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No. _____

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ORIGINAL

In The
Supreme Court of the United States

◆

MARK P. DONALDSON,
PEGGY HAMPEL,
Petitioners,

FILED
MAR 03 2022
OFFICE OF THE CLERK
SUPREME COURT, U.S.

v.

NICK LYON, et al.,
Respondents.

◆

Petition For Writ Of Certiorari
Of A Denial On The Merits By United States Court
Of Appeals For The Sixth Circuit

◆

PETITION FOR WRIT OF CERTIORARI

QUESTIONS PRESENTED

- I.** Was it appropriate for the Sixth Circuit panel to improperly change and completely discard Peggy Hampel's timely filed en banc petition and in doing so violated their own rules including: 6 Cir. I.O.P. 35 (d)(2), (d)(2)(B), (g), 6 Cir. I.O.P. 40 (b), and/or 6 Cir. R. 35 (a) ?
- II.** Was it proper for the Sixth circuit panel to depart from General Tel. Co. v. Falcon, 457 U.S. 147 and/or Wal-Mart Stores, Inc. v. Dukes, 564 U. S. 338 by disregarding the use of Mr. Donaldson's forma pauperis pro se first amended complaint pleading and/or in the panel changing and misapplying the commonality standard established by this honorable Court ?
- III.** Was it proper for the Sixth circuit panel to depart from the pro se liberal pleading standards as set forth in FRCP 8(a)(2), 8(f) and/or Estelle v. Gamble 429 U.S. 97, 106 including denying substantial justice as an intervenor to Peggy Hampel for her deceased mother Vera Bay ?

PARTIES TO THE PROCEEDING

Peggy Hampel is pro se, is seeking to intervene in this case, is the only living adult child of Vera Bay Petitioner, and has established her position legally for Vera Bay's estate in the State of Michigan and in the Iosco county probate court. Mark P. Donaldson is a Petitioner and is forma pauperis pro se. Vera Bay is the second person under the Writ's Petitioner, (as indicated in Mr. Donaldson's first amended complaint in Case 1:18-cv-13994-BAF-PTM ECF No. 8, PageID.120 Filed 01/14/19 Page 1 of 39), and is Peggy Hampel's deceased mother. The Respondents are the same defendants in both the district court proceedings and the same appellees in the Sixth circuit Court of Appeals proceedings.

RELATED CASES

General Tel. Co. v. Falcon, 457 U.S. 147, (1982)

Wal-Mart Stores, Inc. v. Dukes, 564 U. S. 338, (2011)

Estelle v. Gamble 429 U.S. 97, 106, (1976)

	TABLE OF CONTENTS	Page
QUESTION PRESENTED		i
PARTIES TO THE PROCEEDING		ii
RELATED CASES		ii
TABLE OF CONTENTS		iii
TABLE OF AUTHORITIES		iv
PETITION FOR A WRIT OF CERTIORARI		1
OPINIONS BELOW & JURISDICTION		1
STATUTES & CONSTITUTIONAL PROVISIONS INVOLVED		1
FACTS		2
INTRODUCTION AND STATEMENT OF THE CASE		2
REASONS FOR GRANTING THE PETITION		3
I. Sixth circuit rules are clear and unambiguous in which remand back to the Sixth circuit is a good recourse for a proper pro se and en banc intervention considerations.		4
II. Sixth circuit violated Supreme Court's "commonality" standard, the panel's interpretation, ruling is contrary to the rest of the circuits, and disregarded, did not properly consider Mr. Donaldson's pleading.		6
III. Sixth circuit panel failed to liberally construe and provide substantive ... justice to Ms. Hampel's motion filings and/or Mr. Donaldson's first amended complaint.		9
CONCLUSION		15
APPENDIX INDEX		
App. 1 Sixth Circuit Merits Opinion	date: 12-1-2021	3 pages
App. 2 Sixth Circuit En Banc Opinion	date: 1-21-2022	2 pages
App. 3 Peggy Hampel Motion Intervene	date: 2-22-2021	9 pages
App. 4 Peggy Hampel En Banc Petition	date: 12-15-2021	10 pages

TABLE OF AUTHORITIES

CASES	
Becker v. Montgomery, 532 U.S. 757 (2001)	11
Bell Atlantic Corp. v. y, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)	10
Conley v. Gibson, 355 U.S. 41, 47, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)	10
Estelle v. Gamble, 429 U.S. 97, 106, 97 S.Ct 285, 50 L.Ed.2d 251 (1976)	10, 11
General Tel. Co. v. Falcon, 457 U.S. 147 (1982)	3, 6-9, 15
Meyer Goldberg, Inc. v. Fisher Foods, Inc., 823 F.2d 159, 164 (6th Cir. 1987) .	14
Wal-Mart Stores, Inc. V. Dukes, 564 U. S. 338, (2011)	6, 8, 15
STATUTES	
28 U.S.C. § 1254(1)	1
RULES	
6 Cir. I.O.P. 35 (d)(2)	4
6 Cir. I.O.P. 35 (d)(2)(B)	4
6 Cir. I.O.P. 35 (g)	5
6 Cir. R. 35 (a)	4
6 Cir. I.O.P. 40 (b)	4
FRCP 8 (a)(2) and (f)	10
FRCP 24 (b)(1)(B)	13

PETITION FOR A WRIT OF CERTIORARI

Peggy Hampel and Mark P. Donaldson timely file this petition for a writ of certiorari for a ruling seeking in part to remand the case back to the Sixth circuit for a en banc determination and/ or that this honorable Court review of the denial of Ms. Hampel's intervention in the case including a lack there of pro se consideration involving Ms. Hampel filings and disregarding Mr. Donaldson first amended complaint by the United States Court of Appeals for the Sixth Circuit.



OPINIONS BELOW

Sixth Circuit opinion denied Peggy Hampel's intervention is found at App. 1 and the Sixth Circuit's denial of her petition for rehearing en banc and motion for reconsideration is at App. 2. This Petition For Writ Of Certiorari of a Denial On The Merits by United States Court of Appeals for the Sixth Circuit involves only rulings made by a Sixth circuit panel, see App. 1-2.



JURISDICTION

Sixth circuit panel entered their denial on Dec. 1, 2021, (see app. 1), and denied a timely petition for rehearing en banc and motion for reconsideration on Jan. 21, 2022, see app. 2. This Court has jurisdiction under 28 U.S.C. § 1254 (1).



STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED

This case does not involve interpretation of statutory or constitutional provisions.



FACTS

1. Mr. Donaldson's first amended complaint was timely filed as a matter of right.
2. Vera Bay, passed away, while the first appeal in this case was pending before the Sixth circuit and before the remand occurred by the Sixth circuit panel back to the district court.
3. Respondents, (which only after the first appeal was decided by the Sixth circuit and the case was remanded back to the district court), were they then served in this case & with only Mr. Donaldson's first amended complaint, case 1:18-cv-13994-BAF-PTM ECF No. 8 Filed 01/14/19.
4. No submission of or comments were even made by the Sixth circuit panel or judges to Ms. Harris, Sixth Circuit COA En Banc Coordinator, of Peggy Hampel's en banc petition, see app. 4.

INTRODUCTION AND STATEMENT OF THE CASE

This case involves a Sixth circuit panel ruling that completely removed Peggy Hampel's petition for an en banc determination of her timely petition before the Sixth circuit in which a remand back to the Sixth circuit is best served in this case. Also, argument has been provided involving Ms. Hampel's intervention, the lack there of Ms. Hampel and Mr. Donaldson's pro se status involving Ms. Hampel's filings and Mr. Donaldson first amended complaint in this writ to this honorable Court which would also be available for this honorable Court's consideration and on any remand back to the Sixth circuit.

This case raises an issue of exceptional importance involving a Sixth circuit panel knowingly violating established Sixth circuit appellate rules by completely removing Ms. Hampel's en banc petition so there would be no en banc consideration by the Sixth circuit judges. Also, this case raises an issue of exceptional importance involving Ms. Hampel's intervention at the Sixth circuit on behalf of her deceased mother Vera Bay along with a commonality erroneous

interpretation involving General Tel. Co. v. Falcon, 457 U.S. 147 (1982). In addition there is a complete lack there of by the Sixth circuit panel of the pro se requirements, the disregarding of Mr. Donaldson's pro se forma pauperis first amended complaint, and pro se Ms. Hampel's filings, en banc petition and initial intervention motion as a pro se intervenor in which a remand back to the Sixth circuit is being in part sought along with the requested en banc determination.

REASONS FOR GRANTING THE PETITION

Mr. Donaldson on Jan. 28, 2022 at 11:04 am called and spoke with Sixth Circuit En Banc Coordinator Beverly L. Harris for 14 min. 25 sec. to find out the status of Ms. Hampel's en banc petition. In speaking with Ms. Harris, he was able to find out that there were no comments from any en banc judges and in fact no submission was even made to Ms. Harris of the en banc petition. This specific & intentional action of no submission to Ms. Harris was knowingly done by the Sixth circuit panel in which now a remand back to the Sixth circuit is appropriate for a proper en banc determination. Also, an en banc determination would also assist this honorable Court on the issue of Ms. Hampel's intervention along with a proper pro se application to her intervention request she made to the Sixth circuit. This type of remand request does not require this honorable Court to have a detailed and/or in depth oral arguments on this matter since the undisputable fact that the Sixth circuit panel erroneously removed and did not submit Ms. Hampel's petition for en banc rehearing in violation of Sixth circuit rules as clearly prescribe and outlined in their specific rules.

Peggy Hampel is retired and a pro se person before the Sixth circuit panel in which a remand back to the Sixth circuit is being sought, is warranted, will help address the Ms. Hampel intervention issue, will also help to discourage this practice in the future from occurring again, and from burdening Ms. Hampel, Mr. Donaldson and pro se persons alike, and this honorable Court:

I. *Sixth circuit rules are clear and unambiguous in which remand back to the Sixth circuit is a good recourse for a proper pro se and en banc intervention considerations.*

Pursuant to 6 Cir. R. 35(a), Ms. Hampel's petition for rehearing, (see App. 4), contained a petition for rehearing en banc which was plainly stated on the cover, first page of the document, which also the petition for rehearing en banc was on the first three pages of the said document.

A. The Sixth Circuit rules, 6 Cir. I.O.P. 35(d)(2), language on this matter is very clear and unambiguous. The clerk was to circulate the petition to the original panel and *the panel had 14 days to comment on the petition to the en banc coordinator in the clerk's office*. Plain and simple, the en banc petition was never provided to the En Banc Coordinator nor did the panel submit any comments to the En Banc Coordinator both in violation of 6 Cir. I.O.P. 35(d)(2).

B. Even if the Sixth circuit panel did not substantially modify its decision, (see app. 2), this panel must send it to the En Banc Coordinator who will then circulate Prggry Hampel's petition and the panel's comments to the judges in the en banc court which was violated by the panel in which their reconsideration ruling and comments were withheld from the En Banc Coordinator and all the Sixth circuit judges in direct violation of 6 Cir. I.O.P. 35(d)(2)(B).

C. The panel also violated 6 Cir. I.O.P. 40(b) which unambiguously states:

Review. Only the original panel members will review petitions for rehearing that are unaccompanied by a petition for rehearing en banc.

which my motion, see app. 4, is titled:

**Petition Rehearing En Banc, Motion For Reconsideration, & Motion
Allowing Parties To Respond To Petition and/or Reconsideration**

and on pages 1, 2 and 3 was my Petition for En Banc Rehearing.

D. The panel's Order, (see app. 1), completely disposed of my action and was on the

merits which Ms. Hampel's en banc petition was to be circulated to the whole court in which the panel knowingly violated 6 Cir. I.O.P. 35(g) by completely refusing to provide any comments and /or the panel's ruling to the En Banc Coordinator for circulation to the Sixth circuit judges.

E. Ms. Hampel's motion, see app. 4, was obviously titled:

**Petition Rehearing En Banc, Motion For Reconsideration, & Motion
Allowing Parties To Respond To Petition and/or Reconsideration**

The Sixth panel chose to rewrite Ms. Hampel's petition and motion by completely discarding the "petition for rehearing en banc" from my motion, see appl. 2, stating "Hampel now petitions for rehearing en banc, which we construe as a motion for reconsideration. See 6 Cir. R. 27(g)". The panel's erroneous misconstruing of Ms. Hampel's motion thus created the following title as:

**Motion For Reconsideration, (replacing Petition Rehearing En Banc), Motion
For Reconsideration, & Motion Allowing Parties To Respond To Petition
and/or Reconsideration**

which does not make any sense by the panel since a motion for reconsideration was already within the title & even separated in the filing, see App. 4. More importantly, rule 6 Cir. R. 27(g) does not allow the panel to discard the Petition Rehearing En Banc in which the panel's Order, App. 1, completely disposed of the filing that was on the merits in which the Petition Rehearing En Banc was to be circulated to the whole court pursuant to 6 Cir. I.O.P. 35(g) which the panel violated.

F. Sixth circuit panel's erroneous en banc petition removal action was such that if the en banc petition was not erroneously discarded by the Sixth circuit panel there was a likelihood that judges in the en banc process in the entire Sixth circuit would have at least read and commented on the intervention issue and likely considered Ms. Hampel's intervention case since the Sixth circuit panel's interpretation and practices have not been adopted by any of the circuits.

II. *Sixth circuit violated Supreme Court's "commonality" standard, the panel's ruling, interpretation is contrary to the rest of the circuits, and disregarded, did not properly consider Mr. Donaldson's pleading.*

The Sixth circuit panel erroneous applied the "commonality" standard, see app. 1, which was contested by Ms. Hampel, (see app. 4), in which the panel gave no basis for nor did the panel even cite any case as a basis for the panel's erroneous "commonality" interpretation. The U. S. Supreme Court established the "commonality" standard in General Tel. Co. v. Falcon, 457 U.S. 147 (1982) and as set forth in Wal-Mart Stores, Inc. v. Dukes, 564 U. S. 338, (2011) that Falcon is the said standard when addressing and applying the "commonality standard" which the Sixth circuit panel has now clearly violated and that the Sixth circuit panel's actions are also contrary to the other circuits in which no circuit has followed their erroneous and very limiting actions. Ms. Hampel's intervention motion was timely filed in the Sixth Circuit Court of Appeals, see app. 3, which required the panel to make findings of facts and/or conclusion of laws in their merit ruling.

This honorable court held in General Tel. Co. v. Falcon, 457 U.S. 147 (1982) and established several specific issues and practices that were to be applied by all courts including:

1. *The use of pleadings* and stated: "Sometimes the issues are plain enough from the pleadings to determine whether the interests of the absent parties are fairly encompassed within the named plaintiff's claim, and sometimes it may be necessary for the court to probe behind the pleadings before coming to rest on the certification question.".
2. *The use of pleadings* and stated: "The record in this case clearly shows that there are no common questions of law or fact between respondent's claim and the class claim; the only commonality is that respondent is a Mexican-American and he seeks to represent a class of Mexican-Americans.".
3. *Commonality determination* and stated: "The record in this case clearly shows that there are no common questions of law or fact between respondent's claim and the class claim; the only commonality is that respondent is a Mexican-American and he seeks to represent a class of Mexican-Americans.".

A. Ms. Hampel as a pro se intervenor believed at this stage of the litigation that she did provide specific presentation by identifying questions of law or fact that were common to the claims of Mr. Donaldson as noted within Mr. Donaldson first amended complaint. Furthermore, this honorable court required the lower courts as it did in General Tel. Co. v. Falcon, 457 U.S. 147 (1982) to consider the record and specifically the pleadings which in this case is a forma pauperis pro se Mr. Donaldson's first amended complaint and in doing so would take into account that Ms. Hampel's motions were also to be liberally construed so that substantiative justice would occur on Ms. Hampel's behalf as an intervenor, which the Sixth circuit panel failed to do.

B. Peggy Hampel as a pro se person and the specific allegations in Mr. Donaldson's first amended complaint, (Case 1:18-cv-13994-BAF-PTM ECF No. 8, PageID.120 Filed 01/14/19), are considered to be true at this stage of the case in which Ms. Hampel's intervention motion and petition filings must find and provide, (which Ms. Hampel did in her filings), to the Sixth circuit panel of at least one shared common fact and/or question of law from Mr. Donaldson's first amended complaint in which both Vera Bay and Mr. Donaldson, (as noted as Vera & Mark), are specifically indicated in the same first amended complaint, case 1:18-cv-13994-BAF-PTM ECF No. 8, see allegations nos. 36, 124, 169, 188-190, 193-195, 200 and 201 being:

36	ECF No. 8, PageID.127
124	ECF No. 8, PageID.142
169	ECF No. 8, PageID.149
188-190	ECF No. 8, PageID.152
193-195	ECF No. 8, PageID.153
200 & 201	ECF No. 8, PageID.154.

These noted allegations in the record from a pleading, being the first amended complaint, go further then the record and review standard set within General Tel. Co. v. Falcon, 457 U.S. 147

(1982) that at least one common fact and/or questions of law must be provided. Applying Ms. Hampel's pro se status liberally in construing her motions and providing her with substantiative justice, forma pauperis pro se Mr. Donaldson's first amended complaint's allegations numbers 36, 169, 188-190, 193-194 and/or 200 which clearly involve common questions of law & allegations numbers 124, 195 and/or 201 indicate common facts from the pro se first amended complaint.

C. The noted allegations above from the first amended complaint also provide for common relief, (as noted in General Tel. Co. v. Falcon, 457 U.S. 147 (1982)), including damages, see allegations numbers 124, 169, 195 and/or 201 for Mr. Donaldson and/or Ms. Bay.

D. Besides the numerous common laws and facts throughout the first amended complaint involving Mr. Donaldson and Vera Bay, there is also the separate cause of action by Ms. Bay which parallels Mr. Donaldson's first count and his own separate cause of action. Since Ms. Hampel has a legal right in the State of Michigan then intervention on behalf of the deceased Vera Bay is appropriate which even the State of Michigan has acknowledged her via their filings in the Iosco county probate court. The Sixth circuit panel in considering Ms. Hampel's pro se intervention motion and petition must liberally construe her filings which the panel failed to do.

More importantly, the Sixth circuit panel completely disregarded the pro se Mr. Donaldson's first amended complaint including noted allegations which must be accepted as true. Also, the first amended complaint was timely filed as a matter of right. Furthermore, the panel failed to provide on behalf of Ms. Hampel any substantive justice as a pro se intervenor in which Vera Bay's legal arguments including the second cause of action involving only Ms. Bay in the first amended complaint and Mr. Donaldson first cause of action have legal and/or factual arguments enmeshed. As set forth in Wal-Mart Stores, Inc. V. Dukes, 564 U. S. 338, (2011):

“Frequently that “rigorous analysis” will entail some overlap with the merits of the plaintiff’s underlying claim. That cannot be helped.”

The Sixth circuit panel failed to consider and disregarded the counts, facts, and allegations in first amended complaint. The Sixth circuit panel in considering the pro se intervention motion was the initial fact finding body who must follow the same process as an district court in which the panel failed to do so. The Sixth circuit panel does not have the luxury to disregard the proper review of the pro se motion and en banc petition to intervene including their misrepresentation of this honorable court’s “commonality” standard including completely disregarding the forma pauperis pro se Mr. Donaldson’s first amended complaint. Furthermore, the Sixth circuit panel erroneous ruling and practice is now further compounded by their erroneous interpretation and actions involving Ms. Hampel’s en banc petition which if the en banc petition was not erroneously discarded by the Sixth circuit panel, there is a very strong likelihood that judges in the en banc process in the entire Sixth circuit would have considered the issues since the Sixth circuit panel’s practices have not been adopted by any of the circuits & is contrary to General Tel. Co. v. Falcon.

III. Sixth circuit panel failed to liberally construe and provide substantive justice to Ms. Hampel’s motion filings and/or Mr. Donaldson’s first amended complaint.

Ms. Hampel specifically addressed her pro se status in the petition for en banc and reconsideration, (see app. 4 page 3), and motion, (see app. 3 page 6), which specifically stated:

Also, I can re-file if needed a motion for a court appointed attorney to represent me involving my deceased mother Vera Bay’s legal interests before the court.

so the Sixth circuit panel knew without a doubt that Ms. Hampel was pro se and still refused to apply any pro se status consideration on either of the Sixth circuit filings, see app. 3 and 4. Furthermore, the panel also knew that Ms. Hampel was going to seek a court appointed attorney

thus they knew that was again pro se and still the panel completely disregarded her pro se status involving the filings, app. 3 and 4. Also, Ms. Hampel referred to in both her motion and incorporated specifically in my later en banc petition filing pro se forma pauperis Mr. Donaldson's first amended complaint, who himself is forma pauperis pro se which the panel completely disregarded. As an intervenor, Ms. Hampel is legally allowed to do so in the State of Michigan for her deceased mother Vera Bay in which, Ms. Hampel can use Mr. Donaldson's first amended complaint's allegations, counts, and relief that were stated in the first amended complaint in which the Sixth circuit panel cannot disregard and instead must accept them as true at this stage of the litigation involving both of my intervention filings at the sixth circuit for her deceased mother.

A. When it comes to the petitioner, Mr. Donaldson's first amended complaint FRCP 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." Specific facts are not necessary; the statement need only "give the defendant fair notice of what the ... claim is and the grounds upon which it rests." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)) in which the first amended complaint was timely filed as a matter of right. The Sixth circuit panel's departure from the liberal pleading standards set forth by FRCP 8(a)(2) is very pronounced in this case because both the petitioner and myself seeking intervention have been proceeding without counsel. Ms. Hampel's documents being her initial intervention motion and petition for en banc rehearing were filed as a pro se and must be "liberally construed," Estelle v. Gamble, 429 U.S. 97, 106, 97 S.Ct 285, 50 L.Ed.2d 251 (1976) which includes using Mr. Donaldson's pro se first amended complaint and Ms. Hampel's motions in which pursuant to FRCP 8(f), "All pleadings shall be so construed as to do substantial

justice" which was not done repeatedly by the Sixth circuit panel. The importance of this pro se issue cannot be emphasized enough due to the litigation stage and the motion filings since the proper application of any of the controlling legal principles and/or the facts must first include the proper application of Mr. Donaldson and Ms. Hampel being both pro se, Ms. Hampel's motions, and Mr. Donaldson's first amended complaint in which the Sixth circuit panel cannot disregard or refuse, (which the Sixth circuit panel did), to apply the first amended complaint's allegations, counts, and relief. The Sixth Circuit panel's parsimonious reading of both of Ms. Hampel's motions is obviously contrary to this honorable court's longstanding instruction that pro se filings must be "liberally construed.", see *Estelle v. Gamble*, 429 U.S. 97, 106 including the Sixth circuit panel failing pursuant to FRCP 8(f) to do so that "All pleadings shall be so construed as to do substantial justice" and in particular involving pro se Mr. Donaldson's first amended complaint which Ms. Hampel noted in both of her filings, motions before the Sixth circuit panel.

B. My mother Vera Bay was timely added as a Plaintiff party to the first amended complaint which Mr. Donaldson filed the first amended complaint as a matter of right. Any deficiency that just my mother at the time did not sign the first amended complaint is considered by the courts to be nothing more then a mere technical defect that was curable, see *Becker v. Montgomery*, 532 U.S. 757 (2001). What compounded this technical defect was that my mother Vera Bay died while the first appeal in this case was still pending before the Sixth circuit and before the Sixth circuit remanded this case back to the district court. Mr. Donaldson's first amended complaint cannot be considered in any form as a nullity since Mr. Donaldson's signature is on the first amended complaint, said complaint was filed as a matter of right, and in the State of Mich. Ms. Hampel has the legal right now to represent her deceased mother Vera Bay's estate.

When this case was appealed for the second time to the Sixth circuit by Mr. Donaldson, the removal of Vera Bay as a party was actually done by the Sixth circuit in the case caption, (which was contrary to the first amended complaint which was filed as a matter of right and added Vera Bay), and the district court caption, thus requiring that Ms. Hampel had to file a motion to intervene before the Sixth circuit in this appealed case. Also, before the district court when this issue first arose, I timely talked with attorneys and tried to address this mere technical defect at the district court which the district court would not allow me to correct this defect as a pro se person even though I was and am now legally allowed to act for my deceased mother Vera Bay as her only living child for her estate. Furthermore, the motion to intervene and petition were timely filed before the Sixth circuit as a pro se person, Peggy Hampel.

Even though the Sixth circuit removed Vera Bay from the caption of this appealed case, all of Vera Bay's allegations, counts, facts, and relief cannot be and was erroneously disregarded from Mr. Donaldson's first amended complaint by the Sixth circuit even though the forma pauperis pro se Mr. Donaldson's first amended complaint was filed timely as a matter of right by Mr. Donaldson and was signed by Mr. Donaldson. Ms. Hampel still has a legal right involving her deceased mother and as a pro se intervenor to apply and consider now use all of Vera Bay's allegations, counts, facts, and relief from Mr. Donaldson's first amended complaint as a basis for Ms. Hampel's intervention in this case which the Sixth circuit has erroneously discarded and denied me from using any of Vera Bay's allegations, counts, facts, and relief from the first amended complaint as a basis of my timely intervention. More importantly, the Sixth circuit does not even cite any basis for their erroneous actions involving Mr. Donaldson's first amended complaint but instead just merely states the following in their original merit based Order stating:

Although Hampel argues that she has a legal interest in this appeal solely because she is Bay's successor, she does not address a single commonality between Donaldson's claims and any purported claims of her mother. Even in her reply, Hampel merely references the allegations in Donaldson's amended complaint with regard to Bay.

and in their second Order which also removed my en banc petition before the Sixth circuit stating:

Hampel's reliance on Meyer is misplaced. In Meyer, we concluded that a strong showing of common fact or law was not necessary for a non-party company to intervene in prior concluded litigation for the purpose of seeking discovery material that would assist it in its current litigation alleging related claims. *Id.* at 161-64.

The erroneous fact finding by the Sixth circuit was contested in the en banc petition in which the Sixth circuit panel did not even cite any case in their legal conclusion for their rulings. The en banc petition, app. 4, I stated and raised the following which was not misplaced being:

The panel's new requirement of arguing of my mother Vera Bay's claims & Mr. Donaldson's claims, the panel's new "commonality" standard, goes far beyond any nexus determination and is contrary to the language in both FRCP 24(b)(1)(B) and *Meyer Goldberg, Inc. v. Fisher Foods, Inc.*, 823 F.2d 159, 164 (6th Cir. 1987).

The motion was timely before the Sixth circuit in which the panel must make some form of findings of facts and conclusions of law and more importantly Ms. Hampel's filings must be liberally construed. Also, as a pro se person, the specific allegations in Mr. Donaldson's first amended complaint are considered true in which in my motion filings I must find and provide to the panel at least one shared common facts and/or questions of law. As previously discussed above, both Vera Bay and Mr. Donaldson, as noted as Vera & Mark, are named in Mr. Donaldson's first amended complaint, (see Case 1:18-cv-13994-BAF-PTM ECF No. 8, Filed 01/14/19) allegations numbers 36, 124, 169, 188, 189, 190, 193, 194, 195, 200, and 201 being:

36	ECF No. 8, PageID.127
124	ECF No. 8, PageID.142
169	ECF No. 8, PageID.149
188-190	ECF No. 8, PageID.152

The Sixth circuit panel did not cite in their rulings any lower court or appellate rules nor any case citations that support their erroneous actions which are contrary to this honorable Court including involving the use of pleadings, first amended complaint, and “commonality” as set forth in General Tel. Co. v. Falcon, 457 U.S. 147 (1982) & Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338 (2011).

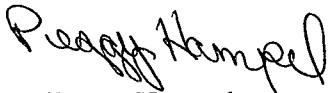
CONCLUSION

Remand back to the Sixth circuit this case which now is an appropriate use of this honorable Court’s resources and time to obtain the timely requested en banc determination by the Sixth circuit.

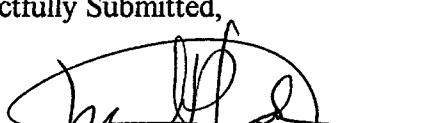
Also, consider ruling on or guidance can be provided by this honorable Court to the Sixth circuit on the proper application of the pro se standard involving and the applying of Mr. Donaldson’s first amended complaint and/or involving Ms. Hampel’s filings pursuant to Estelle v. Gamble, 429 U.S. 97, 106 and/or failing pursuant to FRCP 8(f) that “All pleadings shall be so construed as to do substantial justice” on behalf of Mr. Donaldson and/or Ms. Hampel.

Furthermore, consider ruling on or guidance can be provided by this honorable Court to the Sixth circuit on the proper application of the “commonality” standard as set forth in General Tel. Co. v. Falcon, 457 U.S. 147 (1982). This petition was tried to be limited in length as both persons are pro se and is requesting that this honorable Court also consider any other relief on behalf of Peggy Hampel as an intervenor and/or the Petitioner Mr. Donaldson.

Respectfully Submitted,



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Pro se forma pauperis
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Date: Mar 3, 2022