

No.

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In the Supreme Court of the United  
States

John F. Marchisotto,

Petitioner,

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v.

MARGARET GOODZEIT, FRANK BRUNO, LOUIS P. LEPORE,  
Law Offices of Louis Lepore P.C., Louis Lepore. Esq., LLC. DEBRA  
E. CANOVA, STATE OF NEW JERSEY, New Jersey Courts,  
Middlesex County Surrogate, and County, ALBERTO RIVAS,  
Middlesex County Courthouse, STAURT J. RABNER, and  
New Jersey State Courts

Respondents.

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I/M/O THE IRREVOCABLE TRUST OF JOHN L.  
MARCHISOTTO, DECEASED,

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SUPERIOR COURT OF NEW JERSEY DOCKET NO.: 18-00394.

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**EMERGENT APPLICATION TO AN INDIVIDUAL JUSTICE  
FOR AN ORDER FOR STAY OF DEFENDANT JUDGE  
ALBERTO RIVAS, JSC, MIDDLESEX COUNTY, 06/02/2020,  
ORDERS, AND FOR AN ORDER FOR THE IMMEDIATE  
REMOVAL OF ANY FIREARMS IN DEFENDANT JUDGE  
ALBERTO RIVAS POSSESSION, PURSUANT TO U.S.  
SUPREME COURT RULE 22, AND 23.**

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John F. Marchisotto  
Pro se Petitioner  
15 Topaz Drive  
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**TABLE OF CONTENTS**

TABLE OF CONTENTS .....	i
TABLE OF AUTHORITIES.....	ii
SUMMARY OF THE ARGUMENT.....	1
LEGAL.....	5
Rule 22. APPLICATIONS TO INDIVIDUAL JUSTICES.....	5
Rule 23. STAYS.....	6
LEGAL ARGUMENT.....	7
CONCLUSION .....	9

TABLE OF AUTHORITIES

**CASES / LEGAL**

Crowe v. DeGioia 90 N.J. 126 (1982)

U.S. Constitution: XIV, § Section 1, 14<sup>th</sup> Amendment  
Constitutional Rights, of the federal constitution

Section 2 of Article III, Title 42 US code 1983

Canon 3C(1)(a)

N.J. CT. Rule 2:14-12B:2A-11, Article VII. Section III, of the  
Constitution.

N.J.S.A. 4:4:-3.

Fed. R. Civ. P. 4(e)(1).

28 U.S.C. §§ 1331, 1343, and 1367....

440 Civil Rights - Other Civil Rights, for the Cause of

42:1983 Civil Rights Act.

Mireles, 502 U.S. at 11-12, 112 S. Ct. 286. 101  
Id. 502 U.S. at 12, 112 S. Ct. 286 (citing Stump v. Sparkman,  
435 U.S. 349, 362, 98 S. Ct. 1099, 55 L. Ed. 2d 331 (1978))

Stump v. Sparkman, 435 US 349 - Supreme Court 1978

Forrester v. White, 484 U.S. 219, 227, 108 S.Ct. 538, 544, 98  
L.Ed.2d 555 (1988).

Groman v. Township of Manalapan, 47 F.3d 628, 638  
(3d Cir. 1995)

Gomez v. Toledo, 446 U.S. 635, 640 (1980)  
Groman v. Township of Manalapan,

“No judge of any court, shall sit on the trial of, or argument of,  
any matter in controversy, in a cause, pending in his court, when  
he: N.J. Ct. R.1:12-1(e)(g), R.1:12-2, N.J.S.A.2A:1549, Canon  
3C(1)(a), is interested in the events of the action.”

## SUMMARY OF THE ARGUMENT

Petitioner Appeals to the U.S. Supreme Court, pursuant to Rule 22, and 23, from the Supreme Court of New Jersey. On June 9, 2020, Justice Faustino Fernandez-Vina, denied Petitioners Emergent Motion for Stay, of Defendant Judge Alberto Rivas, JSC, Middlesex County, Retaliatory, 6/02/2020, Orders for Sanctions, and denied Petitioners Emergent Motion, for the Immediate Removal of Defendant Judge Alberto Rivas, JSC, FIREARMS, under Supreme Court of New Jersey Docket No.: (084541) (S-120-19).

The Petitioner has fully satisfied the requirements set forth in Crowe v. DeGioia 90 N.J. 126 (1982). Justice Faustino Fernandez-Vina, June 9, 2020, Orders, are so erroneous, and the Justice has completely disregarded, the immediate threats of serious physical harm, to Petitioner, and his family, by a Mentally Unstable, Abusive Judge, with 1000's of complaints against him, who continues to terrorize, retaliate, and criminally harass, Petitioner, and his family,, after serving him with a U.S. District Court of New Jersey Federal Summons, for violating Petitioners, U.S. Constitutional Rights, Under Color of Law,

The Petitioner and his family are very afraid that Defendant Judge Rivas, is going to cause serious physically harm to them, and filing an Emergent Application to the U.S. Supreme Court, for an individual Justice, to Order, the Immediate Removal of any FIREAREMS, in Defendant Judge Alberto Rivas, JSC, Middlesex County Possession, and for the immediate safety, of Petitioner and his family, for a mentally unstable abusive judge, who is unfit to serve on any court's bench.

The Petitioner has also filed for a Temporary Restraining Order, against Defendant Judge Alberto Rivas, with the USCA, for the Third Circuit; Marchisotto v. Goodzeit, et al, USCA Case Nos.: 20-2134, and 20-1870. The USCA for the Third Circuit has jurisdiction over Petitioners Appeal, from U.S. District Court of New Jersey, MARCHISOTTO v. GOODZEIT et al, Docket No.: 3:19-cv-12540-BRM-DEA, that consolidated MARCHISOTTO v. RIVAS, et al, Docket No.: 3:19-cv-21440-BRM-DEA.

The Petitioner, and his family are being continuously threatened by Defendant Judge Alberto Rivas, and afraid he may cause serious harm to them, if he is in the possession of any firearms.

Defendant Judge Rivas, made "Terroristic Threats", to a man in his court room; judge Rivas said "I wish you were up here," Rivas said, "because I am gunning for you, because you are despicable." Judge Rivas made "Terroristic Threats while sitting

on his courts bench, and Movant and his family are very afraid , and believe Judge Rivas has firearms and may cause serious physical harm to them. Petitioner Emergent Application to the U.S. Supreme Court, for an individual Justice Order, for the Immediate Removal of any FIREAREMS, in Defendant Judge Alberto Rivas, JSC, Middlesex County Possession, for the immediate safety of the Petitioner and his family.

Justice Faustino Fernandez-Vina, Supreme Court of New Jersey, Emergent Judge, denied order is erroneous, and has disregarded an imminent threats of serious physical harm by an abusive defendant judge, who has continuously criminally harassed, and terrorized Petitioner and his family and hides behind his NYS Deputy Attorney General Attorney. Petitioner Appeals to the U.S. Supreme Court, pursuant to Rule 22, and 23, for the Immediate Stay of Defendant Judge Rivas, 06/02/2020, Retaliatory Orders, and for an Order for the Immediate Removal of any firearms in his possession. Petitioner and his family immediate safety, is at immediate risk for serious harm that Justice Faustino Fernandez-Vina, Supreme Court of New Jersey, Emergent Judge, has completely disregarded.

Defendant Judge Rivas, uses his black robe, outside the scope of his judicial duties, and for outside of his jurisdiction and from even off of his judicial bench, to abuse women, and Pro Se Litigants, and 1000's of other litigant that have gone before his abusive court of law. Defendant Judge Rivas, is a Mentally Unstable, and Unfit Judge, who should have been impeached and removed from bench after he made "Terroristic Threats", to a man in his court room; judge Rivas said "I wish you were up here," Rivas said, "because I am gunning for you, because you are despicable."

"No judge of any court, shall sit on the trial of, or argument of, any matter in controversy, in a cause, pending in his court, when he: N.J. Ct. R.1:12-1(e)(g), R.1:12-2, N.J.S.A.2A:1549, Canon 3C(1)(a), is interested in the events of the action."

Defendant Judge Rivas, who believes he is above the law, abuses women that had gone before his court bench, "NJ judge apologizes for telling woman in love triangle to sell nude photos to Playboy"; The judge then addressed the man, who was present in court but not part of the proceedings between the woman and his wife. "I wish you were up here," Rivas said, "because I am gunning for you, because you are despicable." Defendant Judge Rivas said I am gunning for you to man in his court room. Judge Rivas made "Terroristic Threats", and this disgraced judge still sits on a courts bench. Defendant Chief Justice Stuart J. Rabner should step down, as he has allowed a judge to continually threaten and abuse people in his courtroom.

Petitioner and his family are terrified of Defendant Judge Alberto Rivas, and believe he owns firearms, and are afraid for our safety. Defendant Judge Rivas, is not Mentally Stable, and Petitioner's wife has been having nightmares, after he sent 100's of N.J. State Police to our home, to Terrorize our family. Petitioner has been continuously being threatened by Defendant Judge Alberto Rivas, and afraid that he may cause harm to my family if he is in possession of a firearm. Petitioner and his family are very afraid and asking for the U.S. Supreme Court Justice for an order, to remove any firearms, in Defendant Judge Rivas' possession, for Petitioner and his family's immediate safety. Petitioner also has filed for a Temporary Restraining Order against Defendant Judge Alberto Rivas, with the USCA, for the Third Circuit, USCA Case Nos.: 20-2134, and 20-1870.

Defendant Judge Rivas, also told a woman in his court room "The only person you should be sending naked pictures to are (sic) to Hugh Hefner," Rivas said. "He will pay you \$100,000 for the use of them." Defendant Judge Rivas, is a coward judge who uses his black robe, to abuse women, Pro Se Litigants, and Defendant Justice Stuart J. Rabner, should step down, as Chief Justice, who has allowed this Mentally Unstable, and Unfit Judge to remain on the Superior Courts Bench, to criminally harass people.

Defendant Judge Alberto Rivas, June 2, 2020, Orders were Retaliatory. Defendant Judge Alberto Riva, is a Defendant in USCA for the Third Circuit, Case Nos.: 20-2134, and 20-1870. Defendant Rivas, Orders for harsh Sanctions against the Pro Se Appellant should be immediately stay, pending Petitioner's Appeal. Only by imposing harsh sanctions against a willfully deceitful and evasive litigant, do the courts take the advantage out of such misbehavior and turn it into a decided disadvantage. While courts are often reluctant to impose the harshest of penalties, the following are a few examples of cases in which the misconduct was so egregious as to bring about severe penalties on the parties and in some cases the attorneys as well.

On appeal, Defendant Judge Rivas, Granting Defendant Debra E. Canova, Motion for Sanctions, against the Pro se Plaintiff, for \$81,848.70 in legal fees and an additional \$3,976.33 in expenses and costs, for a total of \$85,825.03, will be reversed, because the Pro se Plaintiff, conduct was "not willful, nor in bad faith", "nor had the Plaintiff done anything wrong, except for pursuing justice in a corrupt New Jersey State Court System.

Judicial misconduct occurs when a judge acts in ways that are considered unethical or otherwise violate the judge's obligations of impartial conduct. ... Judicial misconduct leads only seldom to a formal investigation. A court decision is not beyond critique. Defendant Judge Rivas, has so many complaints against him, and

sadly this corrupt coward judge, still sits on the Public Court bench. Defendant Judge Rivas, Sanctions, against the Pro se Plaintiff, for \$81,848.70 in legal fees, and an additional \$3,976.33 in expenses and costs, for a total of \$85,825.03, is disproportionate to the violation, absent proof of prejudice. Prior to imposing harsh sanctions, such as dismissal, many courts require a showing of prejudice. See *Hillig v. Commissioner*, 916 F. 2d 171, 174 (4th Cir. 1990) (a showing of prejudice is required before dismissal); *Navarro v. Cohan*, 856 F. 2d 141, 142 (11th Cir. 1988) (recognizing that dismissal is a drastic sanction).

Defendant Judge Rivas, Sanctions, for \$81,848.70 in legal fees, and an additional \$3,976.33 in expenses and costs, for a total of \$85,825.03, any violations against the Pro se Plaintiff would have been trivial in nature. There is no evidence or proof that Plaintiff was willfully and deceitful, and an evasive litigant. Sanctions is appropriate only where the offender has willfully abused judicial process or otherwise conducted litigation in bad faith. In *re ITEL Sec. Litig.*, 791 F.2d 672, 675 (9th Cir. 1986), cert. denied, 479 U.S. 1033 (1987); *Kreager v. Solomon & Flanagan, P.A.* 775 F.2d 1541, 1542-43 (11th Cir. 1985); *Lipsig v. Nation Student Mktg. Corp.*, 663 F.2d 178, 180-81 (D.C. Cir. 1980); *Link v. Walbash R.R.*, 370 U.S. 626, 632 (1962).

Petitioner, did none of these things, and Defendant Judge Rivas, Sanctions will be reversed on appeal, because the Pro se Plaintiff, conduct was "not willful, nor in bad faith", "nor had the Plaintiff done anything wrong, except for pursuing justice in a corrupt New Jersey State Court System.

Petitioner has filed an Appellant Division Appeal, under Docket No.: A-3453-19, and Notice of Motion for Stay with the Appellant Division, for all retaliatory rigged court orders, entered by Defendant Judge Alberto Rivas, JSC., on April 1, 2020. An amended Notice of Appeal is also being filed to also include the appeal, of Defendant Judge Alberto Rivas, June 2, 2020, Retaliatory Orders.

Defendant Judge Rivas has created and impropriety and the appearance of impropriety; CANNON 2, promoting confidence in the judiciary NJ Ct. R.2.1. A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. Defendant Judge Rivas has clearly acted outside the scope of his judicial duties, and had violated NJ Ct. R. 2.1(2), actual impropriety is conduct that reflects adversely on the honesty, impartiality, temperament or fitness to serve as a judge, and NJ Ct. R. 2.1(3), with regard to the judicial conduct of a judge, an appearance of impropriety is created when a reasonable, fully informed person observing the judge's



conduct would have doubts about the judge's impartiality. Judge Rivas, has clearly shown the appearance of an impropriety.

There was a reasonable basis to doubt the Defendant Judge Rivas, integrity, and impartiality. Defendant Judge Rivas failing to address, Petitioners Emergent and Non-Emergent Motions, to disqualify The Law Offices of Louis Lepore, P.C., and himself, has created that impropriety. Defendant Judge Rivas, threatened Petitioner, and made him afraid to speak freely, in his courtroom. Petitioner was unable to present his case before Defendant Judge Rivas abusive courtroom, and was scared to speak freely. Judge Rivas has "deprive Appellant, the right to be heard", "deprived me the right to have a fair and impartial judge to preside over my legal matter," and has violated certain protections, by the U.S. Constitution; XIV, § Section 1, 14th Amendment Constitutional Rights, of the federal constitution, taken by the defendants, against the Plaintiffs, and a Deprivation of Rights, under color of law, Section 2 of Article III, Title 42 US code 1983.

Petitioner Appeals to the U.S. Supreme Court, pursuant to Rule 22, and 23, from the Supreme Court of New Jersey, Justice Faustino Fernandez-Vina, June 9, 2020, Orders, denying Petitioner, an Emergent Stay of Judge Alberto Rivas, JSC, June 2, Retaliatory Orders, and denying Petitioner for an Order for the immediate removal of Defendant Judge Alberto Rivas, firearms because Defendant Judge Rivas has continuously threatened Petitioner, and his family, after serving him with a 12/27/2019, U.S. District Court Summons, and we are scared.

## **LEGAL**

### **Rule 22. APPLICATIONS TO INDIVIDUAL JUSTICES**

An application addressed to an individual Justice shall be filed with the Clerk, who will transmit it promptly to the Justice concerned if an individual Justice has authority to grant the sought relief.

The original and two copies of any application addressed to an individual Justice shall be prepared as required by Rule 33.2, and shall be accompanied by proof of service as required by Rule 29.

An application shall be addressed to the Justice allotted to the Circuit from which the case arises. An application arising from the United States Court of Appeals for the Armed Forces shall be addressed to the Chief Justice. When the Circuit Justice is unavailable for any reason, the application addressed to that Justice will be distributed to the Justice then available who is next junior to the Circuit Justice; the turn of the Chief Justice follows that of the most junior Justice.



A Justice denying an application will note the denial thereon. Thereafter, unless action thereon is restricted by law to the Circuit Justice or is untimely under Rule 30.2, the party making an application, except in the case of an application for an extension of time, may renew it to any other Justice, subject to the provisions of this Rule. Except when the denial is without prejudice, a renewed application is not favored. Renewed application is made by a letter to the Clerk, designating the Justice to whom the application is to be directed, and accompanied by 10 copies of the original application and proof of service as required by Rule 29.

A Justice to whom an application for a stay or for bail is submitted may refer it to the Court for determination.

The Clerk will advise all parties concerned, by appropriately speedy means, of the disposition made of an application.

### **Rule 23. STAYS**

A stay may be granted by a Justice as permitted by law.

A party to a judgment sought to be reviewed may present to a Justice an application to stay the enforcement of that judgment. See 28 U. S. C. §2101(f).

An application for a stay shall set out with particularity why the relief sought is not available from any other court or judge. Except in the most extraordinary circumstances, an application for a stay will not be entertained unless the relief requested was first sought in the appropriate court or courts below or from a judge or judges thereof. An application for a stay shall identify the judgment sought to be reviewed and have appended thereto a copy of the order and opinion, if any, and a copy of the order, if any, of the court or judge below denying the relief sought, and shall set out specific reasons why a stay is justified. The form and content of an application for a stay are governed by Rules 22 and 33.2.

A judge, court, or Justice granting an application for a stay pending review by this Court may condition the stay on the filing of a supersedeas bond having an approved surety or sureties. The bond will be conditioned on the satisfaction of the judgment in full, together with any costs, interest, and damages for delay that may be awarded. If a part of the judgment sought to be reviewed has already been satisfied, or is otherwise secured, the bond may be conditioned on the satisfaction of the part of the judgment not otherwise secured or satisfied, together with costs, interest, and damages.

## LEGAL ARGUMENT

Title 42 U.S. Code § 1983 reads as follows: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit inequity, or other proper proceeding for redress.

The Civil Rights Act of 1871 is a federal statute, numbered 42 U.S.C. § 1983, that allows people to sue the government for civil rights violations. It applies when someone acting "under color of" state-level or local law has deprived a person of rights created by the U.S. Constitution or federal statutes. Section 242 of Title 18 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States. For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state, or local officials within their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under color of law within the meaning of this statute include police officers, prisons guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials. It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status or national origin of the victim.

U.S. CONST. AMEND. XIV (1868) §1: All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State 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 the equal protection of the laws. § 5: The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

**ABSOLUTE IMMUNITY** A plaintiff may overcome a defendant's judicial immunity under certain circumstances. For example, the Supreme Court has recognized two circumstances in which a plaintiff may overcome a defendant's judicial immunity: "First, a judge is not immune from liability for nonjudicial actions, i.e., actions not taken in the judge's judicial capacity.... Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction." *Mireles*, 502 U.S. at 11-

12, 112 S. Ct. 286. Whether an act is judicial shall be determined by "the nature of the act itself, i.e., whether it is a function normally performed by a judge, and to the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity." *Id.* 502 U.S. at 12, 112 S. Ct. 286 (citing *Stump v. Sparkman*, 435 U.S. 349, 362, 98 S. Ct. 1099, 55 L. Ed. 2d 331 (1978)). Moreover, an action "taken in the very aid of the judge's jurisdiction over a matter before him cannot be said to have been taken in the absence of jurisdiction." *Id.* 502 U.S. at 13, 112 S. Ct. 286.

*Stump v. Sparkman*, 435 US 349 - Supreme Court 1978 – The Supreme Court ruled that Sparkman was absolutely immune because what he did was "a function normally performed by a judge," and he performed the act in his "judicial capacity." Although he may have violated state laws and procedures, he performed judicial functions that have historically been absolutely immune to civil lawsuits. Judges are absolutely immune from section 1983 liability for damages only for their judicial acts and not for other administrative, legislative, or executive functions that they may perform. *Forrester v. White*, 484 U.S. 219, 227, 108 S.Ct. 538, 544, 98 L.Ed.2d 555 (1988). An act is judicial when it is a "function normally performed by a judge [and the parties] dealt with the judge in his judicial capacity."

**SECTION 1983 – ELEMENTS OF CLAIM** The plaintiff bears the burden of proof on the elements of a Section 1983 claim. See, e.g., *Groman v. Township of Manalapan*, 47 F.3d 628, 638 (3d Cir. 1995). "By the plain terms of § 1983, two – and only two – allegations are required in order to state a cause of action under that statute. First, the plaintiff must allege that some person has deprived him of a federal right. Second, he must allege that the person who has deprived him of that right acted under color of state or territorial law." *Gomez v. Toledo*, 446 U.S. 635, 640 (1980); see also, e.g., *Groman v. Township of Manalapan*, 47 F.3d 628, 633 (3d Cir. 1995) ("A prima facie case under § 1983 requires a plaintiff to demonstrate: (1) a person deprived him of a federal right; and (2) the person who deprived him of that right acted under color of state or territorial law.")

A litigant in civil proceedings is entitled to a fair hearing, imbued with the protections of due process. See *A.B. v. Y.Z.*, 184 N.J. 599, 604 (2005); *H.E.S. v. J.C.S.*, 175 N.J. 309, 321-23 (2003). The due process guarantee expressed in the Fourteenth Amendment to the United States Constitution requires assurance of fundamental fairness during legal proceedings. U.S. Const. amend. XIV, § 1. This includes the opportunity to be heard and requires "procedural safeguards including the right to cross-

examine adverse witnesses and the right to call witnesses. . .  
." Peterson v. Peterson, 374 N.J.Super. 116, 124 (App. Div. 2005).

### CONCLUSION

Defendant Judge Alberto Rivas, attorney, Andrew C. Munger, N.J. State, Deputy Attorney General, has allowed his client, to engage in criminal acts, and continue to RIG N.J. State Court Proceeding, and Motion Hearings, for his own benefit, and corrupt self., and has allowed his client to engage in continuous, "RETALITORY", "CRIMINAL HARRASSMENT", and "FRUAD UPON THE COURT", to the Petitioner. Defendant Judge Alberto Rivas, in an interested to all of the Motion's he rigged before his corrupt court of law, and did not recuse himself, because he believes he is above the law.

Petitioner respectfully requests that the U.S. Supreme Court, hear my application, to an individual justice, pursuant to U.S. Supreme Court Rule, 22, and 23, for an order for the immediate Stay, of Defendant Judge Alberto Rivas, 06/02/2020, Orders for Harsh Sanctions against the Petitioner, and for the Immediate Removal of any FIREARMS, in Defendant Judge Alberto Rivas, possession. Petitioner and his family are afraid Defendant Judge Rivas, is going to seriously physical harm us, if he is in the possession of any firearms. Defendant Judge Rivas, 06/02/2020, Orders are "Fraud Upon the Court", as the Corrupt, Abusive, Mentally Unstable Judge, is a Defendant in USCA for the Third Circuit; Case Nos.: 20-2134, and 20-1870.

Respectfully submitted,



John F. Marchisotto,  
individually, and as Guardian,  
A.M., J.M., and M.M., minors,  
Pro Se Petitioners

June 10, 2020

No.

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

John F. Marchisotto,

Petitioner,

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v.

MARGARET GOODZEIT, FRANK BRUNO, LOUIS P. LEPORE,  
Law Offices of Louis Lepore P.C., Louis Lepore. Esq., LLC. DEBRA  
E. CANOVA, STATE OF NEW JERSEY, New Jersey Courts,  
Middlesex County Surrogate ,and County, ALBERTO RIVAS,  
,Middlesex County Courthouse, STAURT J. RABNER, and  
New Jersey State Courts

Respondents.

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**AFFIDAVIT**

**PROOF OF SERVICE**

I, John F. Marchisotto, individually, and as Guardian of A.M., J.M., and M.M., minors, being of full age, on his oath deposes and says:

1. I, am the Petitioner in the above matter, and have personal knowledge of facts which bear on this application addressed to an individual Justice, filed with the Clerk, presently before the court, and if called upon to testify to those facts, I could, and would, competently do so.

2. I, respectfully submit this original, and two copies of application addressed to an individual Justice, prepared as required by Rule 33.2, and accompanied by proof of service as required by Rule 29.

3. A stay may be granted by a Justice as permitted by law. A party to a judgment sought to be reviewed may present to a Justice an application to stay the enforcement of that judgment. See 28 U. S. C. §2101(f).

4. Petitioner Appeals to the U.S. Supreme Court, pursuant to Rule 22, and 23, from the Supreme Court of New Jersey. On June 9, 2020, Justice Faustino Fernandez-Vina, denied Petitioners Emergent Motion for Stay, of Defendant Judge Alberto Rivas, JSC, Middlesex County, Retaliatory, 6/02/2020, Orders for Harsh Sanctions, and denied Petitioners Emergent Motion, for the Immediate Removal of Defendant Judge Alberto Rivas, JSC, FIREARMS, under Supreme Court of New Jersey Docket No.: (084541) (S-120-19).

5. The Petitioner has fully satisfied the requirements set forth in Crowe v. DeGioia 90 N.J. 126 (1982). Justice Faustino Fernandez-Vina, June 9, 2020, Orders, are so erroneous, and the Justice has completely disregarded, the immediate threats of serious physical harm, to Petitioner, and his family, by a Mentally Unstable, Abusive Judge, who continues to terrorize, retaliate, and criminally harass, Petitioner, and his family, after serving him with a U.S. District Court of New Jersey

Federal Summons, on December 27, 2019, for violating Petitioners, U.S. Constitutional Rights, Under Color of Law,

6. The Petitioner and his family are very afraid that Defendant Judge Rivas, is going to cause serious physically harm to them, and filing an Emergent Application to the U.S. Supreme Court, for an individual Justice, to Order, the Immediate Removal of any FIREAREMS, in Defendant Judge Alberto Rivas, JSC, Middlesex County Possession, and for the immediate safety, of Petitioner and his family, from a Mentally Unstable, Abusive, Defendant Judge, who is unfit to serve on any court's bench.

7. Defendant Judge Alberto Rivas, attorney, Andrew C. Munger, N.J. State, Deputy Attorney General, has allowed his client, to engage in criminal acts, and continue to RIG N.J. State Court Proceeding, and Motion Hearings, for his own benefit, and corrupt self., and has allowed his client to engage in continuous, "RETALITORY", "CRIMINAL HARRASSMENT", and "FRUAD UPON THE COURT", to the Petitioner. Defendant Judge Alberto Rivas, in an interested to all of the Motion's he rigged before his corrupt court of law, and did not recuse himself, because he believes he is above the law.

8. Petitioner respectfully requests that the U.S. Supreme Court, hear my application, to an individual justice, pursuant to U.S. Supreme Court Rule, 22, and 23, for an order for the immediate Stay, of Defendant Judge Alberto Rivas, 06/02/2020, Orders for Harsh Sanctions against the Petitioner, and for the Immediate Removal of any FIREARMS, in Defendant Judge Alberto Rivas, possession. Petitioner and his family are afraid Defendant Judge Rivas, is going to seriously physical harm us, if he is in the possession of any firearms. Defendant Judge Rivas, 06/02/2020, Orders are "Fraud Upon the Court", as the Corrupt, Abusive, Mentally Unstable Judge, is a Defendant in USCA for the Third Circuit; Case Nos.: 20-2134, and 20-1870.

9. I herein, set forth, being duly sworn say, that on the 10<sup>th</sup> Day, of June 2020,



**Emergent Application to an Individual Justice for an Order for Stay of Defendant Judge Alberto Rivas, JSC, Middlesex County, 06/02/2020, Orders, and for an Order for the Immediate Removal of any FIREARMS, in Defendant Judge Alberto Rivas, possession, pursuant to U.S. Supreme Court Rule, 22, and 23, with related Supreme Court of New Jersey, Appellant Division of New Jersey, and Middlesex County Superior Court of New Jersey, Orders, and other related corresponding documents. was served to the following persons, as follows:**

**10. The Law Offices of Louis Lepore, P.C., Louis Lepore, Esq., L.L.C., Defendant Louis P. Lepore, Defendant Debra E. Canova, 885 Huguenot Avenue, Staten Island, NY 10312, via USPS Priority Mail.**

**11. Mr. Andrew Christopher Munger, attorney for Defendant Judge ALBERTO RIVAS, JSC, Middlesex County, attorney for Defendant Chief Justice Stuart J. Rabner, attorney for Defendant Judge Margaret Goodzeit, attorney for Defendant Middlesex County Surrogate, attorney for the State of New Jersey, and attorney for State Judicial Defendants, via USPS Priority Mail.**

**12. Ms. Angela Christine Jupin, Esq., attorney for Defendant Somerset County Frank Bruno, via USPS Priority Mail.**

**13. Mr. Michael Scott Williams, Esq., attorney for Middlesex County, via USPS Priority Mail.**

**14. I further certify, that the original, and two copies of application addressed to an individual Justice, was sent to Supreme Court of the United States, 1 First Street, NE, Washington, DC 20543, Attn: Clerk Office; Mr. Danny Bickell, via USPS Priority Mail.**

I declare under penalty of perjury that the foregoing is true and correct.  
Executed on this 10 day, of June, 2020.

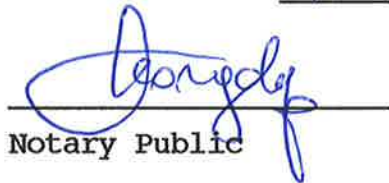
Respectfully submitted,



**John F. Marchisotto,  
individually, and as  
Guardian, A.M., J.M., and  
M.M., minors,  
Pro Se Petitioners**

I am subject to punishment.  
Sworn to and subscribed

before me this 10<sup>th</sup> day of June, 2020.

  
Notary Public

HOWELL  
4170 US HIGHWAY 9

HOWELL  
NJ

07731-9998  
333770-9550

(800)275-8777

01:21 PM

6/10/2020

Product	Qty	Unit Price	Price
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PM 1-Day	1	\$7.75	\$7.75
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Flat Rate Env

(Domestic)

(NEW BRUNSWICK, NJ 08901)

(Expected Delivery Day)

(Thursday 06/11/2020)

(USPS Tracking #)

( 9505 5066 3596 0162 1657 74)

Insurance \$0.00

(Up to \$50.00 included)

PM 1-Day	1	\$7.75	\$7.75
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Flat Rate Env

(Domestic)

(SOMERVILLE, NJ 08876)

(Expected Delivery Day)

(Thursday 06/11/2020)

(USPS Tracking #)

( 9505 5066 3596 0162 1657 98)

Insurance \$0.00

(Up to \$50.00 included)

Total: \$15.50

MasterCard \$15.50

(Account #:XXXXXXXXXXXX4623)

(Approval #)

(Transaction #:014956)

(Receipt #:014956)

(AID:A0000000042203

(AL:US Debit)

(PIN:Not Required)

Chip)

Receipt #: 840-10800360-1-1188483-1

Due to limited transportation availability as a result of nationwide COVID-19 impacts package delivery times may be extended. Priority Mail Express® service will not change.

Text your tracking number to 28777 (2USPS) to get the latest status. Standard Message and Data rates may apply. You may also visit [www.usps.com](http://www.usps.com) USPS Tracking or call 1-800-222-1811.

Save this receipt as evidence of insurance. For information on filing an insurance claim go to <https://www.usps.com/help/claims.htm>

Preview your Mail  
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Sign up for FREE ®

HOWELL  
4170 US HIGHWAY 9

HOWELL  
NJ

07731-9998  
333770-9550

(800)275-8777

11:09 AM

6/10/2020

Product	Qty	Unit Price	Price
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PM 1-Day	1	\$7.75	\$7.75
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Flat Rate Env

(Domestic)

(TRENTON, NJ 08625)

(Expected Delivery Day)

(Thursday 06/11/2020)

(USPS Tracking #)

( 9505 5066 3596 0162 1655 14)

Insurance \$0.00

(Up to \$50.00 included)

PM 2-Day	1	\$7.75	\$7.75
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Flat Rate Env

(Domestic)

(STATEN ISLAND, NY 10312)

(Expected Delivery Day)

(Saturday 06/13/2020)

(USPS Tracking #)

( 9505 5066 3596 0162 1655 38)

Insurance \$0.00

(Up to \$50.00 included)

PM	1	\$7.75	\$7.75
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Flat Rate Env

(Domestic)

(WASHINGTON, DC 20543)

(Expected Delivery Day)

(Monday 06/15/2020)

(USPS Tracking #)

( 9505 5066 3596 0162 1655 52)

Insurance \$0.00

(Up to \$50.00 included)

Total: \$23.25

MasterCard \$23.25

(Account #:XXXXXXXXXXXX4623)

(Approval #)

(Transaction #:014948)

(Receipt #:014948)

(AID:A0000000042203

(AL:US Debit)

(PIN:Not Required)

Chip)

Receipt #: 840-10800360-1-1187868-1

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=====

HOWELL  
4170 US HIGHWAY 9

HOWELL  
NJ  
07731-9998  
333770-9550  
6/10/2020 (000)275-8777 11:18 AM

=====

Product	Qty	Unit Price	Price
PM 1-Day	1	\$7.75	\$7.75

Flat Rate Env  
(Domestic)  
(TRENTON, NJ 08625)  
(Expected Delivery Day)  
(Thursday 06/11/2020)  
(USPS Tracking #)  
( 9505 5066 3596 0162 1655 76)

Insurance \$0.00  
(Up to \$50.00 included)

Total: \$7.75

MasterCard \$7.75  
(Account #:XXXXXXXXXXXX4623)  
(Approval #)  
(Transaction #:014950)  
(Receipt #:014950)  
(AID:A00000000042203 Chip)  
(AL:US Debit)  
(PIN:Not Required)

Receipt #: 840-10800360-1-1188026-1

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Due to limited transportation  
availability as a result of  
nationwide COVID-19 impacts  
package delivery times may be  
extended. Priority Mail Express®  
service will not change.

=====

Text your tracking number to 28777  
(2USPS) to get the latest status.  
Standard Message and Data rates may  
apply. You may also visit [www.usps.com](http://www.usps.com)  
USPS Tracking or call 1-800-222-1811.

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insurance. For information on filing  
an insurance claim go to  
<https://www.usps.com/help/claims.htm>

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**Supreme Court of New Jersey**  
**Single-Justice Disposition on Application for Emergent Relief (*Rule* 2:9-8)**

Case title: In the Matter of the Irrevocable Trust of John L. Marchisotto, Deceased

Supreme Court  
docket number: (084541)(S-120-19)

Appellate Division  
docket number (if available):

Applicant's name: John F. Marchisotto

**The applicant's request for permission to file an emergent motion and any related request for a temporary stay or other relief pending disposition of an emergent motion are DENIED for the following reason(s):**

- ☒ 1. The matter does not concern a genuine emergency or otherwise does not warrant adjudication on short notice. The applicant may file a regular motion for review by the Superior Court, Appellate Division in the ordinary course.
- ☐ 2. The Appellate Division has entered an order or judgment, and the matter is not emergent or otherwise does not warrant adjudication on short notice. The applicant may file a regular motion for review by the Supreme Court in the ordinary course.
- ☐ 3. The application concerns an order entered during or on the eve of trial as to which there is no prima facie showing that immediate interlocutory intervention is required. The applicant may file a regular motion in the appropriate court for review in the ordinary course.
- ☐ 4. The applicant must obtain a signed order or disposition from the Appellate Division before requesting relief from the Supreme Court.
- ☒ 5. Other: The applicant has not satisfied the requirements set forth in Crowe v. DeGioia, 90 N.J. 126 (1982).

Date: 6/9/2020

By: 

Name: Justice Faustino Fernandez-Vina

Hon. Alberto Rivas, J.S.C.  
Middlesex County Superior Court  
P.O. Box 964  
New Brunswick, NJ 08903-0964

**FILED**  
**June 2, 2020**  
**Hon. Alberto Rivas, J.S.C.**

**IN THE MATTER OF THE  
IRREVOCABLE TRUST OF JOHN L.  
MARCHISOTTO**

**SUPERIOR COURT OF NEW JERSEY  
MIDDLESEX COUNTY  
CHANCERY DIVISION – PROBATE  
PART**

**DOCKET NO.: 18-00394**

**CIVIL ACTION**

**ORDER  
FOR SANCTIONS**

**THIS MATTER** having been brought before the Court on a motion filed by attorney Louis Lepore, Esq. on behalf of the defendant, Debra Canova, seeking sanctions in the form of legal fees and cost against the plaintiff, John F. Marchisotto, *pro se*; and on the cross motion of the plaintiff, John F. Marchisotto, *pro se* seeking sanctions in the form of punitive damages against the defendant, Debra Canova, her attorney, Louis Lepore, Esq, and others; and the Court having considered the written submissions of the parties, any certifications and exhibits filed therewith, and oral arguments; and for good cause shown and the reasons set forth on the record;

**IT IS, ON THIS 2<sup>ND</sup> DAY OF JUNE, 2020;**

- 1. ORDERED** that the defendant, Debra Canova's motion for sanctions against the plaintiff, John F. Marchisotto, *pro se*, pursuant to R. 1:4-8, is hereby **GRANTED**; and it is further

2. **ORDERED** that the plaintiff, John F. Marchisotto's, *pro se*, motion for sanctions against the defendant, Debra Canova, her attorney, Louis Lepore, Esq., and others, pursuant to R. 1:4-8, is hereby **DENIED**; and it is further
3. **ORDERED** that the plaintiff, John F. Marchisotto, *pro se* shall pay \$81,848.70 in legal fees and an additional \$3,976.33 in expenses and costs, for a total of \$85,825.03, to the defendant, Debra Canova; and it is further
4. **ORDERED** that this Order shall be served upon the parties within 5 days of the date herein and that email delivery of this Order upon the parties shall constitute service.

---

Hon. Alberto Rivas J.S.C.



Hon. Alberto Rivas, J.S.C.  
Middlesex County Superior Court  
P.O. Box 964  
New Brunswick, NJ 08903-0964

**FILED**  
**June 5, 2020**  
**Hon. Alberto Rivas, J.S.C.**

**IN THE MATTER OF THE  
IRREVOCABLE TRUST OF JOHN L.  
MARCHISOTTO, deceased.**

**SUPERIOR COURT OF NEW JERSEY  
MIDDLESEX COUNTY  
CHANCERY DIVISION – PROBATE  
PART**

**DOCKET NO.: 18-00394**

**CIVIL ACTION**

**ORDER  
TO DENY STAY**

**THIS MATTER** comes before the Court on the plaintiff's Motion to Stay the June-2<sup>nd</sup> Orders issued in this matter by the Hon. Alberto Rivas, J.S.C.; the plaintiff, *pro se*, is John F. Marchisotto (hereinafter "Plaintiff"); the defendant, represented by Louis Lepore, Esq, is Debra Canova (hereinafter "Defendant"); the cross-defendant, represented by Bryan D. Leinbach, Esq., admitted *pro hac vice*, is J.P. Morgan Chase Bank, N.A.; following a hearing on the 2<sup>nd</sup> day of June, 2020, the Court issued an Order to impose sanctions against Plaintiff in the amount of \$85,825.03, pursuant to Rule 1:4-8; the Court having reviewed the submissions of Plaintiff and finding no legal basis to grant the relief, as requested by Plaintiff;

**IT IS, ON THIS 5<sup>TH</sup> DAY OF JUNE 2020:**

- 1. ORDERED** that Plaintiff's request for a Stay of the Order, imposing sanctions against Plaintiff, issued by the Hon. Alberto Rivas, J.S.C. on the 2<sup>nd</sup> day of June, 2020 is hereby **DENIED**; and it is further

2. **ORDERED** that Plaintiff's remedy is to seek appellate review, consistent with the rules governing the Appellate Division; and it is further
3. **ORDERED** that a copy of this order shall be served upon the parties within 1 day of the date herein.

---

**Hon. Alberto Rivas J.S.C.**

**AMENDED**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

MARCHISOTTO v. GOODZEIT, et al ;  
MARCHISOTTO v. RIVAS et al; (cosolidated 2nd fed )

Docket No.: 3:19-c v-12540-BRM-DEA

Docket No.: 3:19-c v-21440-BRM-DEA

John F. Marchisotto, individually, and as  
Gurdian, AM, J.M, MM, minors,,

Judge: Hon. Brian R. Martinotti, U.S.D.J

v.

Margaret Goodzeit, Frank Bruno, Debra E. Canova, Louis  
P. Lepore, The Law Offices of Louis Lepore, P.C., Louis  
Lepore, Esq., LLC, Judge Alberto Rivas, Justice Stuart J.  
Rabner, The State of New Jersey, Middlesex County, and  
all remaining defendants, dismissed with prejudice; [ECF  
NO.: 130.]

**Notice of Appeal to the  
U.S. Court of Appeals for the  
Third Circuit**

John Marchisotto v. Margaret Goodzeit, et;  
Case No.: 20-1870

Notice is hereby given that John F. Marchisotto, Individually, and Guardian, A.M., J.M., and M.M., minors,,  
(Named Party)

appeals to the United States Court of Appeals for the Third Circuit from the final judgment [Ecf No.: 130]

[X] Judgment, [ X] Order, [X ] Other ECF NO'S.: 130, 120, 118, 98, 89, 84, 79, 70, ETC.  
(Specify)

of the United States District Court, District of New Jersey, entered in this action on

AMENDED ON JUNE 5, 2020

(Date)



John F. Marchisotto

Dated: June 5, 2020

Appellant

15 Topaz Dr ive

Street

Jackson, N.J. 08527

City, State, Zip

(732) 526-7732

Telephone

MR300CCLASS@YAHOO.COM

Email

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT

CLERK



UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT  
21400 UNITED STATES COURTHOUSE  
601 MARKET STREET  
PHILADELPHIA, PA 19106-1790

Website: [www.ca3.uscourts.gov](http://www.ca3.uscourts.gov)

TELEPHONE

215-597-2995

June 8, 2020

John F. Marchisotto  
15 Topaz Drive  
Jackson, NJ 08527

RE: John Marchisotto v. Margaret Goodzeit, et al

Case Number: 20-2134

District Court Case Number: 3-19-cv-12540

**PACER account holders are required to promptly inform the PACER Service Center of any contact information changes. In order to not delay providing notice to attorneys or pro se public filers, your information, including address, phone number and/or email address, may have been updated in the Third Circuit database. Changes at the local level will not be reflected at PACER. Public filers are encouraged to review their information on file with PACER and update if necessary.**

To All Parties:

**Attorneys are required to file all documents electronically through the Court's Electronic Case Filing System. See 3d Cir. L.A.R. 113 and the Court's website at [www.ca3.uscourts.gov/cmecf-case-managementelectronic-case-files](http://www.ca3.uscourts.gov/cmecf-case-managementelectronic-case-files).**

Enclosed is case opening information regarding the above-captioned appeal filed by **John F. Marchisotto**, docketed at **No. 20-2134**. All inquiries should be directed to your Case Manager in writing or by calling the Clerk's Office at 215-597-2995. This Court's rules, forms, and case information are available on our website at <http://www.ca3.uscourts.gov>.

Attached is a copy of the full caption as it is titled in the District Court. Please review the caption carefully and promptly advise this office in writing of any discrepancies.

**On December 1, 2009, the Federal Rules of Appellate and Civil Procedure were amended modifying deadlines and calculation of time. In particular those motions which will toll the time for filing a notice of appeal under Fed.R.App.P. 4(a)(4), other than a motion for attorney's fees under Fed.R.Civ.P. 54, will be considered timely if filed no later than 28 days after the entry of judgment. Should a party file one of the motions listed in Fed.R.App.P 4(a)(4) after a notice of appeal has been filed, that party must immediately inform the Clerk of the Court of Appeals in writing of the date and type of motion that was filed. The case in the court of appeals will not be stayed absent such notification.**

### **Appellant**

Docketing fees in the amount of \$505.00 must be paid to the District Court upon filing of a Notice of Appeal. If you cannot afford to pay the docketing fees, you must file a copy of a Motion for Leave to Proceed In Forma Pauperis, together with an affidavit of poverty (form enclosed) and a certificate of service.

You must pay the docketing fees or file the Motion for Leave to Proceed In Forma Pauperis within **fourteen (14) days** from the date of this letter. **If you do not pay the docketing fees or file the Motion for Leave to Proceed In Forma Pauperis within fourteen (14) days, your case may be dismissed without further notice. 3rd Cir. LAR Misc. 107.**

### **Counsel for Appellee**

As counsel for Appellee(s), you must file:

1. Application for Admission (if applicable);
2. Appearance Form
3. Disclosure Statement (except governmental entities)

These forms must be filed within **fourteen (14) days** from the date of this letter.

Attached is a copy of the full caption as it is titled in the District Court. Please review the caption carefully and promptly advise this office in writing of any discrepancies.

Enclosures:

Affidavit of Poverty  
Information for Pro Se Litigants

Very truly yours,  
Patricia S. Dodszeit, Clerk

By: s/Timothy, Case Manager  
267-299-4953

cc: Angela C. Jupin  
Louis P. Lepore  
Andrew C. Munger  
Michael S. Williams

**EMERGENT MATTER MOTION AMEDED FOR EMERGENT HANDLING**  
**PRELIMINARY INJUCTION AND TEMPORARY RESTAINING ORDER**  
**AGAINST DEFENDANT JUDGE ALBERTO RIVAS, JSC.**

John F. Marchisotto  
15 Topaz Drive  
Jackson, NJ, 08527  
Phone: (732) 526-7732  
Fax: (732) 534-0480

June 4, 2020

United States Court of Appeals  
FOR THE THIRD CIRCUIT  
21400 UNITED STATES COURTHOUSE  
601 MARKET STREET  
PHILADELPHIA, PA 19106-1790

RE: John Marchisotto v. Margaret Goodzeit, et al  
Case Number: 20-1870  
District Court Case Number: 3:19-cv-12540

SUBJECT: **AMENDED EMERGENT NOTICE OF MOTION** FOR PRELIMINARY  
INJUCTION AND TEMPORARY RESTRAINING ORDER PURSUANT TO FED.  
R. CIV. P. 65(a) & 65(b), DEFENDANT JUDGE ALBERTO RIVAS,  
JSC, MIDDLESEX COUNTY COURTHOUSE.

Dear USCA Please accept my EMERGENT NOTICE OF MOTION, holding Defendant Judge Alberto Rivas, in **CONTEMPT OF COURT, UNDER FED. R. CIV. P. 65(a) & 65(b)**, and **ALL OTHER RELIEF**, Appellant may show themselves to be entitled, for the June 2, 2020, violating Appellant Constitutional Rights, Ordering for Sanctions and Punitive Damages, against Appellant for over \$80,000,00, and causing serious harm, to Appellant and his family.



TABLE OF AUTHORITIES

<u>Cases</u>	<u>Page (s)</u>
FED. R. CIV. P. 65(a) & 65(b)	
42 U.S. Code §1985(2)(3); (Conspiracy to interfere with civil rights)	
42 U.S. Code §1985(2)(3)	
N.J.S.A. 2C:28-4(a)	
N.J.S.A. 2C:33-4.	
N.J. Ct. R.1:12-1(e)(g), R.1:12-2, N.J.S.A.2A:1549, Canon 3C(1)(a),	
The All Writs Act, 28 U.S.C. § 1651	
Anti-Injunction Act, 28 U.S.C. § 2283	
<i>See Commercial Sec. Bank v. Walker Bank &amp; Tr. Co.</i> , 456 F.2d 1352, 1355 (10th Cir. 1972) (holding that “no new grant of judicial power is contemplated” by a statute empowering federal courts to enjoin state-court proceedings	
<u>Marshak v. Treadwell</u> , 595 F.3d 478, 485 (3d Cir. 2009).	
Rule 65 of the Federal Rules of Civil Procedure	
<u>Stormans, Inc. v. Selecky</u> , 586 F.3d 1109, 1127 (9th Cir. 2009)	
<u>McCarthy v. Servis One, Inc.</u> , 2017 U.S. Dist. LEXIS 32622, at *9–10 (N.D. Cal. Mar. 7, 2017)	
<u>The Wild Rockies v. Pena</u> , 865 F.3d 1211, 1217 (9th Cir. 2017)	
<u>The Wild Rockies v. Cottrell</u> , 632 F.3d 1127, 1135 (9th Cir. 2011)	
<u>Small v. Avanti Health Sys., LLC</u> , 661 F.3d 1180, 1191 (9th Cir. 2011)	

i.

Ariz. Dream Act Coal. v. Brewer, 757 F.3d 1053, 1068 (9th Cir. 2014)

Stormans, Inc. v. Selecky, 586 F.3d 1109, 1139 (9th Cir. 2009).

N.J. Ct. R.1: 12-1 (g), R.1:12-2, N.J.S.A.2A:1549, AND N.J. Ct. R.2:9-5

N.J. Ct. Rule 4: 49-2, "Grounds of Motion" N.J. R. 4:50-1(c), FRAUD, AND STAY , PER, N.J. Ct. R. 2:9-5

*Opticians Ass'n. of America v. Independent Opticians of America*, 920 F.2nd 187, 191-192 (3rd Cir. 1990)

Pappan Enterprises, Inc. v. Hardees Food Systems, Inc., 143 F.3d 800, 803 (3rd Cir. 1998)

One World Botanicals Ltd. v. Gulf Coast Nutritionals, Inc., 987 F. Supp. 317, 330 (D.N.J. 1997)

Title 18, U.S.C., Section 242, Title 42 US code 1983, U.S. Const.. XIV, § Section 1, 28 U.S.C. §§ 1331, 1343, and 1367

N.J.S.A. 2A:15-49. A judge must disqualify himself if his impartiality might reasonably be questioned. Code of Judicial Conduct, Canon 3C(1)(a)

New Jersey Court Rule 1:12-2

No judge of any court, shall sit on the trial of, or argument of, any matter in controversy, in a cause, pending in his court, when he: N.J.Ct. R.1:12-1(e)(g), R.1:12-2, N.J.S.A.2A:1549, Canon 3C(1)(a), is interested in the event of the action MARCHISOTTO v. RIVAS et al; CASE NO.: 3:19-cv- 21440-BRM-DEA / Marchisotto v. Goodzeit; Case No.: 3:19-cv-12540-BRM-DEA.

PLEASE TAKE NOTICE John F. Marchisotto, Pro Se Appellant, will move before the USCA For The Third Circuit FOR EMERGENT PRELIMINARY INJUNCTION ORDER, and EMERGENT TEMPORARY RESTRAINING ORDER, holding Defendant Judge Alberto Rivas, in CONTEMPT OF COURT, UNDER FED. R. CIV. P. 65(a) & 65(b), and ALL OTHER RELIEF, Appellant may show themselves to be entitled to.

IN SUPPORT OF MY MOTION, the following MEMORANDUM OF LAW.

1. On June 2, 2020, during another, RIGGED, Defendant Judge Rivas, JSC, Middlesex County, ONE SIDED, telephone court Motion hearing, Appellant rights were once again violated. Defendant Judge Rivas, granted Defendant Lepore, and Defendant Canova, Motion for Sanctions, and Punitive Damages, against Appellant for over \$80,000,00.

2. A judge is no better, than an abusive Police Officer, who places his knee on someone's neck, and abuses his, or her position, authority, against to cause harm to another, outside the scope of their Police duties. U.S. District Court of New Jersey just sat by, and watched, Defendant Judge Alberto Rivas, a Corrupt, and Abusive judge, continuously harm Appellant, and his family. Defendant Rivas, fraudulent Orders, granting Sanctions, and Punitive Damages to Defendant Lepore, Esq., and Defendant Debra E. Canova, was RETALITORY, and UNJUST.

3. On June 2, 2020, Defendant Lepore, continuously pleaded, on the Middlesex County Court's record, that U.S. District Judge of New Jersey, Hon. Brian Martinotti, dismissed, Defendant Judge Alberto Rivas, JSC, from my U.S. District court Federal lawsuit, with prejudice. Appellant does not recall seeing any such Orders, stating as such.

4. Defendant Judge Rivas, JSC, Middlesex County Courthouse, used his position as judge, to cause harm to Appellant, and his family, and the U.S. District Court of New Jersey, did nothing to protect Appellant, and his families, U.S. Constitutional Rights.

5. Appellant respectfully files his **FORTH** Preliminary Injunction Motion, and TRO, against Defendant Judge Alberto Rivas, JSC, for the June 2, 2020, ordering, Sanctions and Punitive Damages for over \$80,000.00, against Appellant, who was only trying to protect, his, and his children's constitutional legal rights, and did not have the financial resources to fight this injustice with an attorney by his side.

6. Appellant and his family, are TERRIFIED, of Defendant Judge Rivas, who has CRIMINALLY HARRASSED, and TERRORIZED them, after the December 17, 2019, filing of a 2<sup>nd</sup> U.S. District Court of New Jersey, Federal Lawsuit against, this abusive, and mentally unstable judge, who has even caused his wife to have nightmares, for his RETALITORY, actions taken against the Appellant.

7. Defendant Judge Alberto Rivas, JSC, continues to harass the Appellant, by granting Defendant Lepore, and Defendant Canova, Motion for Sanctions and Punitive Damages, against Appellant for over \$80,000,00. Appellant who is a Pro se did not have the financial resources to have an attorney by his side to fight for his and his children's constitutional legal rights.

8. **IN DECIDING AN APPLICATION FOR A PRELIMINARY INJUNCTION** under Rule 65 of the Federal Rules of Civil Procedure, courts in the Ninth Circuit look to the following factors:

- The movant has shown a likelihood of success on the merits
- There is a likelihood that the movant will suffer irreparable harm in absence of a preliminary injunction.
- The balance of equities tips in the movant's favor.
- The injunction is in the public interest; Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009)

9. To determine whether to issue a Restraining Order, the courts in the Ninth Circuit apply the same analysis used to evaluate a motion for preliminary injunction. McCarthy v. Servis One, Inc., 2017 U.S. Dist. LEXIS 32622, at \*9-10 (N.D. Cal. Mar. 7, 2017).

10. A party seeking a preliminary injunction in the Ninth Circuit must meet one of two variants of the same standard. First, a party can show that he or she is likely to succeed on the merits,

that he or she is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his or her favor, and that an injunction is in the public interest. *Alliance For The Wild Rockies v. Pena*, 865 F.3d 1211, 1217 (9th Cir. 2017). Alternatively, under the sliding scale variant of the standard, if a plaintiff can only show that there are serious questions going to the merits—a lesser showing than likelihood of success on the merits—then a preliminary injunction may still issue if the balance of hardships tips sharply in the plaintiff's favor, and the other two factors are satisfied. *Alliance For The Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).

- A district court cannot grant an injunction unless the movant has shown that irreparable harm is likely; Defendant Judge Alberto Rivas, has continuously CRIMINALLY HARRASSED, and TERRORIZED Appellant and his family, after the December 17, 2019, filing of 2<sup>nd</sup> U.S. District Court Lawsuit, and the Filing of the 2/3/2020, Amended Complaint.
- The possibility of harm is insufficient to meet the movant's burden. *Small v. Avanti Health Sys., LLC*, 661 F.3d 1180, 1191 (9th Cir. 2011).
- Irreparable harm is traditionally defined as harm for which there is no adequate legal remedy, such as an award of damages; On February 7, 2020, Defendant Judge Alberto Rivas,

has inappropriately used New Jersey State Police Trooper, Detective MUDDUSER MALIK, and Defendant New jersey State Police, to criminally harass, terrorize, and intimidate the Plaintiff, and his family, sending numerous heavily armed police, unnecessarily to their home, causing fear, annoyance, and alarm, and used for the sole purposes of harassment, for filing his 2/3/2020, Amended Federal Lawsuit against him, and to interfere with, Plaintiffs, U.S. District Court of New Jersey Lawsuit against the Defendant judge. Because intangible injuries generally lack an adequate legal remedy, intangible injuries may qualify as irreparable harm. Ariz. Dream Act Coal. v. Brewer, 757 F.3d 1053, 1068 (9th Cir. 2014).

- The Appellant bear the initial burden of showing that the injunction is in the public interest. On December 31, 2019, Defendant Lepore, and Defendant Canova, also wrote a false letter to Defendant Judge Rivas, falsely stating that Appellant letter sent his law clerk, wanting to meet with him, to qualify their service of process, of his Federal Summonses, with a threat being made. The district court need not consider public consequences that are highly speculative. In other words, the court should weigh the public interest in light of the likely consequences of the injunction. Such



consequences must not be too remote, insubstantial, or speculative and must be supported by evidence. *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1139 (9th Cir. 2009).

**STATEMENT OF FACTS**

11. On December 21, 2019, Appellant filed a NOTICE OF MOTION FOR THE IMMEDIATE DISQUALIFICATION OF DEFENDANT JUDGE ALBERTO RIVAS, A.J.S.C., AND FOR THE IMMEDIATE STAY OF THE 12/09/ 2019, ORDERS, ENTERED IN BY HIM; PURSUANT TO; N.J. Ct. R.1: 12-1 (g), R.1:12-2, N.J.S.A.2A:1549, AND N.J. Ct. R.2:9-5, that also had a January 6, 2020, return date.

12. On December 21, 2019, Appellant also filed a MOTION FOR RECONSIDERATION, AND FOR THE IMMEDIATE STAY OF 12/09/2019, COURT ORDERS, PURSUANT TO: N.J. Ct. Rule 4: 49-2, "Grounds of Motion" N.J. R. 4:50-1(c), FRAUD, AND STAY , PER, N.J. Ct. R. 2:9-5, with a January 6, 2020, return date.

13. On January 2, 2020, Mr. John DeLuca (Law Clerk) for Defendant Judge Rivas, called Plaintiff over the phone, and told him, not come to Middlesex Court, on January 6, 2020, and that Defendant Judge Rivas, was not going to be hearing, any of his Motions, because Appellant has sued everyone. Defendant Lepore had not responded to Plaintiffs 12/21/2019, two Motions, which is believed because, he has been continuously having, ex parte

communications with Defendant Judge Rivas, or through his law clerk.

14. On 2/28/2020, Defendant Lepore, THREATENING NOTICE LETTER, to file a Motion to Dismiss with Prejudice, with Defendant Judge Rivas, who has failed to hear any of Plaintiffs Motions. Plaintiffs also had fully complied with Defendant Judge Rivas, December 9, 2019, Discovery Order, and Defendant Lepore, Letter is continuing to harassment, and to intimidate the Plaintiff, saying he has not. Plaintiff will also not respond to any Motion Defendant Lepore, files with Defendant Judge Rivas, who should be having nothing to do with, In the Matter of the Irrevocable Trust of John L. Marchisotto, deceased.

LEGAL ARGUMENT

15. In Federal Courts

The Federal Courts weigh four (4) factors in determining whether to grant a preliminary injunction:

1. The likelihood that the applicant will prevail on the merits at the final hearing;
2. The extent to which the plaintiffs are being irreparably harmed by the conduct complained of;
3. The extent to which the defendants will suffer irreparable harm if the preliminary injunction is issued; and
4. The public interest.

*Opticians Ass'n. of America v. Independent Opticians of America*, 920 F.2d 187, 191-192 (3rd Cir. 1990); *Pappan Enterprises, Inc. v. Hardees Food Systems, Inc.* 143 F.3d 800, 803 (3rd Cir. 1998); *One World Botanicals Ltd. v. Gulf Coast Nutritionals, Inc.*, 987 F. Supp. 317, 330 (D.N.J. 1997).

16. Preliminary injunctions and temporary restraining orders are two types of injunction, but they have different requirements and durations. An injunction is a court order, usually based on a request by an Appellant, which governs a defendant's behavior. It is classified as an equitable remedy; that is, a remedy other than monetary compensation for a situation in which monetary relief is inapplicable or inadequate.

17. If a party has not yet suffered harm but will in the future, that party cannot sue for compensation before the harm has occurred. To deal with such predicaments, the law provides the option of seeking protection from imminent harm by asking a court for an injunction. Courts of equity use injunctions to help parties who will almost certainly suffer harm if the injunction is not granted. Courts may issue affirmative injunctions, which compel a defendant to act, or prohibitory injunctions, which prohibit the defendant from acting. Either way, an injunction is recognizable because it governs a party's behavior.

18. The intention of a preliminary injunction is to keep things exactly as they are for long enough to allow the court to make a decision on the underlying issue. For instance, if John and Mary are fighting over the ownership of a house in which John lives, Mary might apply for a preliminary injunction to keep John from selling the house until the court decides who owns it. Preliminary injunctions are not intended, in themselves, to be permanent; however, once the court decides the underlying issue, it may decide to make the injunction permanent. The preliminary injunction is intended to act as a stopgap before and during the full judicial proceeding.

19. Because preliminary injunctions may bind a defendant's behavior for quite some time, the law requires a certain level of process in order to obtain a preliminary injunction. The plaintiff may apply to the court for the injunction, but the court may not grant it without holding a hearing. The defendant must receive notice of this hearing, so that he has the opportunity to appear and contest the injunction request.

#### CONCLUSION

20. A Preliminary Injunction Order is necessary here, and without one, the Appellant will suffer harm, if their injunction is not granted. Defendant Judge Alberto Rivas, continues literally placing his Knee on my neck, violating Appellant constitutional