violation of Buford's 6th*** and ***14th Amendment Rights". See All Forged Pretextual Document/Statements again If Desired in Exhibit (#77)*****Vol. III,*** ***See Federal Rules of Evidence 801-803, 901 Exhibit (#233), See also United States v. Gaudin,*** **515 U.S. 506 (1995).**

Now as far as Cervone's role is concerned in connection these circumstances, he submitted falsified evidence to the courts and pursuant to ***Penal Code*** **132** ***PC*** this is a violation of ***See Civil Liabilities*** **(740 ILCS 175)** ***Illinois False Claims Act,*** and his actions were also a direct violation of his candor because pursuant to *Magistrate* **Kim's** statements to ***"Pro Se"*** Buford in open court, Cervone is the person who answers and/or answered all of the questions requested from him by Buford throughout the entire discovery process, ***See Att. Declaration of Writ (#9)*** therefore....
Rule 3.3(a)(1)(3) Candor **states;**

(a) A lawyer shall not knowingly;

(1) make a false statement of fact or law to a tribunal or to correct a false statement of material fact or law previously made to the tribunal by the lawyer; make a false statement of fact

(c) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

Now before ***"Pro Se"*** Buford ends these arguments about Cervone violating his Candor pursuant to Rule 3.3 I will state that, attorney Robert S. Cervone by his own admission in his ***Response Brief Arg. #4 on page 28, line 10-12*** confirms that the "***Material Evidence"*** was ***"Pretext"*** by stating....

..... **"Local 4 did not introduce those statements to "prove the truth" of matters asserted" and "the District Court's rulings are based on well-settled principals"**

basically, this statement says attorney Cervone knew his clients were being untruthful from the beginning, and therefore ***"Pro Se"*** Buford does not concur with the statement again because 269 Laborers/IWG employee's put forth the statements as if they were the truth, in order to cause a scenario for which they terminated Buford. **(Defamation of Buford's Character)** Attorney

Cervone is the person who actually and knowingly in **"Bad Faith"** submitted the pretextual documents to the court which violates **Candor Rule 3.3(a)(3),** ***See Texas v. United States of America,*** **(April 17, 2016) (citations omitted)** in the companion order, *Judge* **Hanen** made this **blistering statement** against the DOJ lawyers whom he found had violated Rule 3.3:

> **Fabrications, misstatements, half-truths, artful omissions, and the failure to correct misstatements may be acceptable, albeit lamentable, in other aspects in life; but in the courtroom, when the attorney Knows that both the Court and the other side are relying on complete frankness, such conduct is unacceptable.**

Let's view Judge Hanen's accusations of serious unethical conduct against these lawyers in the context of the complex issues arising out of this case, because there's no well-settled principals or morals behind the District and Appeals Court excepting pretextual statements that adversely caused a "Civil Human Being (Buford) extreme and unmeasurable loss." ***See Tumey v, Ohio,*** **273 U.S. 510 (1927) (lack of impartial trial judge[s])** ***See Article 12 Human Rights Violation,*** and ***1st, 5th, 6th, 7th, 14th Amendment Violations, See Att. Compliance Declaration of Writ (#9)***

Moreover, and in ending this argument, ***"Pro Se"*** Buford must state that attorney Cervone also violated his.... **"Rules of Professional Conduct pursuant to 3.3(a)(3)(b)"**

See Liar, Liar: What Do When Your Client Lies Exhibit (#244)

See People v. Miller, No. **16PDJ067, 2017 BL 208514**

ARGUMENT

IV. Whether the district court allowed Robert S. Cervone and David P. Lichtman to violate Buford's *"Article 12, 14th and 9th Amendment right to Privacy"* by inviting Timothy Moore (269 Business Agent) and Brin R. Kelsey to be present at Buford's depositions.

A. Whether attorney Cervone and Kelsey violated a direct court order pursuant CCP2025.420(b)(12) by Cervone inviting Brian R. Kelsey (IWG attorney) to the second session, and thereafter the district court allowed him the privilege of violating his Candor.

On June 22, 2017 Plaintiff Buford was ordered by the district court and he reported as ordered. But unfortunately, Cervone had planned to conduct the depositions in **"Bad Faith"**, because upon Buford's arrival Moore the culprit and ringleader to this malicious misuse and abuse of authority discriminatory based case, was present. Plaintiff complied with the courts order and

started his depositions, due to irrelevant questioning from Cervone and the unruly facial expressions from Timothy Moore and his presence alone put Plaintiff-Petitioner in an **"Unreasonably Annoying, Intimidating, and Oppressed situation".** Therefore, pursuant to **Fed. R. Civ. P. 30 (d)(3)(A)** Buford terminated his depositions. ***See Plaintiff's June 22, 2017 Deposition First Session Exhibit (#33)*Vol. II, Pg. 39-40.**

However, Plaintiff ***"Pro Se"*** Buford filed a written motion in district court before the *Magistrate Judge* **Young B. Kim** to terminate his depositions permanently, which as usual was denied and therefore sanctions were requested by defendant's attorney Cervone and granted against plaintiff [Buford] for terminating his depositions. ***See District** Magistrate Judge* **Young B. Kim *See Court Order Exhibits July 12th, 2017 (#255)*Vol. I, Pg. 406** and ***Sept 11th, 2017 (#266) Applying and Granting Sanctions.*** Buford then thereafter filed a motion for review in the district court before the *Honorable* **Garry Feinerman. *See District Court Order July 24th, 2017 Exhibit (#277)*** which to no surprise was also overruled and denied. ***See District** Honorable* **Gary Feinerman *Sept. 11th ,2017 Court Order Exhibit (#288).***

Now, on or about September 11, 2017 and October 25, 2017 ***"Pro Se"*** Buford and Defendants Local Union 269 and 4 attorney Cervone appeared in district court before the *Magistrate Judge* **Young B. Kim.** Buford was ordered to finish his depositions and at one of these appearances [*"Pro Se"* Buford prefers the latter date of Oct. 25, but not for sure] gave Cervone strict court instructions and/or standing court order pursuant to **CCP 2025.420(b)(12)** to **"not"** let Timothy Moore or anybody else for that matter attend Buford's second session of depositions other than Cervone himself, his assistant attorneys, and the court reporter, ***See* Vol. II, 103/Pg. 167 of *Depo's*** and as this most *Honorable* **Supreme Court** may have already guessed, did not happen.

On or about November 16, 2017 Plaintiff Buford once again reported to depositions as ordered by the Courts ***See Depositions Exhibit (#33-2)*Vol. II, Pg. 75/Pg. 92 of Depo's** and not to Buford's surprise up to his ol' slick antics again because upon starting his depositions and about 10 to 15 minutes into questioning Buford recognized an unidentified person sitting in the corner of the conference room taking notes before Buford asked...."who is that?" which was third-party IWG's attorney Brian R. Kelsey and he was not supposed to be there pursuant to the Courts Order. ***See* 77/Pg. 98 of Depo's** Moreover, and make a long argument short, Cervone stated that...."he requested that he not attend" ***See* Pg. 53/Pg. 4 of *Depo's*.** Cervone tries to get Kelsey's confirmation to the above statement by asking..."Mr. Kelsey can you confirm that?" but Kelsey never confirmed

Cervone's as this *Honorable* Supreme Court Justices will notice upon review of transcripts. ***See* 53/Pg. 5 of Depo's** Nor did Cervone at any time try to escort him out the conference room, he [Cervone] tried to continue conducting Buford's depositions despite a direct court order as usual.

Buford requested that the *Honorable Judge* **Feinerman** be called, ***See* 101/Pg. 158 of *Depo's*** but Cervone was reluctant to do so because he knew he was in violation of an order. Buford stopped his depositions pursuant to 30(d)(3)(A) and was persistent about calling the judge and eventually the call was made, and *Magistrate Judge* **Kim** was reached. ***See* 76/Pg. 97 of *Depo's*** Upon Judge Kim finding out the situation in connection with call he told Kelsey to remove himself because he wasn't to be there. ***See* 104/Pg. 170 of *Depo's*.** Wherefore, to the best of ***"Pro Se"*** Buford's knowledge and belief is that Cervone conducted Buford's depositions in **"Bad faith"** once again, and was a direct violation to Buford's ***9th Amendment*** **"Right to Privacy"** because blatantly violated his Candor in connection to **"Judge Kim's Order"** ***See Pounder v. Watson,* 521 U.S. 982 (1987),** ***See also United States v. Allen,* 587 F.3d 246 (5th Cir. 2009).** ***See Att. Compliance Declaration of Writ (#10)*** because....,

***Rule 3.4(a)(c) candor* states: A lawyer shall not;**

> **(a) unlawfully obstruct another party' s access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act; or**
>
> **(c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;**
>
> **B. Whether the district court *"Article 5 and 8th Amendment Right to Freedom of fines or cruel and unusual punishment"* for exercising his right pursuant to Fed. R. Civ. P. 30(d)(3)(A).**

Now, thereafter on July 12, 2017 *Magistrate Judge* **Kim** applied a fine $1,870 ***See Exhibit (#255)*Vol. I, Pg. 406** and then on September 11, 2017 he ordered Plaintiff Buford to pay $95 under ***Threat and Duress of Dismissal*** if payments were not made to Cervone, ***See Exhibit (#255)*Vol. I, Pg. 407** for applying the Rules pursuant to 30(d)(3)(A) after being put in an intimidating, oppressed, unreasonably annoying situation Cervone, Lichtman, Moore, and Kelsey while attending his depositions which Buford believes was...."**cruel and unusual punishment"**

***See Tumey v, Ohio,* 273 U.S. 510 (1927) (lack of impartial trial judge[s])**

ARGUMENT

V. Title VII discrimination claims alleging a violation of 42 U.S.C. 2000e-2(c) by a union are not subject to the requirements and limitations applicable to a claim that a union violated its duty of fair representation.

A. To establish a discrimination claim against the union under Title VII, a plaintiff is not required to satisfy the requirements for establishing a claim that the union discriminatorily breached its (D.F.R.) Duty of Fair Representation.

The district court concluded that when a plaintiff sues a union under Title VII, he must satisfy an additional burden to prevail; he must establish that the union violated its duty of fair representation. Order, In so ruling, however, the court failed to account for the overwhelming body of authority—both statutory and case law—that compels the contrary conclusion. Simply put, the standards governing duty of fair representation claims do not govern Title VII discrimination claims against a union. In 2000e-2(c) of Title VII, Congress established a statutory scheme prohibiting a broad array of discriminatory conduct by unions. The statute makes it unlawful for a labor organization to "exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin." 42 U.S.C. 2000e-2(c)(1). The statute further makes it unlawful for a union to "limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. 2000e-2(c)(2). In addition, the statute prohibits unions from "caus[ing] or attempt[ing] to cause an employer to discriminate against an individual in violation of this section." 42 U.S.C. 2000e-2(c)(2)-(3); *see also* 42 U.S.C. § 2000e-3 (prohibiting additional forms of discriminatory conduct by both employers and unions).

Notably, in drafting 2000e-2(c), Congress defined discrimination by unions broadly to encompass a union's discriminatory conduct toward *any individual*—not just union members or members of a particular bargaining unit. *Cf. NLRB v. Sw. Gen., Inc.*, 137 S. Ct. 929, 939 (2017) (recognizing Congress' use of term "person," rather than a narrower but "readily available alternative" term, as indicating broad statutory coverage). Moreover, and of particular importance here, Title VII does not limit prohibited discriminatory actions to those involving the terms of a collective bargaining agreement or to the breach of any particular union obligation.

See 42 U.S.C. §§ 2000e-2(c)(1)-(3), 2000e-3; *Goodman v. Lukens Steel Co.*, 482 U.S. 656, 667 (1987) (emphasizing that Title VII makes it unlawful for unions to "exclude or to expel from its membership, *or otherwise to discriminate against*, any individual because of his race, color, religion, sex, or national origin" (quoting 42 U.S.C. 2000e-2(c)(1)) (emphasis added by court)), abrogated on other grounds by *Jones v. R.R. Donnelly & Sons Co.*, 541 U.S. 369 (2004).

In contrast, the cause of action against a union for violating its duty of fair representation is a distinct protection, narrower than Title VII in its scope of coverage, with different substantive requirements and more limited remedies. The duty of fair representation doctrine has its origins in the Supreme Court and the common law. *See Vaca v. Sipes*, 386 U.S. 171, 181 (1967). "Under the doctrine of fair representation, the union, as an exclusive agent of the employees, is obliged to 'serve the interests of all its members without hostility or discrimination toward any, to exercise discretion with complete good faith and honesty, and to avoid arbitrary conduct.'" *Emswiler v. CSX Transp., Inc.*, 691 F.3d 782, 793 (6th Cir. 2012) (quoting *Vaca*, 386 U.S. at 177). This doctrine "has stood as a bulwark to prevent arbitrary union conduct against individuals stripped of traditional forms of redress by the provisions of federal labor law." *Vaca*, 386 U.S. at 182. "To prevail on a claim for breach of duty of fair representation, [the plaintiff] must show that (1) the action taken by the [union] was contrary to the CBA; and (2) that the action was dishonest, in bad faith, or discriminatory." *Emswiler*, 691 F.3d at 793 (citing *Hines v. Anchor Motor Freight, Inc.*, 424 U.S. 554, 570-71 (1976)).

While the duty of fair representation doctrine complements the protection against union discrimination Congress provided in Title VII, a duty of fair representation claim is subject to unique burdens and limitations that do not apply to claims under U.S.C. 2000e-2(c). First, courts limit duty of fair representation claims to union conduct that contravenes the collective bargaining agreement. *See Emswiler*, 691 F.3d at 793 (recognizing that to establish a duty of fair representation claim, the plaintiff must show that "the action taken by the [union] was contrary to the CBA") (citing *Hines*, 424 U.S. at 570-71). This is necessarily a narrower category of discriminatory conduct by unions than is covered by Title VII, which contains no such limitation. *See, e.g.*, *Goodman*, 482 U.S. at 667 (emphasizing the breadth of union conduct subject to Title VII protection against discrimination by unions as to include "exclud[ing] or to expel from its membership, *or otherwise to discriminate against*, any individual" (quoting 42 U.S.C. § 2000e-2(c)(1) (emphasis added by court)). The duty of fair representation is also limited to protecting bargaining unit members only, unlike Title VII's protection of "any individual" from

discrimination by unions. *Vaca*, 386 U.S. at 190 ("A breach of the statutory duty of fair representation occurs only when a union's conduct toward a member of the collective bargaining unit is arbitrary, discriminatory, or in bad faith."); *Allen v. CSX Transp., Inc.*, 325 F.3d 768, 772 (6th Cir. 2003) (observing that a union's duty of fair representation does not extend to non-members of the bargaining unit).

In addition, courts have indicated that a more rigorous standard of proof applies to duty of fair representation claims than to Title VII claims against a union. *See Alexander v. Gardner-Denver Co.*, 415 U.S. 36, 58 n.19 (1974) (observing that, since "a breach of the union's duty of fair representation may prove difficult to establish," "it is noteworthy that Congress thought it necessary to afford the protections of Title VII against unions as well as employers") (citing 42 U.S.C. 2000e-2(c); *Vaca*, 386 U.S. 171; *Humphrey v. Moore*, 375 U.S. 335, 342, 348-51 (1964)); *cf. Garity v. APWU Nat'l Labor Org.*, 828 F.3d 848, 864 (9th Cir. 2016) (observing that the "plaintiff-friendly pleading standards" under Title VII "make clear that the free hand unions have in other labor matters does not extend to discrimination suits. . . . [A] plaintiff may have an easier path to proving a Title VII . . . claim when she can also show that the union has violated its duty of fair representation. . . . [T]he converse is not necessarily true: A plaintiff may still have a Title VII . . . claim even if she can't prove a violation of the labor laws."). The availability of damages also substantially differs under each type of claim. Courts have recognized that in a duty of fair representation suit, recovery of compensatory damages for injuries such as emotional distress is available "only in exceptional circumstances" and requires an additional showing that the union's conduct was both unlawful and "extreme and outrageous." *Cantrell v. Int'l Bhd. of Elec. Workers, Local 2021*, 32 F.3d 465, 468-69 (10th Cir. 1994); *see also Angel v. United Paperworkers Int'l Union (PACE) Local 1967*, 221 F. App'x 393, 402 (6th Cir. 2007) (unpubl.) (citing *Cantrell* as support for the conclusion that "[t]he Union's conduct in this case is not sufficiently exceptional or extreme to merit damages for emotional distress"). As for punitive damages, this Court has held that "punitive damages are not available against a union for breach of the duty of fair representation." *Wilson v. Int'l Bhd. of Teamsters, Chauffeurs, Warehousemen & Helpers of Am., AFL-CIO*, 83 F.3d 747, 754 (6th Cir. 1996) (citing *Int'l Bhd. Of Elec. Workers v. Foust*, 442 U.S. 42, 52 (1979)).

These limited remedies stand in stark contrast to those available for discrimination claims under Title VII. With the 1991 amendments to Title VII, Congress expressly provided for recovery of compensatory and punitive damages in suits against unions under § 2000e-2(c).

42 U.S.C. 1981a; *see generally Kolstad v. Am. Dental Ass'n*, 527 U.S. 526 (1999) (discussing available damages under Title VII, with particular focus on punitive damages). In so doing, Congress did not limit the availability of such damages to "exceptional circumstances" of "extreme and outrageous" conduct. *See generally* 42 U.S.C. § 1981a; *Kolstad*, 527 U.S. 526.

Because of these differences, the Supreme Court and the appellate courts around the country have long treated Title VII and duty of fair representation claims as distinct causes of action, each with its own particular requirements for establishing a violation. *See, e.g.*, *Goodman*, 482 U.S. at 667 (in upholding Third Circuit's affirmance of jury finding of union discrimination under Title VII, noting that court of appeals did not affirm based on a finding of a duty of fair representation violation, but because "it held that the Unions had violated [§ 2000e-2]"); *Garity*, 828 F.3d at 858, 864 (stating that "nothing in Title VII suggests that union members must demonstrate a breach of the union's contractual duty to provide fair representation before stating a claim for racial, religious, or gender discrimination under Title VII," and "[a] plaintiff may still have a Title VII . . . claim even if she can't prove a violation of the labor laws."); *Green v. Am. Fed. of Teachers/Ill. Fed. of Teachers Local 604*, 740 F.3d 1104, 1105-07 (7th Cir. 2014) (holding that establishing a Title VII discrimination claim against a union does not require showing a violation of the duty of fair representation). *Cf. 14 Penn Plaza LLC v. Pyett*, 556 U.S. 247 (2009) (recognizing, in the analogous context of discrimination claims under the Age Discrimination in Employment Act, 29 U.S.C. 621 *et seq.*, that such discrimination claims exist as remedies "in addition" to a duty of fair representation claim); *Gardner-Denver*, 415 U.S. at 48-49 (recognizing in Title VII employment discrimination suit that "legislative enactments in this area have long evinced a general intent to accord parallel or overlapping remedies against discrimination," and "the legislative history of Title VII manifests a congressional intent to allow an individual to pursue independently his rights under both Title VII and other applicable state and federal statutes. . . . Title VII was designed to supplement, rather than supplant, existing laws and institutions relating to employment discrimination").

Moreover, both in this Court and elsewhere, a plaintiff may establish a union's violation of 2000e-2(c) by resort to the same well-established methods of proof that have long been available in Title VII suits against employers. *See, e.g.*, *Reed v. Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am.*, 569 F.3d 576, 579-82 (6th Cir. 2009) (analyzing Title VII religious accommodation claim against union under same framework applicable in suits against employers); *Alexander v. Local 496, Laborers' Int'l Union of N. Am.*, 177 F.3d 394, 402-07 (6th

Cir. 1999) (analyzing Title VII disparate treatment and disparate impact race discrimination claims against union under frameworks applicable in suits against employers); *Green*, 740 F.3d at 1106-07 (recognizing applicability of proof framework provided in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), a Title VII suit against an employer, to Title VII claims against unions); *see also Garity*, 828 F.3d at 861-64 (adopting analysis of *Green*); *Martinez v. Int'l Bhd. of Elec. Workers-IBEW Local Union No. 98*, 352 F. App'x 737, 740 (3d Cir. 2009) (applying *McDonnell Douglas* framework to Title VII claim against union).

In light of the foregoing authority, the district court was incorrect to conclude that a plaintiff in a Title VII action against a union must satisfy the requirements for, and is subject to the limitations of, a duty of fair representation claim. In ruling otherwise here, the district court relied principally on two authorities: the Seventh Circuit's decision in *Bugg* and this Court's unpublished decision in *Wells*. *See* Order, R.91, PageID#4210-11. However, neither *Bugg* nor *Wells* compels the conclusion the district court reached. As to *Bugg*, the Seventh Circuit has explicitly repudiated that decision's applicability to Title VII suits against unions. That court of appeals has now held that the duty of fair representation requirements discussed in *Bugg* (and relied upon in *Wells* and by the district court here) play no role in a Title VII claim against a union. *See Green*, 740 F.3d at 1106. In *Green*, the Seventh Circuit addressed the district court's conclusion on summary judgment that "a union cannot be liable under Title VII unless it first violates a duty created by statute or contract," and that since the plaintiff "fail[ed] to meet his prima facie burden to establish that the Union breached the CBA or owed a duty of fair representation to him, the Court need not address whether the Union had any discriminatory animus." 740 F.3d at 1105. The court of appeals disagreed, stating that "[n]either 2000e–2(c) nor § 2000e–3(a) makes anything turn on the existence of a statutory or contractual duty violated by the act said to be discriminatory," and "[n]othing in the text or genesis of Title VII suggests that claims against labor organizations should be treated differently." According to the *Green* court, a contrary approach would render Title VII claims of discrimination against unions "either unavailing or unnecessary." *Id.* at 1106.

The Seventh Circuit observed that the district court had relied on dictum in *Greenslade v. Chicago Sun-Times, Inc.*, 112 F.3d 853, 866 (7th Cir. 1997), when it applied the *Bugg* factors to a Title VII claim against a union. *Green*, 740 F.3d at 1106. Criticizing that dictum in *Greenslade* as having "conflat[ed] Title VII with the elements of a hybrid breach-of-contract/duty-of-fair-representation claim against an employer and union under 29 U.S.C. 185," *Green* concluded that "[t]his approach does not bear any evident relation to Title VII, and we now withdraw the language."

The Seventh Circuit further explained that "[w]hen the Supreme Court established the elements of a prima facie case in [*McDonnell Douglas*], it did not include any element that depended on breaking a contract. . .. [W]e . . . are not authorized to add to that framework in a way that causes Title VII as administered to include elements missing from Title VII as enacted." *Id.* at 1106-07. Accordingly, it concluded, "[a] claim against a labor organization under 2000e-2(c)(1) or § 2000e-3(a) does not depend on showing that either the employer or the union violated any state statute or contract. Such a requirement cannot properly be added as part of the prima facie case." *Id.* at 1107. In light of the Seventh Circuit's repudiation of the application of *Bugg* to Title VII suits against unions, the district court's reliance on *Bugg* for that premise cannot stand. Nor does this Court's unpublished decision in *Wells* furnish any meaningful support for the district court's decision. In *Wells*, this Court addressed a claim that the plaintiff's union violated Title VII when it failed to represent her because of her race and sex. *Wells*, 559 F. App'x at 513-15. The Court observed that "district courts in this circuit—following the Seventh Circuit's test in *Bugg* . . . —have required Title VII plaintiffs to prove that a union breached its duty of fair representation." *Wells*, 559 F. App'x at 514 (citations omitted). The Court concluded that "a claim that the duty of fair representation was breached on account of discrimination and a claim of discrimination in failing to fairly represent the employee are essentially the same," and that the union's alleged conduct would "be both discrimination and a violation of the duty of fair representation—the difference here is naught." *Id.*

In reaching its conclusion, the panel in *Wells* did not explore in any depth the propriety of applying the duty of fair representation requirements to a Title VII suit, or the authority recognizing the distinctions between each type of claim. *See Wells*, 559 F. App'x at 513-15. Instead, *Wells* equated these two distinct legal claims based on its observation that "district courts in this circuit" have followed *Bugg*, and on a single citation to an out-of-circuit district court case. *Id.* at 514. However, as discussed previously, the published decisions of this Court, the Supreme Court, and other courts of appeals have long treated Title VII and duty of fair representation discrimination claims against unions as distinct causes of action with distinct methods of proof and remedies. *See supra*, at 8-17. *Wells* also failed to account for the Seventh Circuit's rejection in *Green* of *Bugg*'s application to Title VII union suits. *See Wells*, 559 F. App'x at 513-15. Accordingly, the Petitioner respectfully requests that this Court revisit the issue of the inapplicability of the duty of fair representation doctrine to statutory Title VII claims. While these two types of claims are and have always been distinct, the *Green* court's repudiation of *McDonnell*

and or *Bugg*'s applicability to Title VII cases further undermines any basis for treating these causes of action as indistinguishable.

B. Whether punitive damages are available remedies in a Title VII claim against a union are remedies available in a duty of fair representation claim.

In addressing the arguments for compensatory and punitive damages, the district court only considered the remedies available in a duty of fair representation claim. The court then concluded that the plaintiffs could not recover compensatory damages absent a showing of "extreme and outrageous" conduct by the union, and that punitive damages are never available as a matter of law. Order,

In reaching these conclusions, the district courts make no mention of Title VII's damages provision, nor of any other authority addressing the damages available under Title VII. Instead, the court relied solely on briefs, which itself cited only a single district court decision that did not address the availability of damages under Title VII. J. Br. at 22 (citing *Nitzsche v. Stein*, 797 F. Supp. 595, 599 (N.D. Ohio 1992))); *see also Nitzsche*, 797 F. Supp. at 599 (addressing damages available in duty of fair representation action; making no mention of damages available under Title VII). However, both the statute and other controlling authority undermine the district court's conclusion.

With its 1991 amendment of Title VII, Congress provided compensatory and punitive damages as available remedies for violations of § 2000e-2(c). *See* 42 U.S.C. § 1981a(a) (providing for recovery of compensatory and punitive damages "against a respondent who engaged in unlawful intentional discrimination . . . prohibited under section 703, 704, or 717 of the acts (42 U.S.C. 2000e-2 or 2000e-3)"). As the Supreme Court recognized in *Kolstad*, in section 1981a "Congress plainly sought to impose two standards of liability—one for establishing a right to compensatory damages and another, higher standard that a plaintiff must satisfy to qualify for a punitive award." 527 U.S. at 534. Thus, while both compensatory and punitive damage awards require a showing of intentional discrimination, *Kolstad*, 527 U.S. at 534, punitive damage awards additionally require a showing that the violation was committed "with malice or reckless indifference to the federally protected rights of an aggrieved individual," 42 U.S.C. 1981a(b)(1). These are the only limitations on the ability of individuals to receive compensatory and punitive damages under Title VII.

When interpreting the meaning of a statute, "'[t]he language of the statute is the starting point for interpretation, and it should also be the ending point if the plain meaning of that language is clear.'" *U.S. v. Henry*, 819 F.3d 856, 870 (6th Cir. 2017) (citation omitted). The plain language of Title VII's remedial provision shows that Congress did not limit the availability of compensatory damages to cases of "extreme and outrageous" conduct by the union, and on the contrary it made punitive damages available in appropriate cases. *See* 42 U.S.C. § 1981a(a);

CONCLUSION

Petitioner Buford was a former Union Steward for local 269 and was aware of the legal violations that the company I.W&G. Inc. and the Laborers Union Local 269 committed against him. Due to Discrimination and Breach of Duty of Fair Representation pursuant to Title VII and Discrimination to Buford by the International Laborer's Union [Timothy W. Moore]/[Ben Gomez] and its Local Union 269 members, and the fact of I.W&G. management/269 employee's extreme, malicious, willful, misuse and abuse of authority racial discriminatory actions of forging pretextual information, [falsified police reports] statements, and documentation evidence summitted, undermined the lower courts judicial integrity, because it was nothing but hot garbage. Therefore, in closing ***"Pro Se"*** Buford must state that attorney Cervone's defense for this case was frivolous at best from the beginning, because his alleged witness's credibility was compromised by construction worker.

Wherefore, Petitioner respectfully hopes and prays this *Honorable* Supreme Court and its *Honorable* Justices thereto will see the light through the darkness of this malicious, willful conspiracy, and recognize that Buford's procedural due process and constitutional rights were indeed violated thereto for the reasons and record evidence, (facts) of conflicts of law that is contained in this writ. Petitioner Respectfully urges this most *Honorable* Supreme Court to grant this Petition for certiorari, and "hold that Title VII discrimination claims against unions are not subject to the legal standards applicable to claims that a union violated its duty of fair representation", by reversing the United States Court of Appeals for the Seventh Circuit Opinion affirming the district court decision to close this colorful case, and require fair and just damages and punishment thereto of defendant witnesses so that Justice for petitioner can be served.

Respectfully Submitted,

Mauricio L. Buford