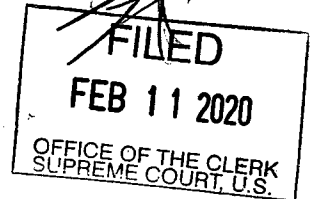


19-7995

NO.

ORIGINAL

PROVIDED TO AVON PARK
CORRECTIONAL INSTITUTION
ON 3/6/20 FOR MAILING
BY N. ACOSTE



IN THE
SUPREME COURT OF THE UNITED STATES

ELIJAH JACKSON, JR., ET AL.,-PETITIONER(S)

VS.

MAGOON ESTATES LIMITED-RESPONDENT(S)
HAWAIIAN AIRLINES INCORPORATED;
MAGOON ESTATES LIMITED/HULA'S BAR AND LEI STAND;
MAGOON TRUST;
1ST INSURANCE COMPANY OF HAWAII, LTD.;
THE QUEENS HEALTH SYSTEMS/THE QUEEN'S MEDICAL CENTER;
FRONK CLINIC INCORPORATED, ET AL.;
HONOLULU POLICE DEPARTMENT;
NEUROLOGY AND NEUROSURGERY ASSOCIATES, P.A.;
NEUROLOGY;
WINTER HAVEN HOSPITAL, INC. AKA BAY CARE HEALTH SYSTEMS;
DR. MASAO TAKAI, M. D.;
JUDITH ANN PAVEY, ESQ. (STARN O'TOOLE MARCUS & FISHER LAW FIRM);
KAISER FOUNDATION HEALTH PLAN, INC. (KAISER HEALTH PLAN);
LAKELAND REGIONAL HEALTH SYSTEMS, INC.(N13763) (59-2650464);
WINTER HAVEN HOSPITAL, INC.(BAY CARE HEALTH SYSTEMS, INC.)(703100)
(59-0724462); NEUROLOGY AND NEUROSURGERY ASSOCIATES, P.A. (S22950) (59-
3041048); WATSON CLINIC FOUNDATION, INC. (701275) (59-1100876); WATSON
CLINIC -MULBERRY, (J17332); DISPARTI LAW GROUP, P. A. (S20665) (59-3042535);
WARD WHITE AND ASSOCIATES, P. A. (F62989) (00-0000000); PUBLIX
SUPERMARKET INCORPORATED", ("Publix" Documents # 112252)
FEI/EIN Number 59-0324412; date filed 12/27/1921; 3300 Publix Corporate
Parkway, Lakeland, Florida 33811-3311. The Registered Agent is Metz, Merriann
M., 3300 Publix Corporate Parkway, Lakeland, Florida 33811-3311; ADVANCE
AUTO PARTS INCORPORATED, 2635 East Millbrook Road, Raleigh, North
Carolina 27604; www.advanceautoparts.com (1-877-238-2623). Defendant
DISCOUNT AUTO PARTS INCORPORATED Document Number: F76770

and the FEI/EIN Number: 59-2210134; and their Registered Agent is Denis L. Fontaine, 4900 Frontage Road S., P.O. Box 8080, Lakeland, Florida 33801; **AND EMPLOYEES 1-100; JANE DOES 1-100; JOHN DOES 1-100; DOE ENTITIES 1-100 SUED IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES.**

ON PETITION FOR WRIT OF CERTIORARI TO

United States Court of Appeals for the 9th Circuit, Northern District of California, U.S. District Courthouse, Clerk's Office, 450 Golden Gate Avenue, 16th Floor, San Francisco, California 94102; and P.O. Box 193939, San Francisco, California 94119-3939; and 95 Seventh Street, San Francisco, California 94119-3939 ☎415-355-8000;

**CORRECTED PETITION FOR WRIT OF CERTIORARI
MARCH 4TH AND 19TH, 2020**

ELIJAH JACKSON, JR. #979922

Avon Park Correctional Institution

8100 Hwy 64 East, E1-144S

Avon Park, Florida 33825

☎ 863-452-8801

Fax. 863-452-3729

www.dc.state.fl.us

QUESTION(S) PRESENTED

I. DID THE FEDERAL ARTICLE 3 COURT OR UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII, IN HONOLULU ERR/ERROR OR BREACH IT'S OWN ORDER FAILING TO ALLOW THE PETITIONER THE OPPORTUNITY TO PAY FILING FEE \$855.00 DUE BY 10-15-2019 FOR CASE NUMBERS "19-16661 AND 1:19-CV-00380-SOM-RT OR TO FILE MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS "IFP" AND AFFIDAVIT OR APPLICATION TO PROCEED IFP BY A PRISONER? = "YES."

II. DOES THE RECORDS SHOW, REVEAL OR REFLECT THAT PETITIONER NEVER FILED AN APPLICATION TO PROCEED IFP BY A PRISONER? = "NO."

LIST OF PARTIES

All Parties appear in the caption of the case on the cover page.

RELATED CASES

In accordance with Federal Rules of Civil Procedure or Federal Rules of Appellate Procedure and Rules of the Supreme Court, I certify that the instant action is related to pending or closed civil or criminal cases previously filed in this Court, or any other Federal or State Court, or Administrative agency as indicated below:

- 8:03-CV-02070-T-26EAJ 10/29/2003
- 8:11-CV-00646-T-17EAJ 3/29/2011
- 8:11-CV-00646-EAK-EAJ 4/5/2011
- 1:1994-CV-00392-ACK-BMK (Hawaii U. S. D. C.)
- 8:14-CV-01764-SDM-23MAP
- 8:14-CV-01764-T-23MAP
- 8:16-CV-00559-T-35MAP
- 8:16-CV-00559-MSS-MAP
- 6:16-CV-00262-CEM-TBS
- 6:16-CV-00262-ORL-41TBS

United States Court of Appeals for the Ninth Circuit:

19-16661
89-10506
CA-8910506

United States Court of Appeals for the Eleventh Circuit:

- 16-10660H •11-16047E •11-16-90015, 90016
- 16-1037B •14-13445D •11-16-90007, 90008
- 16-1063F •16-11030E •11-16-90012, 90013, and 90014
- 17-15218F •17-1536H •17-15-388H •17-15389H

Supreme Court of the United States:

- 12-8885

United States District Court-Northern District of Florida:

- 5:11-CV-00057-RS-CJK
- 4:13-CV-00651-MW-CAS 5/28/13
- 4:15-CV-00595-WS-GRJ
- 5:15-CV-00316-LC-EMT
- 5:16-CV-00021-MP-GRJ
- 5:17-CV-00263-MCR-CJK
- 4:16-CV-00047-RH-CAS

United States District Court for the Middle District of Florida –Tampa Division

- 8:17-CV-01294-EAK-MAP or SPF
- 8:17-CV-01126-JDW-AAS
- 8:14-CV-01764
- 8:11-CV-00646
- 8:04-CV-02790-T-26EAJ
- 8:04-CV-02790-RAL-EAJ
- 8:03-CV-02070-RAL-EAJ
- 8:03-CV-02070-T-26EAJ
- 8:00-CV-01401-T-23
- 8:00-CV-01401-SDM
- 8:99-CV-02460-RAL-EAj

- 8:99-CV-02460-T-26C
- 8:98-CV-01380-JDW-MAP
- 8:98-CV-01380-T-17F
- 8:98-CV-01380-T-27MAP
- 8:98-CV-01360-T-25F
- 8:97-CV-00038-RAL
- 8:97-CV-00038-T-21E
- 8:96-CV-00045-SDM
- 8:96-CV-00045-T-23C

United States District Court for the District of Hawaii-Honolulu Division

1:19-CV-00380-SOM-RT

United States Tax Court-WADC/JAX:

- 30739-15

United States Court of Federal Claims:

1:15-CV-01528CFL or T and 01554T

Federal Bureau of Investigations:

- | | | |
|------------|---------------|--------------------------|
| •282-JK-0 | •168-17M-0 | •RJM:ARM:SAM DJ 144-17-0 |
| •168-17-0 | •204-17-0 | |
| •DJ-144-17 | •DJ-144-17M-0 | |

10th Judicial Circuit Court (Civil):

- | | |
|--------------------------|--------------------------|
| •53-2006-SC-0362-0000-00 | •53-2004-AP-0023-0000-00 |
| •53-2006-SC-0359-0000-00 | •53-2004-SC-1314-0000-00 |
| •53-2006-SC-0356-0000-00 | •53-2003-SC-6029-0000-00 |
| •53-2006-SC-0350-0000-00 | •53-2004-AP-0014-0000-00 |
| •53-2006-SC-0345-0000-00 | •53-2005-SC-0399-0000-00 |
| •53-2003-SC-5250-0000-00 | •53-2006-AP-0008-0000-00 |
| | •53-2005-AP-0018-0000-00 |
| •53-2004-AP-0007-0000-00 | •53-2005-AP-0020-0000-00 |

- 53-2003-SC-5255-0000-00
- 53-2004-AP-0002-0000-00
- 53-2003-SC-5266-0000-00
- 53-2004-AP-0011-0000-00
- 53-2003-SC-5268-0000-00
- 53-2003-SC-6006-0000-00
- 53-2004-AP-0010-0000-00
- 53-2003-SC-6012-0000-00
- 53-2004-AP-0003-0000-00
- 53-2003-SC-6014-0000-00
- 53-2004-AP-0004-0000-00
- 53-2003-SC-6017-0000-00
- 53-2004-AP-0005-0000-00
- 53-2003-SC-6018-0000-00
- 53-2005-SC-2596-0000-00
- 53-2003-SC-6019-0000-00
- 53-2006-AP-0002-0000-00
- 53-2006-AP-0003-0000-00
- 53-2006-AP-0004-0000-00
- 53-2006-AP-0005-0000-00
- 53-2006-AP-0006-0000-00
- 53-2006-AP-0007-0000-00
- 53-2006-AP-0008-0000-00
- 53-2006-AP-0009-0000-00
- 53-2006-AP-0010-0000-00
- 53-2006-SC-0454-0000-00
- 53-2006-CA-0484-0000-00
- 53-2005-SC-0399-0000-00
- 53-2005-AP-0008-0000-00

Florida Department of Health:

- 2005-55085
- 2005-62176
- 2005-62174
- 2005-62171
- 2017-6780 MEP #101
- 2006-16418
- 2006-
- 201409473
- 201409470
- 2018-04050 WP #503
- 201409476
- 201411581
- 201412267
- 2018-11069 Dental #503

Florida Commission on Human Rights and Florida Department of Ethics:

- 200600116

Second Judicial Circuit Court (Civil):

- 2006-SC-000842-0000-00
- 2016-CA-000261-0000-00
- 2015-CA-003042-0000-00
- 2006-AP-002994-0000-00
- 2015-CA-003038-0000-00
- 2015-CA-003041-0000-00
- 2015-CA-003040-0000-00
- 2013-CA-001753-0000-00

Tenth Judicial Circuit Court (Civil/Criminal):

- 53-2000-CF-8240-AOXX-XX
- 53-1999-CF-1709-AOXX-XX
- 53-1998-CF-6396-AOXX-XX (D. R. Jackson) 12-7-98 (98-104834)
- 53-2003-SC-6018-0000-00
- 53-2006-AP-0003-0000-00
- 53-2003-SC-5997-0000-00
- 53-2006-AP-0018, and 0020-0000-00
- 53-2005-SC-2596-0000-00
- 53-2003-SC-5256-0000-00, and 2006-AP-0002
- 53-1999-CA-0805-0000-00
- 53-2001-CF-5964-AOXX-XX
- 53-1997-CF-3853-AOXX-XX
- 53-2000-CF-2243-AOXX-XX
- 53-2000-CF-3656-AOXX-XX
- 53-2000-CF-3657-AOXX-XX
- 53-2001-CF-0695-AOXX-XX
- 53-2001-CF-6438-AOXX-XX
- 53-2001-CF-0694-AOXX-XX
- 53-2000-CF-8240-AOXX-XX
- 53-1998-CA-0437-0000-00
- 53-1999-DR-5220-0000-00 (CSE)
- 53-2002-DR-7027-0000 (FDOM) 905 So.2d 892 (Fla. 2nd DCA 2005) LK
- 53-2002-CF-7328-AOXX-XX
- 53-1999-CF-2153-DOMV-00
- 53-1999-CF-2197-DOMV-00
- 53-1995-SP-13 1717-0000-00
- 53-2006-SC-0359-0000-00

Thirteenth Judicial Circuit Court (Criminal):

- 29-2000-CF-001483D001TA

Supreme Court of Florida:

- | | | | |
|------------|------------|------------|------------|
| •SC07-0619 | •SC06-1637 | •SC06-0304 | |
| •SC05-1673 | •SC07-1883 | •SC08-0336 | •SC07-1859 |
| •SC05-1944 | •SC08-0334 | •SC07-2038 | •SC08-0332 |

• SC05-1573	• SC05-0925(FDOM)	• SC03-2201	• SC08-0337
• SC06-0749	• SC06-0919	• SC05-1575	• SC08-0341

• SC05-1574	• SC05-1572	• SC05-1577
• SC05-1576	• SC08-1943	• SC06-0485

Second District Court of Appeals:

• 2D07-5643	• 2D07-3155	• 2D05-2502	• 2D06-3380
• 2D04-1245(FDOM)	• 2D07-4359	• 2D05-1973	• 1D07-2574
• 2D03-2714	• 2D07-0737	• 2D05-1971	• 2D07-3533
• 2D10-5146	• 2D05-0083	• 2D05-0616	• 2D07-4239
• 2D05-2500	• 2D05-0090	• 2D05-1969	• 2D07-5952
• 2D05-4450	• 2D05-0089	• 2D05-5682	• 2D07-5955
• 2D05-4451	• 2D05-2498	• 2D07-5954	• 2D07-4240
• 2D07-4519	• 2D05-2504	• 2D08-1319	• 2D07-5643
• 2D10-1713, 1714, and 2052		• 2D10-0722 (Hillsborough CR)	
• 2D19-3912	• 2D19-3913	• 2D19-3914	• 2D19-3915
• 2D19-3936	• 2D19-3937	• 2D19-4296	

State of Hawaii Case, District of Hawaii Cases:

- 8 Haw.App. 624, 817 P.2d 130, 1 C.A. 14705
- 988 F.2d 119, 1993 W. L. 47215 (9th Cir. Hawaii)
- U.S.D.C. District of Hawaii in Honolulu, Case No: CV-92-00723DAE
- U.S.D.C. District of Hawaii in Honolulu, Case No: 92-15000 (2255)
- Supreme Court of Hawaii, Case No. 15162 (CR87-0174)
- Supreme Court of Hawaii, Case No. 16718 (CV88-0866)
- Supreme Court of Hawaii, Case No. 17639 (SPP93-0009)
- City and County of Honolulu Police Department Standard Motor Vehicle Accident Report No. K-95055, 03/19/1985.
- U.S.D.C. for the District of Hawaii CR No.'s 88-00629ACK01, and 88-00629DAE.
- State of Hawaii Department of Commerce and Consumer Affairs "DCCA", Case No. SEU-95-151.
- U.S. Court of Appeals, Ninth Circuit Case No. 89-10506, CA-8910506 (San Francisco, Ca.)
- State of Hawaii v. Jackson, CR No. 88-1781.

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INDEX TO APPENDICES

APPENDIX A	Notice by the Court, Acknowledgement of New Case dated 8-23-19, assigned case no. 19-16661 The Opinion of the United States Court of Appeals appears at Appendix A to the Petition and is unpublished. (See Doc. 14 filed 8-22-19 pg. Id. #110 thru 121).
APPENDIX B	The Opinion of the United States District Court appears at Appendix B to the Petition and is unpublished. (See Document 14 filed 8-22-19 pg. Id. #113 and Document 6 filed 7-30-19 pg. Id. # 62; Document 14 filed 8-22-19 pg. Id. # 117; Document 7 filed 7-30-19 pg. Id. #66).
APPENDIX C	Deficiency Order filed in the U.S. Dist. Ct., Dist of Hawaii 7-15-19.
APPENDIX D	Notice of Appeal Case Number 1:19-CV-00380-SOM-RT-DOCUMENT 14 filed 8-22-19 (See Document 14 Page Id. # 110-112: 113-121.
APPENDIX E	Order of Dismissal Document 20 filed 11-22-2019 Pg. Id. # 226-226 before BYBEE , IKUTA , and OWENS , Circuit Judges Id. 11508866 19-16661.

TABLE OF AUTHORITIES CITED

<u>CASES</u>	<u>PAGE NUMBER</u>
<u>Daker V. Comm’r Ga Dept. Of Corr.</u> , 820 F.3D 1278, 1281 (11th Cir. 2016).....	27
<u>Hustler Magazine, Inc. V. Falwell</u> , 485 U. S. 46, 52 (1988).....	28
<u>In Re Thomas</u> , 508 F. 3d 1225 (9th Circuit 2007).....	27
<u>Jones V. Bock</u> , 549 U. S. 199, 215 (2007).....	27
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<u>Rivera V. Allin</u> , 144 F.3D 719 (11TH CIR. 1998).....	27
<u>Snyder V. Phelps</u> , 562 U. S. 443, 458 (2011).....	28

THERE ARE CASES THAT ARE CITED OR EXCLUDED FROM THIS TABLE

<u>STATUTES AND RULES</u>	
Title 28 United States Code Section 1254 (1).....	2
Title 28 United States Code Section 1915.....	27, 28, 30, 32
Title 28 United States Code Section 1915 (g).....	7, 27, 28, 30, 32
Florida Statutes 57.081 (1) or 57.085 (2).....	32
Federal R. Civ. P. 41 (b).....	33

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinions of the United States Court of Appeals appears at Appendix A to the Petition and is unpublished. (See Doc. 14 filed 8-22-19 pg. Id. #110 thru 121).

The opinion of the United States District Court appears at Appendix B to the Petition and is unpublished. (See Document 14 filed 8-22-19 pg. Id. #113 and Document 6 filed 7-30-19 pg. Id. #62; Document 14 filed 8-22-19 pg. Id # 117; Document 7 filed 7-30-19 pg. Id. #66).

The opinion of the United States District Court Appears at Appendix C to the Petition and is unpublished. (See Deficiency Order filed by the United States District Court, District of Hawaii on 7-15-2019).

The Notice of Appeal Case # 1:19-CV-00380-SOM-RT Document 14 was filed on 8-22-2019 pg. Id. # 110-112; 113-121 and appears at Appendix D to the Petition and is unpublished.

The Opinion or Order of Dismissal of the United States Court Of Appeals for the Northern District, San Francisco, California appears at appendix E to the Petition and is unpublished. (See Document 20 filed 11-22-2019 pg. Id. # 226 Before **Bybee**, **Ikuta**, and **Owens**, Circuit Judges for Case # 19-16661 Id. 11508866.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals for the 9th Circuit, San Francisco, California decided my case was **November 22, 2019**. Excerpts from the order stated....

“No motion for reconsideration, rehearing, clarification, stay of the mandate, or any other submission shall be filed or entertained.”

There has been no extension of time to file the Petition for Writ of Certiorari. However, the Petitioner anticipates being in compliance with Rule 13 of the Supreme Court Rules.

No extension of time to file Petition for a Writ of Certiorari was granted and is due **February 11, 2020**. See **December 13, 2019** and **January 6, 2020** letter from Supreme Court of the United States stating “you must submit a Petition for Writ of Certiorari within the ninety day time limit pursuant to Rule 13. Clerk Scott S. Harris and Lisa Nesbitt, 202-479-3038. See **Appendix “A”**.”

The Jurisdiction of this Court is invoked under 28 U. S. C. §1254 (1)

CONSTITUTIONAL STATUTORY PROVISIONS INVOLVED

Title 42 United States Code Section 1983.....	12, 14
Title 42 United States Code Section 1985 (2).....	11
Title 42 United States Code Section 2283.....	10
Title 28 United States Code Section 1391 (b) (2)	14
Title 28 United States Code Section 1331, 1332 (a), 1339(b) (2).....	14, 18
Title 28 United States Code Section 1915 (g).....	27, 28, 30, 32
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Civil Rights Act of 1866.....	11
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Florida Statutes 57.081 (1) or 57.085 (2).....	32

STATEMENT OF THE CASE

On 1-24, 28-2020 a Motion for Extension of Time was submitted within the 90 day time limit allowed under Rule 30 and 13 of the Rules of the Supreme Court. (20 Copies was served on Parties on 1-28-2020).

On 1-9-2020 Returned Motion for Leave to Proceed In Forma Pauperis was received dated 12-19-2019 from the Office of the Clerk of the U.S. Supreme Court Case Nos.: 19-16661 and 1:19-CV-00380-SOM-RT.

On 12-13, 18 – 2019a letter from **USCA 9 Case No. 19-1661** concerning “Notice of Appeal was received 12-12-2019 herewith returned.” (**Petition for Writ of Certiorari must be submitted within the 90 day time limit pursuant to Rule 13** (90 days = February 11, 2020 or March 31, 2020 1:19-CV-00380-SOM-RT. Appendix “A”

On 12-12-2019 received letter from Office of the Clerk-Supreme Court of United States and returned Notice of Appeal dated 12-13-2019.

On 12-12-2019 a Motion for Leave to Proceed In Forma Pauperis.

On 12-10-2019 Document 23 was filed on 12-2-2019 4 pages pg. Id. 268 Evidence of Returned Legal Mail of Defendants/ POS/SOP Disparti Law Group, P.A. and Ward White and Associates, P.A.

On 12-3-2019 Document 22 was filed on 11-25-2019 19 pages pg. Id. 247 and 251 Evidence of Returned Legal Mail of Defendants POS/ SOP.

Returned Legal Mail from Dr. Masao Takai, M. D. Orthopedic Surgery Specialist with Document 16 filed 10-4-2019 15 pages pg. Id. 123 Certificate of Interested Persons and Corporate Disclosure Statement “CIP-CDS.”

On 12-3-2019 Document 21 was filed on 11-21-2019 19 pages pg. Id.227 and 231 Evidence of Returned Legal Mail of Defendants/ POS/ SOP Fronk Clinic Incorporated 13942-G5 with Document 16 filed 10-4-2019 15 pages pg. Id. 123 CIP-CDS.

On 11-26-2019 Certified Mail # 7004-0750-0003-9219-9361 Evidence of Returned Legal Mail of Defendants/POS/SOP from Defendants John “Jack” Magoon, Jr.; George Magoon, Sr.; Bob Magoon; Genevieve Magoon; Magoon Estates Limited; Magoon Trust; First Insurance Company of Hawaii, Ltd.; Hula’s Bar and Lei Stand, et. al.; (consisting of Document 11 filed 8-5-19 11 pages pg. Id. 91 Second Supplement or Companion to Civil Rights Complaint Form; Amended Civil Rights Complaint Form Document 5 filed 7-26-2019 19 pages pg. Id. 41; and Document 2 filed 7-15-2019 9 pages pg. Id. 22 Hawaiian Airlines Incorporated, et. al. and Document 19 filed 11-18-2019 3 pages pg. Id. 160 consisting of 11-18-2019 Document 19 page 5 of 61 pg. Id. 167 and Document 19-1 Supplement to Initial Brief of Appellant and Document 19-1 page 13 of 61 pg. Id. 175 or Document 11 filed 8-5-2019 11 pages pg. 91 Second Supplement or Companion to Civil Rights Complaint Form and Document 19-1 pg. 24 of 61 pg. Id. 186 Document 8 filed 7-29-2019 pages 1 of 10 pg. Id. 67 Supplement or Companion to Civil Rights Complaint Form and Document 19-1 pages 53 of 61 pg. Id. 215 Document 2 filed 7-15-2019 page 1 of 9 pg. Id. 22.

On 11-20-2019 Evidence of Returned Legal Mail of Defendant/POS/SOP from Wardell White, Esq., Lawrence J. Disparti, Esq. Registered Agent of Ward White and Associates, P.A. 34690.

Document 18 filed 10-31-2019 pages 19 pg. Id.. 140 Second Amended Civil Rights Complaint Form.

On 11-13-2019 Supplement to Initial Brief of Appellant served 10-3-2019 and 10-29-2019.

Document 11 filed 8-5-2019 pages 1 of 11 pg. Id. 91 served on Fronk Clinic Incorporated (Second Supplement or Companion to Civil Rights Complaint Form; Document 8 filed 7-29-2019 pages 1 of 10 pg. Id.67; Document 5 filed 7-26-19

pages 1 of 19 pg. Id. 41 Amended Civil Rights Complaint Form; and Document 2 filed 7-15-2019 pages 1 of 9 pg. Id. 22).

On 11-9-2019 Evidence of Returned Legal Mail of Defendant's POS/SOP Magoon Estates Limited, et. al. served at 900 Fort Street Mall, # 1725, Honolulu, Oahu, Hawaii 96813.

On 10-22-2019 Second Amended Civil Rights.

Document 16 filed 10-4-2019 pages 1 of 15 pg. Id. 123 CIP-CDS.

Served, mailed, sent via USPS on 10-3-2019 (first served) then 10-13-2019 (second served) to Defendants Magoon Estates Limited, Hawaiian Airlines Incorporated (Document 5 served 7-26-2019, Advance Auto Parts, Inc., first served 10-3-2019 and 10-9-2019, and Judith Ann Pavey, Esq. of Starn O' Toole Marcus and Fischer Law Firm.

On 10-3, 9-2019 served Supplement to Initial Brief of Appellant.

Document 11 filed 8-5-2019 page 1 of 11 pg. Id. 91 Second Supplement or Companion to Civil Rights Complaint Form.

Document 8 filed 7-29-2019 Page 1 of 10 pg. Id. 67 Supplement or Companion to Civil Rights Complaint Form (Judith Ann Pavey, Esq.) and Amended Civil Rights Complaint Form.

Document 2 filed 7-15-2019 page 1 of 9 pg. Id. 22 Notice of Pendency of Other Actions or Related Cases.

On 9-27-2019 CIP-CDS pages C1 of 15 Case No. 19-1661 and 1:19-CV-00380-SOM-RT.

Document 12 was filed 8-6-2019 4 pages pg. Id. 104 Motion for Extension of Time.

Minute Entries and Orders on Motions USDC-District of Hawaii-Notice of Electronic Filing 8-7-2019 Case No. 1:19-CV-00380-SOM-RT EO: Plaintiff's Motion for Extension of Time ECF 12 is denied for reasons set forth to the 7-30-

2019 Order Dismissing Action pursuant to 28 U.S.C. Section 1915 (g) ECF 6. **JUDGE SUSAN OKI MOLLWAY.**

Notice of Appeal Document 14 filed 8-22-2019 page 4 of 10 pg. Id. 113 or Document 6 filed 7-30-19, page 1 of 4, pg. Id. 62 Order Dismissing Action pursuant to 28 U.S.C. Section 1915 (g) EXHAUST-APPENDIX "B"

Document 8 filed 7-29-2019 page 1 of 10 pg. Id. 67.

Document 9 was filed on 7-29-2019 Page 1 of 6 pg. Id. 79 Affidavit of Identity or Proof of Identity.

Document 10 filed 7-29-2019 pages 1 of 3 pg. Id. 87 Paige D. Peterson, POA 262-29-5093 Durable Power of Attorney.

On 7-5, 18, 25- 29, 2019 and 8-6-2019 Civil Right Complaint Case No. CV19-00380-SOM-RT 19 pages.

On 7-5, 18, 25- 29, 2019 and 8-6-2019 Notice of Pendency of Other Actions or Related Cases 9 pages Case No. CV19-00380-SOM-RT.

Durable Power of Attorney – Vanessa L. Jackson, POA 262- 29- 5117 dated 7-5, 18, 25- 29, 2019 and 8-6-2019.

Document 5 filed 7-26-2019 page 1 of 19 pg. Id. 41 Amended Civil Rights Complaint Form Case No. CV19-00380-SOM-RT.

Motion for Extension of Time dated 8-1-2019 Case No. CV19-00380-SOM-RT 4 pages.

Notice of Supplemental Authority to Civil Rights Complaint dated 8-1-2019 Case No. CV19-00380-SOM-RT.

Document 4 filed 7-22-2019 page 1 of 3 pg. Id. 36 Durable Power of Attorney **Kenneth Elgenard Thornton, POA T653505 55 3750** dated 7-18, 22, 30-2019.

On 7-5, 18, 30-2019 Civil Rights Complaint Form filed 7-22-2019 19 Pages Case No. 1:19-CV-00380-SOM-RT.

On 7-5, 18, 30-2019 Notice of Pendency of Other Actions or Related Cases 9 pages Case No. 1:19-CV-00380-SOM-RT.

On 7-5, 18, 30-2019 Civil Rights Complaint Form 19 pages Case No. 1:19-CV-00380-SOM-RT.

On 7-28-2019 Second Supplement or Companion to Civil Rights Complaint Form 11 pages Case No. 1:19-CV-00380-SOM-RT.

Document 1 filed 7-15-2019 Pages 1 of 19 pg. Id. 1 Civil Rights Complaint Form Case No. CV-00380-SOM-RT.

Document 2 filed 7-15-2019 page 1 of 9 pg. Id. 22 Notice of Dependency of Other Actions or Related Cases Nos. CV-00380-SOM-RT.

IFP Form 4-19 Application To Proceed In Forma Pauperis By A Prisoner Case No. CV-00380-SOM-RT with (2) two blank IFP Forms 7-23-2019.

Receipt of letter from Clerk Sue Beitia of the U.S. District Court-District of Hawaii Cover Letter dated 7-16-2019 Case No. CV-00380-SOM-RT 7-23-2019.

On 7-3, 23-2019 Durable Power of Attorney for **Felecia Zimmerman, POA 261-55-9051.**

There are *Procedural Events* that is not entered into this Certiorari.

Plaintiff suffered an occupational injury that occurred the Summer of 1979 thru 1980 on **Defendant's Publix Supermarkets** premises or on their rail dock. Publix Supermarkets employee **Arthur Pickard** (W/M) collided or had a collision with Plaintiff by hitting Plaintiff with Fork Lift as he Pickard exited the warehouse at a fast pace or a high speed knocking Plaintiff off pallet jack on to concrete rail dock near CSX Cargo Cars causing injury on right hip, right thigh and leg. See Workers Compensation Claim No. _____ via Florida Department of Labor and Employment Security-Workers Compensation Division for additional details. Plaintiff's injury was so severe he was seen by Doctors and Physicians and medicated and treated with Motrin, etc. Plaintiff injury was so severe that he

returned to the University of Southwestern Louisiana at Lafayette on his NCAA Athletic Basketball Scholarship and had to **redshirt one year** to heal due to the injured knee, leg, hip etc. Plaintiff was “damage goods” from that point. Plaintiff was unable to perform as a student athlete on full scholarship due to the pain and injury caused by Defendant “**Publix Supermarket Incorporated**”, (“Publix” Documents # 112252) FEI/EIN Number 59-0324412; date filed 12/27/1921; 3300 Publix Corporate Parkway, Lakeland, Florida 33811-3311. The Registered Agent is Metz, Merriann M., 3300 Publix Corporate Parkway, Lakeland, Florida 33811-3311.

Defendant Publix Supermarkets, Inc., sales for 2019 second quarter was \$9.3 Billion, a 6.8% increase compared to second quarter 2018 sale were \$8.8 Billion. The Defendant’s stock as of August 2nd, 2019 was \$44.10 down from \$44.75. Same store sales retail metric rose 4.8%. In 2nd quarter 2019 Publix profit was \$661.1 Million profit or 92 cents per share according to CEO Todd Jones. Competition is Ahold Delhaize, Kroger, and Weis Markets. Sales for 2019 for 6 months was \$19 Billion, a 5.5% increase from sales for 2018 six months was \$18 Billion. Publix employs more than Two Hundred Thousand people at 1,222 Supermarkets and 20 Warehouses and Manufacturing Facilities in seven states. Florida, Alabama, Georgia, North Carolina, South Carolina, Tennessee, and Virginia.

Plaintiff suffered an occupational injury by lifting a long block engine without a hoist during 1997 thru 1998 while an employee working for Defendant **Discount Auto Parts Incorporated** (“Discount Auto Parts”) Store 002, the Depot on Memorial Boulevard in Lakeland, Florida, County of Polk causing Lumbar Spine Injury. These two major events were the beginning of Plaintiff demise and anatomical/physical injury/injuries or cause of action and claims. Discount Auto Parts Incorporated was acquired by Corporate Merger with **Advance Auto Parts**

Incorporated, 2635 East Millbrook Road, Raleigh, North Carolina 27604; www.advanceautoparts.com (1-877-238-2623). Defendant Discount Auto Parts Incorporated Document Number: F76770 and the FEI/EIN Number: 59-2210134; and their Registered Agent is Denis L. Fontaine, 4900 Frontage Road S., P.O. Box 8080, Lakeland, Florida 33801.

Congress has power to enforce United States Constitution Amendment 14 against those who carry “**Badge of Authority of a State**” (State of Hawaii) and represent it in the same capacity, whether they act in accordance with their authority or misuse it. *Monroe v. Pape*, 81 S.Ct. 473; 365 U. S. 167 (U.S. Ill. 1961). Such is the case of Defendants, **Honolulu Police Department (“HPD”) A municipality/municipal**, in the District of Hawaii from 1985 thru 2019. The Plaintiff offers direct proof of purposeful discrimination/disparate impact claim under 1985, 1983, 1981, etc.

Under Florida law, car insurance policies must provide personal injury protection (PIP) benefits up to \$10,000. Fla. Stat. § 627.736(1). But under a 2012 Amendment to that Law, not every injured motorist will be eligible to access all \$10,000 in benefits. See 2012 Fla. Laws Ch. 2012-197 § 10. If a person has an “emergency medical condition” (EMC),¹ he is eligible for all \$10,000 in benefits. Fla. Stat. § 627.736(1)(a)(3). If not, his coverage is capped at \$2,500. Id § 627.736(1)(a)(4). And we have held that in cases where no EMC determination is made one way or the other, the default is the \$2,500 cap. *Robbins v. Garrison Prop. & Cas. Ins. Co.*, 809 F.3d 583, 588 (11th Cir. 2016).

There is not an ongoing State Court Proceeding in the **State of Hawaii** with regards to Plaintiff Claims. The Anti-Injunction Act, Title 28 U. S. C. Section 2283

¹ Florida law denies an “Emergency medical condition” as “a medical condition manifesting itself by acute symptoms of sufficient severity, which may include severe pain, such that the absence of immediate medical attention could reasonably be expected to result in any of the following: (a) Serious jeopardy to patient health. (b) Serious impairment to bodily functions. (c) Serious dysfunction of any bodily organ or part.” Fla. Stat. § 627.732(16).

(1793) bars Federal Courts from issuing injunctive relief against ongoing State Courts Proceedings except under limited circumstances. Mitchum v. Foster, 407 U. S. 225, 92 S.Ct. 2151 (1972). **Section 1983 of Title 42 U. S. C. is aimed at all varieties of unconstitutional State Action Legislative, Law Enforcement, and Judicial.** Title 42 U. S. C. Section 1983 was enacted to redress unconstitutional laws and to provide a Federal forum when there was no State Court remedy on the books and to supply a Federal remedy when the State Court (**State of Hawaii**) remedy was available in theory, but not in fact. Section 1983 is a remedy of first (1st) resort without regard to the availability of State Remedies. Under Federal Habeas Corpus Laws of 1867 Congress gave lower Federal Courts General Federal Question Jurisdiction until 1875. Plaintiff has brought Law Suit both before these Article 3 Courts involving the **Commerce Clause** and the **Contract Clause**, etc.

The Plaintiff as a litigant has been denied or cannot enforce in the State of Hawaii Courts the rights guaranteed in the act. The Act of 1866 provided for federal prosecution of violations of statute by persons acting under color of law and State Civil Rights Law... Blyew v. U. S., 80 U. S. 581 (1871); See also the Klu Klux Klan Act, 42 U. S. C. Section 1985 (2) of 7-31-1861 and 4-20-1871 states "Conspiracy to interfere with civil rights" "**depriving persons of rights or privileges**"...**the 14th Amendment Privileges or Immunities Clause** was designed to make the **Bill of Rights applicable to the States including the State of Hawaii** ...Each Amendment gave Congress the express power to Legislate and enforce appropriate Legislation. In 1866 Congress quickly acted to enforce these Amendments. In 1866 the 13th Amendment or Civil Rights Act of 1866 gave "**same rights**" enforceable without regard to race provided for removal of State Court Causes of Action to Federal Courts. State Hawaii Courts or State Courts and the Common Law were therefore the primary guardians against State and Inter-Local Governmental invasions of life, liberty, and property under the Constitution

of 1787. The Laws of Reconstruction of 1866-1870 passed (3) **Three Constitutional Amendments** passed in rapid succession = **13th Amendment** (abolition of Slavery); **14th Amendment** (Due Process and Equal Protection Clauses); **15th Amendment** (Right to Be Free from Racial Discrimination in Voting).

Section 1983 is a product of the Laws of Reconstruction of 1866-1870 enacted in 1871 which enabled victims of unconstitutional state action to sue the wrong doing “**person**” in an **action at law or in equity**.” See Title 42 United States Code “U. S. C.” Section 1983, as amended. See Civil War and Reconstruction **Contractual Obligations** under the **Contract Clause of the Constitution, Bill of Rights** was held inappropriate to States. Barron v. Baltimore, 32 U. S. 243 (1833).

Section 1983 “provides a cause of action to a Plaintiff who can prove that **Defendant acting under color of state law deprived him of a right, privilege, or immunity protected by the laws or constitution of the United States.**” Lane v. Philbin, 835 F.3d 1302, 1307 (11th Cir. 2013). Section 1983 merely fleshes out the content of or further defines a right created by statute. see also Wright of City of Roanoke Redev & Housing Auth., 479 U. S. 418, 430-31, 107 S.Ct. 766, 773-775 (1987) (concluding Plaintiff had an enforceable right “within the meaning of § 1983” because the Department of Housing and Urban Development...if the statutes creates no Federal Rights or if the regulation is to far removed from a statute that does create Federal Rights...Standard 24 C. F. R. § 982.555 (e), merely fleshes out a Federal Right created by 42 U. S. C. § 1437 d (k) (6)).

If, while operating a motor vehicle, the defendant’s misconduct, which proximately causes personal injury, is sufficiently offensive, exemplary or punitive damages may be awarded See City of Miami v. McCorkle, 145 Fla. 109, 199 So. 575 (1940).

Negligence sufficient to support a recovery of punitive damages in an automobile accident case must be such as would support a charge of manslaughter, *See Jacmar Pacific Pizza Corp. v. Huston*, 502 So.2d 91 (Fla. Dist. Ct. App. 5th Dist. 1987); *Baynard v. Liberman*, 139 So.2d 485 (Fla. Dist. Ct. App. 2d Dist. 1962) it must show wanton intentionality, exaggerated recklessness, or such an extreme degree of negligence as to parallel an intentional and reprehensible act. *See Jacmar Pacific Pizza Corp. v. Huston*, 502 So.2d 91 (Fla. Dist. Ct. App. 5th Dist. 1987).

Punitive damages have been approved, or the issue of punitive damages has been held to be raised by the evidence, where the charge of misconduct was based primarily on the speed at which the defendant drove and a subsequent collision. *See Smith v. McNulty*, 298 F.2d 924 (5th Cir. 1961); *Busser v. Sabatassc*, 143 So.2d 532 (Dist. Ct. App. 3d Dist. 1962). Testimony that a defendant knowingly failed to stop after involvement in an automobile accident may be admitted as evidence to support a complainant's claim for exemplary damages, in connection with other material circumstances of recklessness. *See Smith v. McNulty*, 298 F.2d 924 (5th Cir. 1961).

As a general rule, punitive damages may be awarded where voluntary intoxication is involved. *See Ingram v. Pettit*, 340 So.2d 922 (Fla. 1976); *Matalon v. Lee*, 847 So.2d 1077 (Fla. Dist. Ct. App. 4th Dist. 2003), appeal decided, 859 So.2d 541 (Fla. Dist. Ct. App. 4th Dist. 2003); *Zuckerman v. Robinson*, 846 So.2d 1257 (Fla. Dist. Ct. App. 4th Dist. 2003), review denied (Fla. Jan. 21, 2004); *Nales v. State Farm Mut. Auto. Ins. Co.* 398 So.2d 455 (Fla. Dist. Ct. App. 2d Dist. 1981); *Busser v. Sabatassc*, 143 So.2d 532 (Dist. Ct. App. 3d Dist. 1962).

The statutory limitations on punitive damages *See* § 768.73, Fla. Stat. does not apply to any defendant who, at the time of the act or omission for which punitive damages are sought, was under the influence of any alcoholic beverage or drug to the extent that the

defendant's normal faculties were impaired, or who had a blood or breath alcohol level of 0.08 percent or higher.

The theory of negligent hiring may occasionally provide the plaintiff with a method to seek additional punitive damages from an employer arising from the negligence of permissive users of its motor vehicles. See Muzzio v. Auto-Owners Ins. Co., 799 So.2d 272. (As to the liability of an employer for punitive damages, generally.

The statutory limitations on punitive damages See § 768.73, Fla. Stat. does not apply to any defendant who, at the time of the act or omission for which punitive damages are sought, was under the influence of any alcoholic beverage or drug to the extent that the defendant's normal faculties were impaired, or who had a blood or breath alcohol level of 0.08 percent or higher. § 768.736, Fla. Stat..

This is a civil action authorized by 42 U. S. C. Section 1983. The Court has jurisdiction under 28 U. S. C. 1331. In 28 U. S. C. §§ 1331 and 1332(a), Congress granted federal courts jurisdiction over two general types of cases; cases that "arise under" federal law, § 1331, and cases in which the amount in controversy exceeds \$75,000.00 and there is diversity of citizenship among the parties, § 1332(a). These jurisdictional grants are known as "federal question jurisdiction" and "diversity jurisdiction," respectively. Each serves a distinct purpose: Federal-question jurisdiction affords parties a federal forum in which "to vindicate federal rights," whereas diversity jurisdiction provides "a neutral forum" for parties from different States. Exxon Mobil Corp., supra, at 552. The United States District Court for the District of Hawaii at Honolulu is an appropriate venue under 28 U. S. C. §§ 1391 (b) (2) because it is where the events give rise to this claim occurred. Plaintiff **ELIJAH JACKSON, JR.**, is a prisoner of the State of Florida in the custody of the Florida Department of Corrections, "FDC". He is currently confined in Avon Park Correctional Institution Main Unit #503, Avon Park, Florida 33825.

Search www.sunbiz.org.

The case began as an automobile accident claim in the District of Hawaii at Honolulu. Elijah Jackson, Jr. was involved in a car accident on 3-19-1985 in the City and County of Honolulu, Hawaii. See Honolulu Police Department Standard Motor Vehicle Accident Report No. K-95055 dated 3-19-1985.

At the time Jackson was covered under an automobile insurance policy issued by Geico General Insurance Company. Pursuant to Hawaii's Motor Vehicle No-Fault Law, the policy provided him with \$10,000 in Personal Injury Protection "PIP" benefits. See Hawaii Revised Statutes "HRS" _____ and similar law Fla. Statute 627.736 (1) (mandating that automobile insurers provide PIP benefits "to a limit of \$10,000). To be entitled to the full \$10,000, however, the statute required that Jackson like all PIP beneficiaries, be diagnosed by an authorized Health Care Provider with an **"Emergency Medical Condition"** EMC such as Queen's Medical Center and Kapiolani Medical Center.

Jackson claim is supported by an EMC determination. It is undisputed that Jackson was diagnosed with an EMC on 3-19-1985 and Geico failed to pay Jackson PIP benefits pre-suit, and for future payments he will make 80%, 200%. See Geico Policy.

Jackson invokes the court's authority at an "irreducible minimum" that at the time the Complaint is filed, that he has suffered some actual or threatened injury resulting from the Defendant's conduct, and that the injury of 3-19-85 (Lumbar Spine) can be traced to the challenged action, and that the injury is likely to be redressed by favorable court disposition." Atlanta Gas Light Co. v. Aetna Casualty and Sur. Co., 68 F.3d 409, 414 (11th 1995).

On 3-19-1985, Richard Hidalgo, an employee of Magoon Estates DBA Hawaiian Airlines, Inc., was driving in the course of his employment when he rear

ended Jackson while he was stopped at a red light on Kapiolani Boulevard. Richard Hidalgo "Hidalgo" was travelling at more than 35-40 MPH when he collided with Jackson, causing his vehicle to knock the vehicle into the intersection. On or about 5-15-1985, Magoon Estates/ Hawaiian Airlines, Inc. issued Hidalgo a Corrective Action Report that acknowledged Hidalgo "was at fault" for the accident. The **Honolulu Police Department** "HPD" also issued Standard Motor Vehicle Accident Report No. K-95055 acknowledging that Hidalgo "was at fault" for the accident. Magoon Estates Limited and Hawaiian Airlines, Inc. "HAL" Insurance claim summary prepared on or about 5-1, 15-1985, indicates Jackson was "0%" negligent.

Jackson had serious injuries and was transported by EMS to the Queen's Medical Center Emergency Room "ER". He sustained a whiplash-type injury to his cervical/lumbar spine, wrist swelling, and facial bruising with minor lacerations. Jackson had not had any prior back/lumbar spine issues prior to 3-19-1985 and he contends the accident caused or was the beginning of his lumbar spine problems. Jackson's back issues were "noticeably improved" following treatment, therapy at the Fronk Clinic. Later Jackson had back surgery 5/1999 and 9/1999 at Winter Haven Hospital, Inc-Shands in Winter Haven, Florida. **See Medical Records.**

Jackson, post-accident, asserts he is "in pain 24 hours a day, not only in his back but in his head, neck, wrist and legs."

Jackson is self-employed at the JBS Group, Et Al 59-3065838 and 99-0247631 and the Eipi Group, Et Al., 31-1611824 and 99-0251095. Jackson has been on medical leave of absence since 9-18-2001. Jackson will be unable to work while recovering from potential future medical treatment. On or about 6-24-1985, Jackson hired Attorney Judith Ann Pavey, P. A. and settled out of court or settlement was ensued prior to 1986.

The Defendants settled out of court, but Magoon Estates/HAL., Inc assumed the risk and alleged injuries “were foreseeable.” Hidalgo stated that he was driving at more than 40 mph when he collided with Jackson, who was stopped at a red light on Prince Kuhio Avenue in Waikiki, Hawaii and did contribute to the collision. The Defendants settlement resulted in less than \$13,000 for Jackson minus more than \$33. 1/3 % for Legal Counsel Judith Ann Pavey, Esq. and P. A. See Jackson UX Settlement ...

- Jackson, UX Settled case in 1986.
- Jackson, UX Expert doctors under Rule 403 Fed. R. of Evidence.
- Jackson, UX did not have a jury trial and Jackson’s doctors present during 5/99 and 9/99 operating room during surgery overcharged for botched surgery.
- Jackson, UX has the entire record of treatment at the surgical centers where the procedures were performed Shands-WHH, Inc... or Winter Haven Hospital, Inc. now doing business as Bay Care Health System, Inc., 703100 59-0724462.
- Jackson, UX Counsel measured Jackson’s damages on a per-hour basis instead of life styles/changes self-employment, etc... past, present or future damages which was prejudicial.
- Jackson, UX Settlement was not on lost future salary/wages, damages claims and was not speculative to encompass/support claims.
- Jackson, UX argues that Attorney Judith Ann Pavey, Esq. and P. A. failed to assess or secure future damages for Client Plaintiff Jackson.
- Jackson, UX and Attorney Pavey excluded evidence of settlement negotiations or discussions...
- Jackson, UX references to settlement...
- Jackson, UX Medical records/charts are available for production of documents/inspection upon request or demand.
- Jackson, UX claim for future lost income exceeds > \$1,872,000.00 per year.

- Jackson, UX claim for attorney's fees under Hawaii Revised Statutes "HRS" or Law...Exceeds more than \$1.00.

The Plaintiff Elijah Jackson Jr. spouse, estranged wife or "UX" at the time of automobile accident/incident was D'Le Ann Beatty-Jackson 10-26- 1960 S.S. # 536-78-4489; married in Laie, Hawaii on or about 11-15-1983; Divorced November 13, 1987; See Official Records of State of Hawaii for additional details.

This case involves a first-party insurance case that was settled in 1986, in which Jackson sued Magoon Estates dba Hawaiian Airlines, Inc., and Geico insurer, alleging an improper denial of benefits.

This is a "willful tort of bad faith" by the Defendants and their insurance companies/insurer.

Timing is important when it comes to Article 3 justifiability. File before the facts under pinning the claim have been sufficiently developed...and the court should grant the claim because it is ripe for the court's review.

Jackson was involved in a car accident on 3-19-1985, in the District of Hawaii in Honolulu, after which he sought medical service from Queens Medical Center "QMC" in Honolulu, Oahu, Hawaii. At the time, Jackson was covered under an automobile insurance policy issued by GEICO or Government Employee Insurance Company or General Insurance Company.

Jackson argues/claims that this case is "**in connection with**" Other Related Cases/Notice of Related Case 8:17-CV-01294-EAK-SPF or 11th Circuit Court Appeal 17-15218-FF/F www.call.uscourts.gov; and his broad interpretation. "*Merrill Lynch, Pierce, Fenner and Smith, Inc. v. Dabit*, 547 U. S. 71, 85 (2006); Section 10 (b) of the Securities Exchange Act of 1934, 15 U. S. C. Section 78j (b); *United States v. American Union Transport, Inc.*, 327 U. S. 437, 443 (1946) ("Broad and General"); *Maraciah v. Spears*, 510 U. S. 48, 59 (2013).

JACKSON AND ESTRANGED EX-WIFE/SPOUSE D'LE ANN BEATTY-JACKSON S.S. #536-78-4489 DOB 10-26-1960 signed a release as to one Tortfeasor for property damage to, personal injury which shall not operate to release or discharge the liability of any other Tortfeasor who may be liable for the same tort.

At trial, if any Defendant(s) shows the court that Plaintiff, has delivered a release to any person, firm, or corporation in partial satisfaction of the damages sued for, the court shall set off this amount from the amount of any judgment to which the Plaintiff would be otherwise entitled at the time of rendering judgment and enter judgment accordingly.

Jackson's executed release was not a covenant not to sue defendants for past, present or future damages.

Subrogation is equitable assignment. This case involves equity of subrogation, insurance, conventional subrogation by contract or by an express act of the parties; legal subrogation because Magoon Estates Limited and Hawaiian Airlines, Inc., and Richard Hidalgo have a liability, claim, or fiduciary relationship to each other or pays to protect its own rights or property; and **subrogation Clause** or Insurance or property or liability insurance policy whereby the insurer acquires certain rights upon paying a claim for a loss under the policy. These rights include (1) taking legal action on behalf of the insured to recover the amount of the loss > \$13,000.00 from the party who caused the loss (Magoon Estates, Hawaiian Airlines, Inc.,-Employee Richard Hidalgo), loss, and (2) receiving a full or proportionate amount of the benefits (not adequate enough) such as disability compensation paid to the insured under a statutory plan. See Judith Ann Pavey, Esq., Subrogation Clause or Statement or Release of 1986.

The Defendants have failed their duty/duties to make good any and all losses, damages, or liabilities incurred by Plaintiff by and thru Richard Hidalgo,

Magoon Estates Limited and Hawaiian Airlines, Inc. violating Common-Law Duty, Right of Contribution, Contributory-Negligence Doctrine/Comparative-Negligence Doctrine; Fault. See Taft-Hartley Act; *Erie v. Tompkins*, 304 U. S. 64, 58 S.Ct. 817 1983; *Guardians of the Poor v. Greene*, 5 Binn. 554, 557 (PA. 1813).

Jackson Claims case is unlike other civil action cases. Unlike in other cases where the loss has already been inflicted or would be attributable to a single event, where the injuries are irreparable only when they “cannot be undone thru monetary remedies”. *Scott*, 612 F.3d at 1295 quoting *Cunningham v. Adams*, 808 F.2d 815, 821 (11th Cir. 1987).

Plaintiff-Appellant-Petitioner re-alleges and incorporates by reference all paragraphs as above and so below. Comparative Fault in Hawaii; Comparative Negligence in Hawaii; Contribution Among Tortfeasors; Contribution Indemnity for Independent Tortfeasors; Guilty of “Active” Negligence; Pure Comparative Negligence in Hawaii; Liability of Motor Vehicle Passenger for Accident Number K-95055 dated 3-19-1985; There is reference to 1986 Settlement Offers, Compromise, Accord, and Release; Evidence of Release or Discharge of One Tortfeasor; Settlement; Release; Release of Claim for Present Personal Injuries, Not Future Personal Injuries; Economic and Non Economic Damages Past, Present, and Future; Damages; Contributions, Indemnity, and Subrogation in Relation to Insurance Policy... Settlement as Effecting non Settling Tortfeasor Rights and Liabilities as to Contribution (the Insurer that has paid a loss under an Insurance Policy is entitled to all the Rights and Remedies belonging to the insured against... with respect to any Loss covered by the Policy...)

In determining the release of vehicle driver and owner, driver and his wife accepted offer of settlement in 1986. Statutes governing releases were adopted in furtherance of Hawaii’s and Florida’s Public Policy to encourage settlement of civil actions. By virtue of statutes governing releases, parties are free to settle

claims on their own terms without jeopardizing claims remaining against others. Baudo v. Bon Secours Hospital/Villa Maria Nursing Center, App. 3 Dist., 684 So.2d 211 (1996). The Hawaii Revised Statutes (HRS) and Courts which abrogates Common-Law Rule that release of joint Tort-feasor discharges all Tort-feasors liable for same tort, was not repealed by **Uniform Contribution Among Joint Tort-feasors Act, F. S. §768.31 and (HRS)**. Eason v. Lau, App. 1 Dist., 369 So.2d 600 (1978). The word “**damage**” means provide that a release for property damage to personal injury shall not operate to release or discharge the liability of any other Tort-feasor who may be liable for the same tort or loss, injury or deterioration caused by one person to another in respect to his property. Sun First National Bank of Melbourne v. Batchelor, 321 So.2d 73 (1975). There was voluntary settlement with representative of drivers of vehicles involved in collision giving rise to this action. Also Plaintiff alleges that Physicians negligently treated Plaintiff for injuries sustained in automobile accident as a “joint tort-feasor” within preview of Hawaii and Florida Statutes. Mathis v. Virgin, App. 3 Dist., 167 So.2d 897 (1964). This is a Federal District Court case or a diversity case arising out of a Hawaii accident for damages. The validity and effect of a settlement and release are governed by contract law. Travelers Ins. Co. v. Horton, App. 3 Dist., 366 So.2d 1204 (1979). The terms of the 1986 release agreement do not clearly express intent to release all tort-feasor, or extrinsic evidence proves intent to limit release, discharge of one tort-feasor does not discharge all tort-feasors. Williams v. Arai Hirotake, Ltd., C. A. 11 (Fla.) 1991, 931 F2d 755; Lipman v. Ahearn, App. 3 Dist., 374 So.2d 605 (1979). **This is a separate and distinct claim against separate tort-feasor and involves different elements of damages. See Federal Tort Claims Act and Uniform Contribution Among Tortfeasors Act for Damages;** Scheib v. Florida Sanitarium and Benev. Ass’n, C. A. 11 (Fla.) 1985, 759 F.2d 859. *Because Defendant’s corporation was only vicariously liable for 3-19-1985*

accident caused by gross negligence of employee Richard Hildalgo who was driving Jeep in which corporation had equitable ownership interest. (DUI 0.25 Blood Alcohol Content). The **Standard** is as follows:

Federal Rule of Civil Procedure 8 (a) (2) requires “a short and plain Statement of the Claim showing that the pleader is entitled to relief” so as to give the Defendant fair notice of what the claim is and the grounds upon which it rests, Conley v. Gibson, 355 U. S. 41, 47, 78 S.Ct. 99, 103 (1957), overruled on other grounds, Bell Atlantic Corp. Twombly, 550 U. S. 544, 127 S.Ct. 1955 (2007). A Rule 12 (b) (6) Motion To Dismiss for Failure to State a Claim merely tests the sufficiency of the Complaint; it does not decide the merits of the case. Milburn v. U. S., 734 F.2d 762, 765 (11th 1984). **In ruling on a Motion To Dismiss, the court must accept the factual allegations as true and construe the Complaint in the light most favorable to the Plaintiff.** Sec v. ESM Group, Inc., 835 F.2d 270, 272 (11th Cir. 1988).

Hawaii Law recognizes two types of actions for bad faith claims against insurance companies-**first party** and **third party**. A **first party** action is one brought directly by an insured against the insured’s own insurance company for failing to promptly pay benefits due under the policy. In contrast, a **third party** action is brought by a non-insured against the insurer of another, often a tortfeasor. **Third party** bad faith consists of conduct by the liability insurer that exposes its insured to an excess judgment when the insurer could have and should have settled the claim against its insured within the policy limits.”

Hawaii Law has long recognized common-law claims for bad faith in third-party actions. See, c. g. Auto Mutual. Indem. Co v. Shaw, 184 So. 852, 859 (1938) (“it appears that the insurance company in the settlement of claims and in conducting a defense before any court on suits filed should be held to that degree of care and diligence which a man of ordinary care and prudence should exercise

in the management of his own business.). In the **first-party** context, Plaintiff's may assert a statutory bad faith claim against their insurers pursuant to F. S. 624.155 and Hawaii Revised Statutes. See State Farm Mut. Auto. Ins. Co. v. Laforer, 658 So.2d 55, 62 (Fla. 1995).

In this case at point, Jackson asserts a Common-Law Bad Faith Claim and Hawaii Law recognize such claims in a **first-party case**, such as this one. The insurer's actions are so egregious and so outrageous, it elevates what has been ordinarily, a simple bad faith action under Hawaii Revised Statutes "HRS" or F. S. 624.155 into an independent, willful tort action."

The Plaintiff-Appellant-Petitioner has been seen by **subsequent treating practitioners, doctors or medical facilities as stated below:**

DR. JAMES L. SANDERS, JR. M.D., F.A.C.S.

NEUROLOGY AND NEUROSURGERY ASSOCIATES, P.A. S22950 59-3041048

50 Second Street, South East, Winter Haven, Florida 33880

☎863-293-2107 and 863-294-9314(fax)

DR. SIDNEY J. MERIN, PH.D., P.A.

3703 Swann Avenue, Tampa, Florida 33609

☎813-871-5220 and 813-877-1795(fax)

DR. GERMAN MONTOYA, M.D.

ORLANDO NEUROSURGICAL ASSOCIATES

1801 Cook Avenue, Orlando, Florida 32806

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Post Office Box 144040, Orlando, Florida 32814-4040

DR. JOSEPH E. SCHREIER, D. O.

GSW CONSULTING/TARGET TESTING

6030 South Florida Avenue, Suite 1, Lakeland, Florida 33813

☎863-701-0777 and 863-701-0888(fax)

DR. THOMAS M. GOODNIGHT, M.D.

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FLORIDA DEPARTMENT OF HEALTH "FDOH" COMPLAINTS AND DISCLOSURES

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**KENYATTA HUGHES OF LAW FIRM OF CRUMP AND PARKS, LLC
BENJAMIN CRUMP, ESQ.**

Oxycontin Case

240 North Magnolia Drive, Tallahassee, Florida 32301

CMS MEDICAL RECORDS 2D19-3937 (53-2006-AP-9)

The Plaintiff lodged and filed a **PERSONAL INJURY PROTECTION (PIP) COMPLAINT** in 2019.

The Plaintiff filed a **SUPPLEMENTAL / ADDITIONAL MODIFIED COMPLAINT** in 2019.

Negligence sufficient to support a recovery of punitive damages in an automobile accident case must be such as would support a charge of manslaughter, *See Jacmar Pacific Pizza Corp. v. Huston*, 502 So.2d 91 (Fla. Dist. Ct. App. 5th Dist. 1987); *Baynard v. Liberman*, 139 So.2d 485 (Fla. Dist. Ct. App. 2d Dist. 1962) it must show wanton intentionality, exaggerated recklessness, or such an extreme degree of negligence as to parallel an intentional and reprehensible act. *See Jacmar Pacific Pizza Corp. v. Huston*, 502 So.2d 91 (Fla. Dist. Ct. App. 5th Dist. 1987).

Punitive damages have been approved, or the issue of punitive damages has been held to be raised by the evidence, where the charge of misconduct was based primarily on the speed at which the defendant drove and a subsequent collision. *See Smith v. McNulty*, 298 F.2d 924 (5th Cir. 1961); *Busser v. Sabatassc*, 143 So.2d 532 (Dist. Ct. App. 3d Dist. 1962). Testimony that a defendant knowingly failed to stop after involvement in an automobile accident may be admitted as evidence to support a complainant's claim for exemplary damages, in connection with other material circumstances of recklessness. *See Smith v. McNulty*, 298 F.2d 924 (5th Cir. 1961).

As a general rule, punitive damages may be awarded where voluntary intoxication is involved. *See Ingram v. Pettit*, 340 So.2d 922 (Fla. 1976); *Matalon v. Lee*, 847 So.2d 1077 (Fla. Dist. Ct. App. 4th Dist. 2003), appeal decided, 859 So.2d 541 (Fla. Dist. Ct. App. 4th Dist. 2003); *Zuckerman v. Robinson*, 846 So.2d 1257 (Fla. Dist. Ct. App. 4th Dist. 2003), review denied (Fla. Jan. 21, 2004); *Nales v. State Farm Mut. Auto. Ins. Co.* 398 So.2d 455 (Fla. Dist. Ct. App. 2d Dist. 1981); *Busser v. Sabatassc*, 143 So.2d 532 (Dist. Ct. App. 3d Dist. 1962).

The statutory limitations on punitive damages *See* § 768.73, Fla. Stat. does not apply to any defendant who, at the time of the act or omission for which punitive damages are sought, was under the influence of any alcoholic beverage or drug to the extent that the

defendant's normal faculties were impaired, or who had a blood or breath alcohol level of 0.08 percent or higher. *See above or below.*

The Theory of Negligent hiring may occasionally provide the plaintiff with a method to seek additional punitive damages from an employer arising from the negligence of permissive users of its motor vehicles. *See Muzzio v. Auto-Owners Ins. Co.*, 799 So.2d 272. (As to the liability of an employer for punitive damages, generally.

REASONS FOR GRANTING THE PETITION

The Plaintiff-Appellant-Petitioner is not a frequent and vexatious litigant and the Complaint has merit. The Plaintiff-Appellant-Petitioner is unable to pay the filing and docketing fees in cash and the three strike provision of "PLRA" Title 28 U. S. C. Section 1915 is blocking a fruitful lawsuit similar to Thomas, 508 F.3d 1225 (2007-08).

Jackson #979922 is not a serial litigant who has clogged the Federal Courts with frivolous litigations by submitting more than one thousand pro se filings in over a hundred actions and appeals in at least nine different Federal Courts. Daker v. Comm'r, Ga. Dept. of Corr., 820 F.3d 1278, 1281 (11th Cir. 2016). PLRA 28 U. S. C. Section 1915 (g) "three strikes" bars Jackson under 28 U. S. C. 1915 (g) constitutionality. PLRA violates First Amendment. Three strikes provision violates the 1st Amendment "**Breathing Space**" principle because it does not provide a margin of error and punishes all pro se litigants for honest mistakes, rather than just for abuses of the legal system. Congress is not obligated to provide free or unlimited access to the Courts.

Section 1915 (g) "does not prevent a prisoner with three strikes from filing Civil Actions; it merely prohibits him from enjoying IFP status. Rivera v. Allin, 144 F.3d 719 (11th Cir. 1998); Jones v. Bock, 549 U. S. 199, 215 (2007).

IFP status is a privilege, not a right fundamental or otherwise.

The Article 3 Courts have formed a “**suspect or quasi-suspect class**” and Section 1915 (g) has a burden, a fundamental right although these Courts rational basis is that Congress’s legitimate goal of curtailing abusive litigation and conserving judicial resources. 144 F.3d at 727-28.

“**Breathing Space**” principle of the First Amendment is to protect freedom of speech... the ability to advance insulting, outrageous, or inadvertently false speech. Snyder v. Phelps, 562 U. S. 443, 458 (2011); and Hustler Magazine, Inc. v. Falwell, 485 U. S. 46, 52 (1988).

Plaintiff-Appellant-Petitioner acknowledges that there is no First Amendment right to access the courts for free, and it follows that there is no First Amendment rights to speak in the courts for free, so these courts allege “**Breathing Space**” principle is inapplicable to silence **Petitioner Jackson based solely on monetary obligations or paying a filing and docketing fee in order to bring a lawsuit. Petitioners litigation is not baseless and has merit, he is just unable to pay filing and docketing fees due to poverty and incarceration...**

“**Pecuniary Harm**” is harm that is monetary or that otherwise is readily measurable in money, and is reasonably foreseeable if the Defendant knew or, under the circumstances, reasonably should have known, that it was a potential result of the offense.

Article 3 of the Constitution limits Federal Courts to adjudicating actual “**cases**” and “**controversies**”. Allen v. Wright, 468 U. S. 737, 750 (1984) abrogated on Lexmark Int’L, Inc. v. Static Control Components, Inc., 572 U. S. 118 (2014).

Standing= Wooden v. Bd. of Regents of the University System of Georgia, 247 F.3d 1262, 1273 (11th Cir. 2001); Bender v. William Sport Area Sch. Dist., 475 U. S. 534, 541 (1986); Harris v. Evans, 20 F.3d 1118, 1121 n.4 (11th Cir. 1994); **whether Court is entitled to decide merits**= Warth v. Seldin, 422 U. S.

490, 498 (1975); Yellow Pages Photos, Inc. v. Ziplocal, LP, 795 F.3d 1255, 1262 (11th Cir. 2015).

Declaratory Judgment Act= Declaratory Judgment cannot be issued only in actual controversy. Emory v. Peeler, 756 F.2d 1547, 1551-52 (11th Cir. 1985) citing 28 U. S. C. 2201; Atlanta Gas Light Co. v. Aetna Cas. And Sur. Co., 68 F.3d at 414 (11th Cir. 1995).

A departure from precedent, however, **“demands special justification,”** Arizona v. Rumsey, 467 U. S. 203, 212; **Jackson’s case is strong to break the chain of precedent...**

If a party challenges an agency action in a facial, pre-enforcement suit, that specific party may be barred by ordinary preclusion principles from relitigating the same question against the agency in a future enforcement action. Abbott Labs, 387 U. S. at 154.

“The time at which a 1983 Claim accrues” is a question of Federal Law, “confrontation in general to Common Law Tort Principles,”...when the Plaintiff has a complete and present cause of action.” Wallace v. Kato, 549 U. S. 384, 388. An actual analysis begins with identifying “the Specific Constitutional Right” alleged to have been infringed. Manuel v. Joliet, 580 U. S. _____, _____. Here, the **claimed right is an assumed due process right not to be deprived of liberty** as a result of **Defendant** fabrication of evidence. Accrual Common Law Principles governing analogous torts. Wallace, 549 U. S. 388.

Article 3 limits the subject matter jurisdiction of the Federal Courts to “cases” and “controversies.” U. S. Const. Art 3 Section 2.

To have a case or controversy, a litigant must establish that he has standing, which must exist throughout all stages of litigation. U. S. v. Amodeo, 916 F.3d 967, 971 (11th Cir. 2019) (quoting Hollingsworth v. Perry, 570 U. S. 693, 705 (2013); U. S. v. Hays, 515 U. S. 737, 742 (1995)).

Article 3 standing has 3 elements, **First**, “the Plaintiff must have suffered an injury in fact-an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.” LuJan v. Defs. Of Wildlife, 504 U. S. 555, 560 (1992); **Second**, “there must be a causal connection between the injury and the conduct complained of- the injury has to be fairly traceable to the challenged action of the Defendant, and not the result of the independent action of the third party not before the court; **Third**, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.”

Plaintiff-Appellant is not a **Respondent** in the matter of Jackson v. Magoon Estates Limited, et. al., case number: 19-16661 and 1:19-CV-00380-SOM-RT as in the citation case cited as Thomas, 508 F. 2d 1225 (2007-8).

In comparison / contrast Plaintiff-Appellant is not a **frequent** and vexations litigant as indicated / suggested and his complaint / petition Documents 1, 2, 5, 8, 9, 11, 18, 19, 19-1, 21, and 22 a Supplement to Initial Brief of Appellant dated 10-3-2019 has sufficient merit to proceed for damages as **compensatory, exemplary** or **punitive**, of future damages under 17 Fla. Jur. 2d Damages.

In this case Plaintiff-Appellant is seeking or appealing an United States District Judge’s Order Document 7, 6, 14 20 which recommended / adopted dismissal of complaint or Order Dismissing action pursuant to Title 28 U.S.C. Section 1915 (g), etc.

If, while operating a motor vehicle, the defendant’s misconduct, which proximately causes personal injury, is sufficiently offensive, exemplary or punitive damages may be awarded *See City of Miami v. McCorkle*, 145 Fla. 109, 199 So. 575 (1940).

Negligence sufficient to support a recovery of punitive damages in an automobile accident case must be such as would support a charge of manslaughter,

See Jacmar Pacific Pizza Corp. v. Huston, 502 So.2d 91 (Fla. Dist. Ct. App. 5th Dist. 1987); *Baynard v. Liberman*, 139 So.2d 485 (Fla. Dist. Ct. App. 2d Dist. 1962) it must show wanton intentionality, exaggerated recklessness, or such an extreme degree of negligence as to parallel an intentional and reprehensible act. *See Jacmar Pacific Pizza Corp. v. Huston*, 502 So.2d 91 (Fla. Dist. Ct. App. 5th Dist. 1987).

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The statutory limitations on punitive damages See § 768.73, Fla. Stat. does not apply to any defendant who, at the time of the act and or omission for which punitive damages are sought, was under the influence of any alcoholic beverage or drug to the extent that the defendant's normal faculties were impaired, or who had a blood or breath alcohol level of 0.08 percent or higher. § 768.736, Fla. Stat. **The Appeal is patently substantial and Court can take Judicial Notice of the facts presented and the facts presented are real.** See Damages under Hawaii Revised Statutes (H.R.S.)

In this case are supporting facts of 3-19-1985 Auto Accident in the District of Hawaii which was not resolved. The United States Court of Appeals for the Ninth Circuit and U.S. District Court For the District of Hawaii- Honolulu Division only citation of reliance holds to the three strikes provisions or that the 3 strikes provisions of Prison Litigation Reform Act (PLRA), 28 U.S.C. Section 1915 or F.S. 57.081 (1) and 57.085 (2) applies to this case. **The only block in this case is PLRA.**

The Plaintiff-Appellant never filed an Application To Proceed IFP as is required by **the USDC-Hawaii and the United States District Court Hawaii and such courts breached its own Order of or prior to 7-15-2019** Orders expiration date not allowing Plaintiff-Appellant the opportunity to perform, pay filing fees or to prepare, submit, or file Motion for Leave to Proceed IFP as Ordered 7-15-2019; or to file a Motion for Permission IFP and Affidavit; and or Application to Proceed IFP By A Prisoner /IFP Form as ordered 7-15 2019.

This is not a baseless filing nor is Plaintiff-Appellant a vexatious litigant whom does not require a pre-filing order that restrict his access to court and there is no based adequate justification to support or is supported in the record to narrowly tailor or address the abuse perceived.

The Plaintiff-Appellant-Petitioner lodged and filed several motions or pleading as follows: Motion for Extension of Time Document 12 was filed on 8-6-19 was "DENIED" in U.S. Court of Appeals; and a Notice of Appeal Document 14 was filed 8-22-2019; Judgment In A Civil Case Document 14 and 7 dated or filed 7-30-2019; CIP-CDS Document 16 was filed 10-4-2019; and Notice of Appeal to Supreme Court of U.S. was filed 12-5,6-2019.

The Plaintiff-Appellant-Petitioner Jackson has not filed more than 17 appeals and petitions with this court nor any Article 3 Court in less than 2 years such as Thomas nor has Jackson filed more than 69 separate civil actions in the Northern District of California, District of Hawaii, Middle District of Florida or Northern District of Florida and a pre-filing review order is not warranted or is lacking sufficient merit.

This **Deficiency Order** filed 7-15-2019 in the U.S. District Court for the District of Hawaii Ordered and allotted the Plaintiff-Appellant-Petitioner to 8-11-2019 to pay a filing fee of \$350.00 and and Administrative Fee of \$50.00 or submit a fully completed In Forma Pauperis Application within Twenty Eight (28) days of this Order **which the USDC- Hawaii prematurely breached its own 7-15-2019 Deficiency Order** by dismissing and closing case on 7-30-2019. **The Plaintiff-Appellant-Petitioner never filed an IFP Application with either court and was allotted, allowed an opportunity until 8-11-2019 to comply with Federal Rules of Civil Procedure 41 (b); Olivares v. Marshall, 59 F. 3d 109, 112(9th Cir. 1992)See WARNING CASE CLOSED on 7-30-2019. See Deficiency Order of 7-**

15-2019 by Chief U.S. District Judge J. MICHAEL SEABRIGHT for additional details.

CONCLUSION

The corrected Petition for a Writ of Certiorari should be **GRANTED**.

Respectfully Submitted,

ELIJAH JACKSON, JR. #979922

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Corrected Date: 3-4 and 19-2020

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