

No. 21-52

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

—◆—
EMMANUEL EDOKOBI,

Petitioner,

v.

TOYOTA MOTOR CREDIT CORPORATION, et al.,

Respondents.

—◆—
**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Fourth Circuit**

—◆—
**BRIEF IN OPPOSITION FOR
RESPONDENT SUNTRUST BANK**

—◆—
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QUESTIONS PRESENTED

This case arises out of a dispute between Petitioner and Respondents regarding a \$536.34 electronic payment that SunTrust Bank (“SunTrust”) processed from Petitioner’s account for the benefit of Toyota Motor Credit Corporation (“TMCC” or “Toyota”), which held Petitioner’s car loan. The questions presented, as rephrased by SunTrust, are:

1. Whether the district court judge was disqualified from hearing the case because of the civil lawsuit that Petitioner filed against the judge, which is currently before this Court on Petitioner’s petition for writ of certiorari. *See Emmanuel Edokobi v. Paul W. Grimm*, No. 20-1638 (*petition for cert. filed May 25, 2021*).
2. Whether the district court judge was disqualified from hearing the case pursuant to the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351-364.
3. Whether the district court erred in granting SunTrust’s Motion for Summary Judgment on all claims asserted by Petitioner against SunTrust.
4. Whether the district court erred in granting TMCC’s Motion for Summary Judgment on all claims asserted by Petitioner against Toyota.
5. Whether the district court erred in denying Petitioner’s motion to dismiss SunTrust’s Counterclaim, in which SunTrust sought a judgment against Petitioner for \$451.19, which was the overdraft balance on Petitioner’s SunTrust account.

QUESTIONS PRESENTED – Continued

6. Whether the Fourth Circuit erred by affirming the district court's refusal to accept Petitioner's "counterclaim and motion to dismiss" and Petitioner's motion to compel SunTrust to accept TMCC's \$536.34 refund check.
7. Whether any issues resulting from a letter TMCC allegedly sent to Petitioner during May 2021 regarding Petitioner's car loan with Toyota assert a valid question to this Court.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Respondent SunTrust Bank discloses that Truist Bank was formed on December 7, 2019, by the merger of SunTrust Bank into Branch Banking and Trust Company (“BB&T”), and BB&T’s subsequent change of its name to Truist Bank. Truist Bank is the wholly-owned subsidiary of Truist Financial Corporation, which is publicly traded on the New York Stock Exchange under the ticker symbol “TFC.” No other publicly traded corporation owns 10% or more of the stock of Truist Financial Corporation.

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INTRODUCTION

Petitioner seeks review of the Fourth Circuit’s unpublished, per curiam opinion affirming the district court’s summary judgment rulings in favor of Respondents SunTrust Bank (“SunTrust”) and Toyota Motor Credit Corporation (“TMCC” or “Toyota”) on all claims asserted by Petitioner, and also in favor of SunTrust on the \$451.19 counterclaim that SunTrust asserted against Petitioner. The lower court’s judgments reflect a routine and fact-specific application of settled precedents and there is no issue of national importance that warrants further review.

Petitioner filed a Complaint against SunTrust and TMCC in state court alleging that SunTrust had wrongfully processed certain electronic funds transfers from Petitioner’s SunTrust account for the benefit of TMCC, which held Petitioner’s car loan. SunTrust removed the case to the United States District Court for the District of Maryland based upon federal question and supplemental jurisdiction, and the case was assigned to District Judge Paul W. Grimm.

Shortly after removing the case to the district court, SunTrust filed a Counterclaim against Petitioner for breach of contract. The Counterclaim asserted that Petitioner’s SunTrust account was overdrawn after SunTrust had processed the last electronic debit from Petitioner’s account to TMCC and, when Petitioner refused to pay the overdrawn account balance, SunTrust closed the account and charged off the

overdraft balance, for which Petitioner was contractually liable to SunTrust.

The district court granted summary judgment in favor of Respondents and against Petitioner on all claims asserted by Petitioner, and in favor of SunTrust and against Petitioner on SunTrust's Counterclaim. Petitioner filed a Notice of Appeal to the Fourth Circuit. After the Fourth Circuit affirmed the lower court's judgments in an unpublished opinion, Petitioner filed a petition for writ of certiorari with this Court raising seven questions. This Court should deny the petition.



STATEMENT OF THE CASE

During 2012, Petitioner opened a deposit account with SunTrust (the "SunTrust Account" or "Account"). When he opened the Account, Petitioner signed a Personal Account Signature Card (the "Account Signature Card"). By signing the Account Signature Card, Petitioner agreed that his use of the Account "shall be governed by the rules and regulations for this account" and he "acknowledge[d] receipt of such rules and regulations and the funds availability policy." ECF 65-2 at ¶3; ECF 65-3. The Rules and Regulations for Deposit Accounts (the "Rules and Regulations") gave SunTrust authority manage the handling of credits to, and debits from, the Account, and set forth the procedures to be followed if there was a dispute regarding any Account activity. ECF 65-2 at ¶4; ECF 65-4.

SunTrust issued monthly account statements showing all activity on Petitioner's Account and, pursuant to his election, made the statements available for his review electronically (the "Account Statements"). ECF 65-2 at ¶5. The Account Statements showed that the Account was overdrawn and charged overdraft fees on multiple occasions, and that the Account incurred account maintenance fees during a number of months because Petitioner allowed the average daily balance to fall below the minimum amount required to avoid a fee. ECF 65-2 at ¶6.

The Account Statements also showed that Petitioner used his SunTrust Account on multiple occasions to make electronic payments to TMCC. ECF 65-2 at ¶8. During the time period covered by the Account Statements, Petitioner used his SunTrust Account to transmit 38 separate electronic debits to TMCC for varying amounts. ECF 65-2 at ¶9.

As reflected by the Account Statement for the time period 06/27/2018 through 07/26/2018, separate electronic debits to "Toyota Pay" for \$268.17 and to "Toyota Financial" for \$536.34 were charged to the Account on 06/27/2018. Pursuant to the Rules and Regulations governing the Account, SunTrust processed the debits, which resulted in the Account having an overdraft balance. In accordance with the terms of the Rules and Regulations, and SunTrust's Personal Deposit Account Fee Schedule, SunTrust charged the Account a \$36.00 overdraft fee, a \$36.00 extended overdraft fee, and a \$10.00 maintenance fee. All of these transactions taken together resulted in the Account having an

overdrawn balance of negative \$512.19 as of 07/26/2018. ECF 65-2 at ¶11; ECF 65-5.

On 6/28/2018, Petitioner submitted a Written Statement of Unauthorized Debit to SunTrust. In the Written Statement, Petitioner disputed the \$536.34 electronic debit charged to the Account on 06/27/2018, alleging both that the payment was not received and that he did not authorize TMCC to debit the Account. ECF 65-2 at ¶12; ECF 65-6.

On 7/3/2018, Petitioner submitted a follow up Written Statement of Unauthorized Debit to SunTrust. The follow up Written Statement included a letter from TMCC indicating that Petitioner had a credit agreement with TMCC and that he had verbally authorized a \$268.17 electronic debit from the SunTrust Account on 06/26/2018. ECF 65-2 at ¶13; ECF 65-7.

SunTrust's Fraud Assistance Center reviewed Petitioner's claim following SunTrust's normal policies and procedures. ECF 65-2 at ¶14. In letters to Petitioner dated 7/11/2018 and 7/13/2018, SunTrust informed Petitioner that it was denying his claim for a refund of the \$536.34 electronic debit to TMCC because Petitioner had previous undisputed electronic debits with TMCC, and there was no evidence an error had occurred. SunTrust suggested that Petitioner contact TMCC directly to resolve the issue. ECF 65-2 at ¶15; ECF 65-8.

On or about 7/21/2018, Petitioner sent SunTrust's Maryland resident agent a document titled "LEGAL NOTICE" in which he again requested that SunTrust

refund him the \$536.34 electronic debit to TMCC, and threatened to file a lawsuit against SunTrust if it did not comply. ECF 65-2 at ¶16; ECF 65-9.

SunTrust reviewed Petitioner's renewed claim in accordance with its normal policies and procedures. On 8/14/2018, SunTrust initiated a telephone call on a recorded line during which a SunTrust representative, a TMCC representative, and Petitioner were participants. During the call, the TMCC representative stated that TMCC had sent a \$536.34 payment refund check to Petitioner on 8/1/2018. Petitioner acknowledged that he had received the \$536.34 refund, but said he would not deposit the check because he wanted to sue TMCC for pain and suffering damages. ECF 65-2 at ¶17; ECF 65-10.

On 8/15/2018, one day after the telephone call, SunTrust's Fraud Assistance Center sent Petitioner a letter stating that it was again denying his claim. ECF 65-2 at ¶18; ECF 65-11.

Petitioner did not deposit the \$536.34 TMCC refund check into the SunTrust Account. ECF 65-2 at ¶19.

The Account Statement for the time period 07/27/2018 through 09/25/2018 shows that SunTrust refunded two overdraft fees, and applied a \$10.00 maintenance fee to the Account, all of which resulted in Petitioner's Account having a negative balance of \$450.19 as of 8/28/2018. On 8/31/2018, SunTrust charged off the overdraft balance and closed the Account. The Account Statement showing the Account

closing and the overdraft balance of \$450.19 was made available electronically for Petitioner's review. ECF 65-2 at ¶20.

Petitioner failed to pay SunTrust any portion of the \$450.19 overdraft balance, the entire amount of which was due and owing to SunTrust under the Rules and Regulations. ECF 65-2 at ¶21.

On 12/31/2018, Petitioner filed a civil lawsuit against SunTrust and TMCC in the Circuit Court for Montgomery County, Maryland, alleging, among other things, that SunTrust had wrongfully processed certain electronic funds transfers from Petitioner's SunTrust account for the benefit of TMCC, which held Petitioner's car loan. Petitioner's causes of action against SunTrust¹ included claims for breach of fiduciary duty (Counts 8 and 9), unjust enrichment (Counts 10 and 11), aiding and abetting (Counts 12 and 13), violations of the Fair Debt Collections Practices Act² (Counts 16 and 17), violations of the Maryland Consumer Protection Act³ (Counts 18, 19 and 23), violations of the Maryland Confidential Financial Records Act⁴ (Count 20), promissory estoppel (Count 24), malicious act of tampering (Counts 25 and 26), civil conspiracy (Counts 27 and 28), conspiracy to negligence (Count 29) and intentional infliction of emotional

¹ Counts 1 through 7, 14, 15, 21 and 22 of the Complaint asserted claims against TMCC only.

² 15 U.S.C. §§ 1692-1692p.

³ MD. CODE ANN., COM. LAW §§ 13-101-501.

⁴ MD. CODE ANN., FIN. INST. §§ 1-301-306.

distress (Count 30). SunTrust removed the state court case to the United States District Court for the District of Maryland based on federal question and supplemental jurisdiction, and the case was assigned to District Judge Paul W. Grimm. ECF 1; ECF 5.

After removing the case to the district court, SunTrust filed a Counterclaim against Petitioner for breach of contract. ECF 15. The Counterclaim asserted that Petitioner's Account was overdrawn after SunTrust had processed the last electronic debit from Petitioner's checking account to TMCC and, when Petitioner refused to pay the overdrawn account balance, SunTrust closed the account and charged off the overdraft balance, for which Petitioner was contractually liable to SunTrust.

After the close of discovery, SunTrust filed a Motion for Summary Judgment seeking judgment in its favor on all claims asserted by Petitioner in the Complaint, and also on the breach of contract claim that SunTrust asserted in the Counterclaim. ECF 65. TMCC also filed a Motion for Summary Judgment on all claims that Petitioner asserted against it in the Complaint. ECF 66.

In a detailed 22-page Memorandum Opinion and Order, the district court considered the facts and the applicable law, and granted summary judgment in favor of Respondents and against Petitioner on all claims asserted by Petitioner, and in favor of SunTrust and against Petitioner on SunTrust's Counterclaim. ECF 98.

Petitioner filed a Notice of Appeal to the Fourth Circuit. ECF 100. After the Fourth Circuit affirmed the lower court's judgments in an unpublished, per curiam opinion, Petitioner filed a petition for writ of certiorari with this Court seeking review of seven questions.



REASONS FOR DENYING THE WRIT

- I. The Fourth Circuit opinion, which affirmed the district court judge's finding that he was not disqualified from hearing the case because of a separate civil lawsuit that Petitioner filed against the judge, does not warrant further review.**

Petitioner's first question to this Court is based on his contention that the district court judge was "judicially disabled" from hearing the case because of a separate civil lawsuit that Petitioner filed against the judge.

The record shows that shortly after SunTrust removed the case from state court to the district court, Petitioner filed a civil lawsuit against the assigned district court judge. See *Emmanuel Edokobi v. Judge Paul W. Grimm*, Case No. 8:19-cv-00905-GJH (D. Md. Mar. 27, 2019).⁵ After filing the lawsuit, Petitioner filed a

⁵ Petitioner's civil lawsuit against the district court judge was filed in state court and removed to the district court. After the district court dismissed the lawsuit, Petitioner appealed to the Fourth Circuit. After the Fourth Circuit affirmed the dismissal, the Petitioner filed a petition for writ of certiorari with this

motion to remove the district judge from the case and threatened that he “[would] not participate” unless the case was reassigned. ECF 32. In a Letter Order entered in the case [ECF 34], the district judge observed “that there ‘is no rule that requires a judge to recuse himself from a case, civil or criminal, simply because he was or is involved in litigation with one of the parties.’” The judge noted that Petitioner had “repeatedly attempted to circumvent my authority over the case” and concluded that Petitioner’s lawsuit was designed to “judge shop” by filing a lawsuit against the presiding judge and then demanding recusal. The district judge then explained why Petitioner’s filing of a “highly questionable” and possibly “meritless” lawsuit, over which “the doctrine of judicial immunity is plainly implicated,” did not disqualify the judge from hearing the case. For these reasons, the judge determined that he would not recuse himself and denied Petitioner’s motion. The Fourth Circuit affirmed the decision when it entered the unpublished opinion. This question does not warrant further review.

II. The Fourth Circuit opinion, which affirmed the district court judge’s finding that the Judicial Conduct and Disability Act of 1980 did not disqualify him from hearing the case, does not warrant further review.

Petitioner’s second question to this Court is based on his claim that the district court judge was

Court. The petition is pending. See *Emmanuel Edokobi v. Paul W. Grimm*, No. 20-1638 (*petition for cert. filed* May 25, 2021).

disqualified from hearing the case pursuant to the Judicial Conduct and Disability Act of 1980, 11 U.S.C. §§ 351-364. As with Petitioner's first question, his second question is based on the separate civil lawsuit he filed against the district judge assigned to the case.

In the Letter Order addressing Petitioner's motion to have the district judge removed from the case [ECF 34], the judge noted the Judicial Conduct and Disability Act's requirement that a judge "disqualify himself in any proceedings in which his impartiality might reasonably be questioned." 28 U.S.C. § 455. However, the judge concluded that Petitioner's lawsuit against him, which Petitioner filed **after** SunTrust removed this case to the federal district court and **after** the judge was assigned to preside over the matter, did not create reasonable grounds for seeking the judge's disqualification. The district judge observed that federal courts have considered such circumstances warily because a per se rule requiring recusal "would allow litigants to judge shop by filing a suit against the presiding judge." ECF 34 at ¶5 (quoting *In re Taylor*, 417 F.3d 649, 652 (7th Cir. 2005)). After considering the facts and law, the district judge denied Petitioner's motion to remove him from the case based on the requirements of the Judicial Conduct and Disability Act. The Fourth Circuit affirmed that decision when it entered the unpublished opinion. This question does not warrant further review.

III. The Fourth Circuit opinion, which affirmed the district court's ruling granting summary judgment in favor of SunTrust, does not warrant further review.

Petitioner's third question to this Court is based on his contention that the district court erred in granting SunTrust's Motion for Summary Judgment on all of Petitioner's claims against SunTrust, and on SunTrust's \$450.19 Counterclaim against Petitioner. As explained below, the district court's rulings, as affirmed by the Fourth Circuit, were correct and Petitioner's question does not warrant further review.

The reasoning for the district court's judgments is set forth in a well-reasoned 22-page Memorandum Opinion and Order that addresses every cause of action asserted in the case. ECF 98. The Fourth Circuit's review of the district court's award of summary judgment was *de novo*, "viewing the facts and inferences reasonably drawn therefrom in the light most favorable to the nonmoving party." *See Woollard v. Gallagher*, 712 F.3d 865, 873 (4th Cir. 2013). Under that standard of review, an award of summary judgment is appropriate if the record demonstrates that "there is no genuine dispute as to any material fact and that the movant is entitled to judgment as a matter of law." *See Fed. R. Civ. P. 56(a)*. However, if the party seeking summary judgment demonstrates that there is no evidence in support of the nonmoving party's case, the burden shifts to the nonmoving party to identify evidence showing that a genuine dispute exists as to material facts. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 325

(1986). In that regard, “[a] party opposing a properly supported motion for summary judgment ‘may not rest upon the mere allegations or denials of [his] pleadings,’ but rather must ‘set forth specific facts showing that there is a genuine issue for trial.’” *Bouchat v. Baltimore Ravens Football Club, Inc.*, 346 F.3d 514, 522 (4th Cir. 2003) (quoting former Fed. R. Civ. P. 56(e)). “A mere scintilla of proof . . . will not suffice to prevent summary judgment.” *Peters v. Jenney*, 327 F.3d 307, 314 (4th Cir. 2003). “If the evidence is merely colorable, or is not sufficiently probative, summary judgment may be granted.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986) (citations omitted). After reviewing the record and applicable law, the Fourth Circuit affirmed the district court’s summary judgment rulings in favor of SunTrust.

In disputing the granting of summary judgment against him, Petitioner presents many arguments that are difficult to comprehend and repetitive, but that appear to focus on whether SunTrust acted properly when it (1) processed the June 2018 \$536.34 electronic debit to TMCC, (2) denied Petitioner’s fraud claim after learning that he had received a \$536.34 refund check from TMCC but refused to deposit the item, and (3) closed Petitioner’s Account after he refused to correct the Account’s overdrawn balance. Despite Petitioner’s many conclusory statements and allegations, the record of this case does not contain any genuine issue of material fact that would have precluded the granting of summary judgment in SunTrust’s favor. Furthermore, the district court’s Memorandum Opinion and

Order granting summary judgment in SunTrust's favor contains a detailed and correct analysis of the established law. Simply put, the granting of summary judgment in favor of SunTrust was appropriate and Petitioner's attempt to question the district court's rulings, in a fact-specific case lacking any issues of national importance, does not warrant further review.

Regarding Petitioner's various claims against SunTrust, the district court rejected Petitioner's assertion that SunTrust owed him a fiduciary duty. The court found that the relationship between the parties was contractual and that the Rules and Regulations governing the Account specifically stated that SunTrust "is not in any way acting as a fiduciary to [Petitioner]" and that "no special relationship exists" between the parties. ECF 98, p. 9. The lower court's finding that an ordinary contractual relationship existed between SunTrust and Petitioner was correct and does not warrant further review.

The district court also found that SunTrust was not unjustly enriched by any of the actions it took regarding the electronic debit to TMCC or the closing of the Account. The court found that Petitioner had failed to provide any facts establishing that SunTrust unjustly retained any fees and that all of the bank's actions were done in accordance with the contract terms. ECF 98, pp. 10-11. The court concluded that there were no facts to support any of the elements of an unjust enrichment claim against SunTrust. Accordingly, the court granted summary judgment in SunTrust's favor on Petitioner's unjust enrichment claims. The lower

court's decision was correct and does not warrant further review.

The district court also found that Petitioner's claims against SunTrust for "aiding and abetting" failed as a matter of law. ECF 98, p. 11. The court again observed that SunTrust did not owe a fiduciary duty to Petitioner and also found that Petitioner had failed to provide any facts to establish a theory of liability or tortious conduct by SunTrust. The court correctly granted summary judgment in favor of SunTrust on Petitioner's "aiding and abetting" claims. The decision does not warrant further review.

The lower court ruled that Petitioner's Fair Debt Collection Practices Act⁶ ("FDCPA") claims against SunTrust failed because SunTrust was not a "debt collector" under the FDCPA. ECF 98, pp. 13-14. Based on a plain reading of the FDCPA and established law, the court found that "SunTrust is not a debt collector as defined by the FDCPA" and further observed that "[SunTrust's] role here is simply that of processing electronic payments." The court correctly granted summary judgment in favor of SunTrust on Petitioner's FDCPA claims. The decision does not warrant further review.

The district court also found that Petitioner failed to present any facts to show that SunTrust had engaged in any "[u]nfair, abusive, or deceptive trade practices" prohibited by the Maryland Consumer

⁶ 15 U.S.C. §§ 1692-1692p.

Protection Act⁷ (“CPA”) or committed any other violation of the CPA. ECF 98, pp. 14-15. The court observed that the electronic debts to TMCC were initiated from Petitioner’s online Toyota account that required Petitioner’s authentication to make, and that the June 2018 electronic payment that Petitioner disputed was returned to him. The court granted summary judgment in favor of SunTrust on Petitioner’s CPA claims. The decision was correct and does not warrant further review.

The lower court ruled that Petitioner had failed to establish a claim against SunTrust under the Maryland Confidential Financial Records Act⁸ (“MCFRA”). ECF 98, pp. 15-16. The MCFRA generally prohibits a financial institution from disclosing the financial records of one of its customers to any person, unless an exception applies. MD. CODE ANN., FIN. INST. § 1-302. One such exemption is when “[t]he customer has authorized the disclosure to that person.” *Id.* The court found, based on the record facts, that Petitioner gave SunTrust authorization to disclose his Account information to TMCC and also that Petitioner had previously used the Account to make payments on his TMCC car loan. As a result, the court granted summary judgment in favor of SunTrust on Petitioner’s MCFRA claim. The decision was correct and does not warrant further review.

⁷ MD. CODE ANN., COM. LAW §§ 13-101-501.

⁸ MD. CODE ANN., FIN. INST. §§ 1-301-306.

The district court also found that Petitioner had failed to establish any facts in support of the promissory estoppel claim alleged in the Complaint. ECF 98, p. 16. Petitioner asserted that SunTrust had breached a promise to protect his money when it processed electronic debits to TMCC. However, the court found that the relationship between SunTrust and Petitioner was contractual in nature, with the contract terms set forth in the Rules and Regulations, and that the Rules and Regulations specifically provided that SunTrust “has no duty to investigate or question items, withdrawals, or the application of funds.” ECF 65-4. The court correctly granted summary judgment in favor of SunTrust on Petitioner’s promissory estoppel claim. The decision does not warrant further review.

The lower court ruled that SunTrust was entitled to summary judgment on Petitioner’s claims for “malicious acts of tampering” because this purported cause of action does not exist under Maryland law. ECF 98, p. 17. The court also found that the Rules and Regulations allowed SunTrust to close the Account without advance notice, so the Account closure was not malicious. The court’s decision was correct and does not warrant further review.

The district court also considered Petitioner’s claims against SunTrust and TMCC for civil conspiracy. ECF 98, p. 17. The court explained that “conspiracy” is not a separate tort under Maryland law in the absence of other tortious injury to a plaintiff, and found no evidence supporting Petitioner’s allegations that SunTrust and TMCC tortiously injured him or

otherwise conspired against him. Accordingly, the court found that Petitioner had failed to present any facts to support a civil conspiracy claim. The court's decision was correct and does not warrant further review.

The district court also ruled that SunTrust was entitled to summary judgment on Petitioner's claim for "conspiracy to negligence" because no such cause of action exists under Maryland law. To the extent that Petitioner was alleging negligence against SunTrust, the court found no facts establishing that SunTrust owed Petitioner anything other than the duties contained in the Rules and Regulations, which set forth the terms of the parties' contract and were not breached. ECF 98, pp. 17-18. The court's decision was correct and does not warrant further review.

Finally, the lower court ruled that SunTrust was entitled to summary judgment on Petitioner's claim asserting intentional infliction of emotional distress, because the record showed that only Petitioner could have initiated electronic debits to TMCC, and there were no facts to establish that any of SunTrust's actions were "intentional or reckless" or "extreme or outrageous." ECF 98, pp. 18-19. As with the court's other summary judgment rulings, the decision was correct and does not warrant further review.

IV. The Fourth Circuit opinion, which affirmed the district court's ruling granting summary judgment in favor of TMCC, does not warrant further review.

Petitioner's fourth question to this Court is whether the district court erred when it granted TMCC's Motion for Summary Judgment as to all claims asserted by Petitioner against Toyota. Petitioner asserted many of the same claims against both TMCC and SunTrust, and the record facts and supporting law justifying summary judgment in favor of SunTrust on those claims apply to the identical claims asserted against TMCC. Furthermore, in ruling on each of Petitioner's various claims against TMCC, the district court was applying established precedents in a fact-specific case, and there is no issue that warrants further review.

V. The Fourth Circuit opinion, which affirmed the district court's denial of Petitioner's motion to dismiss SunTrust Bank's Counterclaim, does not warrant further review.

Petitioner's fifth question to this Court is whether the district court lacked subject matter jurisdiction to consider SunTrust's Counterclaim, in which SunTrust asserted a breach of contract claim against Petitioner for the \$451.19 overdrawn Account balance. Petitioner raised this issue in a motion to dismiss [ECF 39], which the court denied as moot when it granted summary judgment in SunTrust's favor on the Counterclaim.

The record below shows that this case was properly removed from state court to the district court at SunTrust's request because of the federal statutory claims asserted in the Complaint. Upon the case being removed to the district court as a result of the federal statutory claims, the district court had supplemental jurisdiction over SunTrust's Counterclaim pursuant to 28 U.S.C. § 1367 because the claim asserted in the Counterclaim was so related to the claims asserted in the Complaint that they formed part of the same case or controversy. Although Petitioner contended, in a portion of the motion to dismiss, that the district court lacked subject matter jurisdiction over the Counterclaim, he contradicted himself when he stated, in paragraphs 46 and 47 of the same motion, that "[Petitioner] Admits SunTrust Allegation No. 8 [providing the jurisdictional basis for the Counterclaim] because [] this Court has supplemental jurisdiction over this action pursuant to 28 U.S.C. §1367."

For these reasons, the district court's decision to deny Petitioner's motion to dismiss SunTrust's Counterclaim was correct and does not warrant further review.

VI. The Fourth Circuit opinion, which affirmed the district court's refusal to accept Petitioner's "counterclaim and motion to dismiss" and Petitioner's motion to compel SunTrust Bank to accept TMCC's refund check, does not warrant further review.

Petitioner's sixth question to this Court combines his claims that the district court erred when it refused

to accept his “counterclaim and motion to dismiss” for filing and separately refused to accept his motion to compel SunTrust to accept TMCC’s refund check. The record shows that neither paper was accepted for filing because Petitioner failed to follow the lower court’s pre-motion procedures.

As for Petitioner’s claim that the district court erred in not permitting him to file a paper that Petitioner essentially fashioned as a “counterclaim and motion to dismiss,”⁹ it is apparent that Petitioner, who was the plaintiff in the district court proceedings, could not file a counterclaim. Petitioner never attempted to file an amended complaint in the case. Also, the district court record shows that although Petitioner attempted to file the combined pleading and motion with the lower court, the court rejected his filing as deficient [ECF 20] because he failed to follow the court’s mandatory pre-motion procedures as set forth in the Letter Order Regarding the Filing of Motions. ECF 6. Although Petitioner filed an interlocutory Notice of

⁹ The full title of the paper that Petitioner attempted to file is: “Defendant/Plaintiff Emmanuel Edokobi By (Himself) (“Edokobi”) As A Pro Se Respectfully Files Compulsory Counterclaim Under Rule 13(A) Of The Federal Rules of Civil Procedure (FRCP), Against SunTrust Bank’s (“SunTrust”) Counterclaim of Breach Of Contract And Defendant/Plaintiff Edokobi’s Motion to Dismiss Under Federal Rule of Civil Procedure 12(B)(6) SunTrust’s Counterclaim of Breach of Contract Against Defendant/Plaintiff Edokobi in the Civil Case No. 8:19-CV-00248-PWG And Defendant/Counter-Plaintiff Edokobi Hereby Demands A Trial By Jury On All Issues So Triable Pursuant To Federal Rule Of Civil Procedure 38 And Will Not Stipulate To A Jury Of Less Than Twelve (12) Jurors.”

Appeal [ECF 21] to the Fourth Circuit (Appeal No. 19-1203) because of the district court ruling rejecting his attempted filing, Petitioner voluntarily dismissed the appeal and never attempted to comply with the lower court's pre-motion procedures with regard to the "counterclaim and motion to dismiss."

Petitioner also alleges that the district court should have considered his request for an order directing SunTrust to accept and deposit the TMCC refund check (ironically, the very same refund check Petitioner refused to deposit into the SunTrust Account because he wanted to file a lawsuit against TMCC). The record below shows that Petitioner attempted to file a motion to compel SunTrust to accept the TMCC refund check.¹⁰ However, the lower court rejected the filing as deficient [ECF 26] because the paper violated the court's pre-motion procedures as set forth in the Letter Order Regarding the Filing of Motions. ECF 6. Petitioner never attempted to satisfy the court's pre-motion procedures.

Regarding both papers that are the subject of this question, Petitioner failed to follow the district court's

¹⁰ The full title of the paper that Petitioner attempted to file is: "Defendant/Plaintiff Edokobi By (Himself) ("Edokobi") As A Pro Se Respectfully Files A Motion And Declaration To Compel SunTrust Bank ("SunTrust") To Accept Check . . . In The Amount Of \$536.34 Which [TMCC] Sent To Edokobi Which Does Not Include SunTrust Bank's Over Draft Charges As Demand By Edokobi That The Said Check Be Deposited Into Edokobi's SunTrust Personal Checking Account . . . And Defendant/Plaintiff Edokobi Demands For Court Hearing For The Civil Case Number Case No. 00238-PWG."

pre-motion procedures, even after the papers were rejected as deficient. The court's actions in implementing and enforcing pre-motion procedures were correct. Because Petitioner never attempted to satisfy the court's pre-motion requirements regarding the issues raised in the papers, the merits of Petitioner's requests were never considered by the lower court, and therefore not preserved for appellate review. This question does not warrant further review.

VII. Any issues resulting from a letter TMCC allegedly sent to Petitioner during May 2021 regarding Petitioner's car loan do not assert a valid question.

Petitioner's seventh and final question to this Court focuses on a letter TMCC allegedly sent to Petitioner during May 2021 regarding Petitioner's car loan. It is fundamental that any issues resulting from a May 2021 letter were not considered during any of the proceedings below. Petitioner's claims in this case are set forth in the Complaint he filed on December 31, 2018. The district court granted summary judgment in favor of SunTrust and TMCC on all of Petitioner's claims on March 2, 2020. The Fourth Circuit affirmed the district court's ruling in an unpublished per curiam opinion entered on April 9, 2021. Any issues resulting from a May 2021 letter clearly do not form the basis for a valid question to this Court.



CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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