No. 22-218 ORIGINAL

IN THE

Supreme Court

OF THE UNITED STATES OF AMERICA

Steven Christopher Knapp,

Petitioner,

v.

Metropolitan Government of Nashville & Davidson County, TN, *et al.*,

Respondents.

On Petition For Writ Of Certiorari
To The Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

This petition seeks to address fundamental questions of law about judicial impartiality, due process, and the legal standards of compliance with Fed. R. Civ. P. 8 ("Rule 8").

The complaint filed in the District Court shows a decade long pattern of corporate fraud, abuse, and government indifference with clear, convincing, and objective audio/video evidence. The District Court purportedly "found" a Rule 8 violation because of judicially disfavored length alone – a firmly and consistently rejected legal ground by numerous Courts of Appeal. The District Court made its "finding" (i) without meaningful review of the complaint's substance, (ii) without considering the legitimate legal standards of Rule 8 briefed or the totality of the circumstances, (iii) without identifying fatal unintelligibility, and (iv) without even inquiring as to whether Respondents received fair notice of the grounds upon which relief is sought.

The District Court repeatedly ignored clear and thorough citations to the record showing imputation of fair notice and legitimate authority on the issue, consistently and silently favoring Respondents' skeletal, undeveloped, and objectively defective, sometimes plainly absurd, "arguments." Accordingly, Petitioner requests this Court resolve the following questions of law in his favor:

1) Does a judge of the United States have an unqualified, absolute right to nullify a complaint under Rule 8 based on length alone?

2) Did the District Court deny due process of law using superficial review, unwarranted prejudgments, and judicial misconduct arising from judicial bias, resulting in void orders?

PARTIES

1. STEVEN CHRISTOPHER KNAPP ("Petitioner," "Plaintiff-Appellant," "Plaintiff");

2. METROPOLITAN GOVERNMENT OF NASHVILLE & DAVIDSON COUNTY, TN, *et al.* ("City of Nashville");

3. METRO DEVELOPMENT & HOUSING AGENCY, *et al.* ("MDHA");

4. CITY REAL ESTATE ADVISORS INC., *et al.* ("CREA");

5. RYMAN LOFTS AT ROLLING MILL HILL, L.P, *et al.* ("Ryman Lofts," the "Partnership");

6. FREEMAN WEBB CO., REALTORS, *et al.* ("FREEMAN-WEBB" and "FW");

7. LAW OFFICE OF HALL & ASSOCIATES, INC., *et al.* ("Law Office of Wes Hall");

8. MDHA BOARD OF COMMISSIONERS, *et.al* ("MDHA Board of Commissioners");

9. WESLEY M. HALL, III, in his individual capacity ("Hall");

10. NATHAN C. LYBARGER, in his individual capacity ("Lybarger");

11. WILLIAM H. FREEMAN, in his individual capacity ("Freeman");

12. WILLIE KIRBY DAVIS, JR., in his individual capacity ("Davis");

13. JUDITH EVELYN BEASLEY, in her individual capacity ("Beasley");

14. RODNEY BEVERSTEIN, in his individual capacity ("Beverstein");

15. AMANDA PRINCE, in her individual capacity ("Prince");

16. JOMY HERNANDEZ, in his individual capacity ("Hernandez");

17. JAMES K. HARBISON, in his individual capacity ("Harbison");

18. WILLIAM L. BIGGS, JR., in his individual capacity ("Biggs");

19. WILLIAM HENRY CHOPPIN, in his individual capacity ("Choppin");

20. EMILY THADEN, in her individual capacity ("Thaden," "Commissioner Thaden");

21. CLIFTON DAVID BRILEY, in his individual capacity ("Briley," "Mayor Briley");

22. ADRIAN BOND HARRIS, in her individual capacity ("Harris");

23. ANONYMOUS COPYRIGHT INFRINGER;

24. JEFFREY WHITING, in his official capacity ("CREA")

RELATED CASES

1. *Knapp v. Metropolitan Government of Nashville & Davidson County, TN, et al.*, Case No. 3:19-CV-00542, U.S. District Court for the Middle District of Tennessee. Judgment entered January 7th, 2021.

2. *Knapp v. Metropolitan Government of Nashville & Davidson County, TN, et al.*, Appeal No's. 21-5106 / 21-5219, U.S. Court of Appeals for the Sixth Circuit. Judgment entered February 10th, 2022. Rehearing denied April 14th, 2022.

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully seeks a writ of certiorari to review and reverse the United States Court of Appeals for the Sixth Circuit's affirmance of the orders and judgments of the United States District Court for the Middle District of Tennessee.

For the reasons set forth herein, Petitioner contends the District Court's orders are illegitimate and void on the grounds of superficial review, prejudgment-in-fact, actual and apparent judicial bias, and judicial misconduct rising to denial of due process and equal protection of the law.

OPINIONS BELOW AND RELEVANT MATERIALS

The relevant orders, opinions, and judgments from the Sixth Circuit and the District Court, as well as Petitioner's relevant district court and appellate motions and memorandums of law, are set forth in the Appendix ("App'x") according the index provided on page xii-xiii of this petition.

JURISDICTION

The Sixth Circuit entered an order disposing of consolidated appeal number 21-5106 / 21-5219 on February 10th, 2022 and denied a request for rehearing on April 14th, 2022. This petition was timely filed July 13th, 2022 by U.S. mail and this Court has jurisdiction under 28 U.S.C. §1254(1).

Federal question jurisdiction exists in the District Court under 28 U.S.C. §§1331, 1337, 1339 and § 1343 because Respondents are state actors who deprived Petitioner of fundamentally protected federal property and liberty interests without due process of law. Respondents failed to challenge Petitioner's jurisdictional statement on appeal and do not deny the District Court's subject-matter jurisdiction or their status as state actors. Fed. R. App. P. 28(b).

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Amendment V:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

United States Constitution, Amendment XIV:

> 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.

FACTUAL BACKGROUND

FREEMAN-WEBB, a state actor by delegation, used materially false testimony based on Petitioner's peaceful First Amendment activity to corruptly and unlawfully secure Petitioner's eviction from housing operated under federal jurisdiction, causing injury.

Clear, convincing, and conscious-shocking official audio/video proof of FREEMAN-WEBB's perjury exists, and is part of a decade long pattern of injuring citizens and denying the protection of federal law. *See Video Exhibit U*, R. 1 at *339, ¶ 1228, PageID#: 339.

Respondents agree Petitioner's First Amendment activity is protected, but disagree as to the creation of a designated public forum subject to strict judicial scrutiny, requiring public forum analysis from this Court.[1]

FREEMAN-WEBB's conspiratorial perjury (the underlying source of injury alleged) is objectively false, deceptive, and fraudulent, being factually and legally defective in restatements of the time, place, and manner of Petitioner's protected expressive activity, in totality, and constitutes a *per se* fraud on a court. *See* Fed. R. Civ. P. 60(d)(3).

Respondents overtly participated and furthered the conspiracy as attorneys or turned a blind eye as deliberately indifferent final policy makers [2] of government. Respondents did not deny these allegations in the required-by-rule responsive pleading. *See* Fed. R. Civ. P. 8(b)(6).

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[1] *See Ptf's Mot. for Summary Judg. on the Issues of State Action and Public Forum Analysis[] and Memo in supp.*, R. 287-288, PageID#: 2777-2949.

[2] *See Monell v. Department of Social Services*, 436 U.S. 658 (1978); ("[A] local government may not be sued under § 1983 for an injury inflicted solely by its employees or agents. Instead, it is when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may be fairly said to represent official policy, inflicts the injury that the government as an entity is responsible under § 1983.")

INTRODUCTION

"The people are the rightful masters of both Congress, and the courts — not to overthrow the Constitution, but to overthrow the men who pervert the Constitution."

– Abraham Lincoln

What is a litigant to do when a judge insists on manipulating case law to arrive at *their* desired outcome, rather than what the law *actually* prescribes? That is exactly the scenario this petition presents.

A District Court cannot unfairly thumb the scales of justice to favor a party, or assert unbridled discretion, by ignoring binding legal standards or the record and then *pretend* it has acted fairly, or its "orders" valid.

The law provides that such judicial hubris may be met with legally authorized disobedience with such unconstitutionally rendered "orders." With that in mind, the Court must review this petition through the lens of these three indisputable facts material to this case:

1. The District Court made clear it did not meaningfully review the substance of the complaint or the totality of the circumstances *before* ruling on the issue of Rule 8 – a rule primarily concerned with substance, content, and intelligibility of a complaint.

2. The District Court record objectively shows Respondents receiving fair notice of the legal and factual grounds upon which relief is sought – consistent with the Sixth Circuit's own binding jurisprudence on the issue and this Court's authority in *Twombly/Iqbal*, which numerous other courts abide by – except this one.

3. The District Court, nor the Sixth Circuit, have specifically refuted Petitioner's objective showings in the record consistent with multiple judicial due process violations arising from judicial bias – inexplicably saying, without valid authority or objective support from the record, that Petitioner "did not raise a due process argument" while also relying on the completely wrong criteria for "personal bias" rather than "judicial bias."

District Judge Eli J. Richardson ("Richardson") ruled Petitioner's due process arguments showing Richardson's unwarranted, hostile prejudgments-in-fact causing voidness are "irrelevant." App'x C at *12a.

But due process, and the principles of fundamental fairness derived therefrom, is not irrelevant. Those principles are the law of the land, and *allegedly* govern the judiciary.

Simply denying the objective reality of the record by writing Petitioner "did not raise an argument" while ignoring all cited legal and factual grounds in the record supporting Petitioner's position, does not make such denial true, fair, or valid – the truth, however inconvenient, shows otherwise.

By law, the validity of the judiciary's orders and legitimacy of its judgments depends on actual and apparent adherence to the principles of due process, absent here. Petitioner notes that this Court is currently experiencing a crisis of legitimacy of its own, which has apparently trickled down to the lower courts.

A judge being intentionally wrong, unmoored from and contrary to all binding and appellate precedent consistently briefed, to make things go their way or inequitably favor a government litigant is the *antithesis* of due process, separation of powers, and fundamental fairness. Certiorari is warranted.

STATEMENT OF THE CASE

This case raises substantial, fundamental questions of law of the type appropriate for Supreme Court review that implicate the complete erosion of the rule of law and judicial violations of Petitioner's fundamental constitutional guarantees of due process and equal protection of the law, with impunity.

A. The District Court Provided Superficial "Brief Review" Inconsistent With Due Processs Of Law

On June 28th, 2019 Petitioner initiated the action in the District Court to vindicate unlawful deprivations of federal liberty and property interests, amongst other rights and claims.

On July 19th, 2019 (twenty-one days later) District Judge Richardson timely referred the action by Order to Magistrate Judge Barbara D. Holmes ("Holmes") to "conduct further proceedings." *Order,* R. 6 at *1, PageID#: 1108.

Holmes did not "conduct further proceedings" until three hundred and thirty five (335) days (eleven months) later on May 26th, 2020, after almost a year of the parties "duking it out" in runaway, unsupervised fashion.

On May 28th, 2020 Holmes "ruled" the complaint violates Rule 8 because it is not "simple" and "long." Holmes claims an unlimited right to dismiss a complaint for length alone. App'x E at *34a.

Holmes relied on the District Court's own non-authoritative interpretations of Rule 8's purpose and standards, falsely comparing the complaint to two fatally unintelligible complaints in two non-authoritative cases. App'x E at *36a-37a.

Holmes' ruling was impermissibly based on length *alone* – a firmly and consistently rejected legal ground by numerous Courts of Appeal – including the Sixth Circuit. Holmes cherry-picked what she wanted these cases to mean – not what higher authority courts prescribe, as

Petitioner had briefed for months in opposing Respondents' motions to dismiss.

In so "ruling" against Petitioner, Holmes steered the litigation to her desired outcome and ignored this Court's binding authority as "unpersuasive," despite numerous other courts complying with this Court's authoritative interpretations of Rule 8 compliance. App'x E at *38a.

In so ignoring this Court, Holmes plainly states she provided only superficial, unmeaningful "brief review" of this action in arriving at an intentionally wrong conclusion of law regarding Rule 8. Holmes' judicial sabotage is fertile ground for multiple judicial due process violations.

B. This Action Exposes A Decade Long Pattern Of Fraud, Abuse, And Government Indifference

Respondents' pattern of deceit against fifteen victims shown in the complaint, including Petitioner, the General Sessions Court of Davidson County, the Tennessee Real Estate Commission, and the Internal Revenue Service spans across a decade and requires more than "brief review" to obtain justice.

FREEMAN-WEBB is the state actor "hub" of the FREEMAN-WEBB Racketeering Enterprise, a hub-spoke-and-rim style association-in-fact operating via a pattern of racketeering activity with a longstanding, related, and open-ended continuity of purpose, primarily, (i) unjust enrichment via ill-gotten rents and federal tax credits without adherence to federal law and the IRS' Low Income Housing Tax Credit ("LIHTC") program rules, and (ii) deprivation of honest services via actively denying due process and equal protection of federal law to tenants in LIHTC properties via the use of extortion, deception, and other racketeering activity.

This case alleges and shows the final policy makers of the City of Nashville, and its public housing agency MDHA, being deliberately indifferent to FREEMAN-

WEBB's [3] misconduct.

C. The District Court Denied Due Process Of Law Resulting In Void Orders Without Duty To Obey

The District Court attempted to coercively force Petitioner's compliance with its willful misapplication and intentionally arbitrary conclusions of law in multiple void orders.

Holmes threatened to find legally, factually, and evidentially supported claims to be "readily implausible" (App'x E at *40a) without meaningful review, in punitive fashion, and without considering the totality of the circumstances. *Kensu v. Corizon, Inc.*, 5 F.4th 646, 651 (6th Cir. 2021) (precedential) ("What is a short and plain statement of a claim or a simple, clear, and direct allegation will, of course, depend on the totality of the circumstances.").

Petitioner respectfully asserted those orders as unconstitutionally void *ab initio*, rendered without due process of law, and without duty to obey, providing legal authority supporting his position, with citations to the record. App'x J-K at *124a-138a.

To support dismissal the District Court ignored Petitioner's showings by using vague, unclear contradictions, subjective ridicule of Petitioner as a "uniquely unpleasant" litigant (App'x D at *14a) throwing a "temper tantrum" (*Id.* at *27a) for lawful, respectful, procedurally proper resistance to the District Court's intentional misrepresentations of the law of Rule 8.

The District Court offered absolutely zero specific, relevant legal authority negating Petitioner's showings of unconstitutional judicial misconduct, as the Sixth Circuit has interpreted that phrase, shown further.

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[3] FREEMAN-WEBB manages several LIHTC properties on behalf of MDHA and the City of Nashville.

The District Court used the law to harm and hamstring Petitioner and deny justice. Richardson's consciousness of culpability is evident in stating that it is "conceivable" that this case has not concluded, despite dismissal with prejudice, due to the due process arguments raised. App'x A at *17a.

D. The Sixth Circuit's Affirmance Is In Conflict With Numerous Appellate And Supreme Court Cases

The Sixth Circuit correctly acknowledged that the District Court's interpretation of Rule 8's legal standards of compliance in the First Void Order is clearly wrong, yet skirted the issue of judicial bias and misconduct in the adjudication process. App'x B at *2a.

To do so, the panel relied on the irrelevant and incorrect criteria for "personal bias" for recusal under a statute that is not at issue in this litigation, incorrectly citing *Liteky v. United States*, 510 U.S. 540 (1994) [4] instead of the distinguishable, binding criteria for "judicial bias" and when judicial impartiality is actually and apparently absent. *See Republican Party of Minn. v. White*, 536 U.S. 778. App'x B at *7a.

Richardson's unwarranted prejudgment-in-fact of the issues of Rule 8, Holmes' denial of due proces, and the First Void Order's voidness, made before Petitioner's due process based objections to dismissal (App'x F at *65a-68a), rendered the dismissal invalid due to actual and apparent judicial bias from Richardson. *Knapp v. Kinsey*, 232 F.2d 458, 466 (6th Cir. 1956). But the Sixth Circuit will not be bound by its own authority on the issue.

Like Richardson, the Sixth Circuit arbitrarily, concluded that Petitioner "did not raise a due-process argument." The panel's conclusion is (i) objectively false, (ii) clearly unsupported by the cited authority and citations to

[4] *Liteky* concerns recusal under 28 U.S.C. § 455(a), not at issue here.

the record, and (iii) is inconsistent with the fair and impartial tribunal guaranteed by the Due Process Clause.

The Sixth Circuit panel did not offer a legitimate reason in its "order" as to how the due process arguments raised and cited in the record, which Richardson acknowledged but dismissed as "irrelevant," failed to establish voidness.

Specifically, the panel ignored the District Court's (i) superficial review, (ii) unwarranted prejudgment-in-fact of the issue of Rule 8 and the action's merits in whole, and (iii) failure to consider the totality of the circumstances or Rule 8's legitimate legal standards – inconsistent with the Sixth Circuit's own binding authority on these issues. The panel simply pretended those arguments and citations to the record did not exist. They exist, and according to law are sufficient to establish voidness.

Instead, the panel adopted the District Court's subjective negativity that Petitioner is "unreasonable" and "excessive" for complying with the text of Rule 8, which states plainly and broadly "a party may state as many separate claims [] as it has" (Fed. R. Civ. P. 8(d)(3)) and Rule 8's jurisprudence requiring pleading special matters of fraud with sufficient factual content rising to a plausible, non-negligible right to relief while giving fair notice. Fed. R. Civ. P. 9(b).

More troubling is that no painfully absurd argument from the Respondents was patently defective enough to spur any appearance of justice from the District Court or Sixth Circuit, including Respondents' argument that due process is "irrelevant," which Richardson agrees with. Defendants appear to be correct, since due process exists only to the extent it is upheld by the judiciary.

Defendants' painfully absurd primary rebuttal argument against objective showings of unconstitutional judicial misconduct is that Petitioner is incompetently attacking the wrong legal filings. *See* App'x L at *154a-162a.

Respondents doubled down on appeal, saying Petitioner's true and fair characterization of Respondents' laughable "argument" is "wrong," without elaboration.

The Sixth Circuit denied *en banc* rehearing to correct the judicial due process violations shown. App'x A at *1a. Therefore, "substantial questions" warranting Supreme Court review exist as to the issues of Rule 8, judicial misconduct, and judicial denials of fundamentally guaranteed constitutional rights, and certiorari is warranted.

REASONS FOR GRANTING THE WRIT

The judicial circuits are completely fractured regarding whether Rule 8 allows a judge an unqualified right to dismiss a complaint based on length alone, without considering the totality of the circumstances or whether fair notice has been received. A majority of appellate authority rejects such an absolute, unqualified judicial right exists, requiring a unifying ruling from this Court.[5]

A. Rule 8 Must Be Further Interpreted

No clear authority exists as to an objective page limitation of a complaint or what constitutes a "short and plain" statement of a claim for a long and complex history of corporate misconduct – only subjective, scattered rulings, sometimes with complaints as few as 16 pages being ensnared as purportedly violating Rule 8(a)(2)'s "short and plain" requirement.

1. The "short and plain" requirement is vauge and lacks objective criteria.

Rule 8 is a favored legal graveyard where viable claims are exiled and plaintiffs hamstrung by judges and

[5] The record contains authority from the 2nd, 3rd, 6th, 7th, 8th, 9th, 10th, and 11th Circuits supporting Petitioner's view of Rule 8.

defendants relying on a superficial, subjective interpretation, like the District Court did.

Never has the facial language of a rule been abused so much, by so many, to deny justice. Far too much credence is given to the facial and subjective "short and plain" language, without more objective criteria.

This Court has never opined on a complaint's length, alone, being a basis for a violation. "The purpose of Rule 8 is to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests[.]" *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

"To satisfy the notice-pleading standard of Rule 8 of the Federal Rules of Civil Procedure, a complaint must provide a "short and plain statement of the claim showing that the pleader is entitled to relief," which is sufficient to provide the defendant with "fair notice" of the claim and its basis." *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (per curiam).

Respondents' extraordinary pattern of criminality resulted in a complaint that provided fair notice, despite its length:

> "[T]he essence of [Petitioner's] action [is to] secure a determination that the General Sessions judgment of eviction was procured unlawfully and award him damages and injunctive relief as a consequence thereof."

Reply to Ptf.'s Opp. of FREEMAN-WEBB Def.'s Mot. to Dis., R. 110 at *1, PageID#: 1521 (clarification added). The record shows all Respondents' recitations of their complete understanding (and adoption and incorporation of other Respondents' understandings) of the legal and factual grounds upon which relief is sought, consistent with coherent imputation of fair notice, fully satisfying Rule 8's "short and plain" requirement.

The objective consistency of imputing fair notice to twenty-one named Respondents speaks to the complaint's

legal, factual, and organizational coherence, strictly complying with Rule 8's legitimate purpose. The lower courts in this petition will not be bound.

2. A majority of Courts of Appeal reject the District Court's legal conclusions.

In the context of complex multiparty, multiclaim actions, as here, a majority of the Courts of Appeal correctly recognize the "short and plain" requirement is satisfied when the parties receive fair notice of the legal and factual grounds upon which relief sought, regardless of pleading length:

> "Rule 8(a)(2) speaks of a short and plain statement of each claim, not a short and plain pleading. Hence, in the context of a multiparty, multiclaim complaint each claim should be stated as succinctly and plainly as possible even though the entire pleading may prove to be long and complicated by virtue of the number of parties and claims.'" 5 Charles Alan Wright et al., Federal Practice and Procedure § 1217 (3d ed. 2017). [Petitioner's] amended complaint, though long and complex, is clear enough to provide notice of her claims. Thus, the District Court should not have dismissed it under Rule 8."

Bhatt v. Hoffman, Case No. 17-1182 at *7 (3rd Cir. Nov. 7, 2017) (internal quotations included and clarification added). Other Courts of Appeal decisions are consistent with Petitioner's view that length of a complaint alone, without fatal unintelligibility or incoherence, is not a valid ground to find a Rule 8 violation. *See Wynder v. McMahon*, 360 F.3d 73, 80 (2nd Cir. 2004) (holding that district court erred in dismissing on Rule 8 grounds when the complaint, though long, was not "so confused, ambiguous, vague or otherwise unintelligible that its true substance, if any, is well disguised) (internal quotation omitted); *Garst v.*

Lockheed-Martin Corp., 328 F.3d 374, 378 (7th Cir. 2003) ("Some complaints are windy but understandable. Surplusage can and should be ignored. Instead of insisting that the parties perfect their pleadings, a judge should bypass the dross and get on with the case.").

"Moreover, a complaint — so long as it is minimally sufficient to put a defendant on notice of the claims against him — will not fail for mere surplusage." *Bailey v. Janssen Pharmaceutica, Inc.*, 288 F. App'x 597 (11th Cir. 2008).

It is well established a complaint's length alone does not violate Rule 8 when it intelligibly provides fair notice of claims, regardless of length. *See Hearns v. San Bernardino Police Dep't*, 530 F.3d 1124 (9th Cir. 2008) ("long but intelligible" complaint deemed "excessive" alleging "viable, coherent claims" satisfies Rule 8).

District Courts in the Sixth Circuit frequently recognize that a logical, organized, and coherent complaint is not violative of Rule 8, even due to judicially disfavored length, also citing *Hearns*:

> "Although long, however, the Amended Complaint is neither confusing nor incomprehensible and generally fulfills the purposes of Rule 8 by giving Defendants fair notice of Petitioners' claims. Because "verbosity or length is not by itself a basis for dismissing a complaint based on Rule 8(a)," Defendants' [motion to dismiss] will be denied."

City of Pontiac Gen. Employees' Ret. Syst. v. Stryker, Case No. 1:10-CV-520 at *14 (W.D. Mich. Jul. 6, 2011) (quoting *Hearns v. San Bernardino Police Dep't*, 530 F.3d 1124, 1131 (9th Cir. 2008) (reiterating that a pleading's "verbosity and length," even if excessive, does not mandate dismissal or violate Rule 8; dismissal only appropriate when a pleading's verbosity confuses issues and renders it fatally unclear)); *See also, Grubbs v. Sheakley Grp., Inc.*, Case No. 1:13-cv-246 (S.D. Ohio Jan. 17, 2014) ("While the proposed amended complaint is admittedly lengthy, it "is

neither confusing nor incomprehensible and generally fulfills the purposes of Rule 8 by giving [de]fendants fair notice of Petitioners' claims.").

"[A]lthough each [complaint] set forth excessively detailed factual allegations, they were coherent, well-organized, and stated legally viable claims. We therefore reverse in appeal[.]" *Hearns v. San Bernardino*, 530 F.3d 1124, 1127 (9th Cir. 2008).

Hearns also reiterates that pleading length alone, even judicially disfavored length deemed "excessive" is not a valid basis for a Rule 8 violation because the defendants in *Hearns* (i) received fair notice, (ii) failed to show the complaint was fatally incoherent, and (iii) failed to show insufficient notice of claims – exactly like this action:

> "[T]he complaint at issue here was not "replete with redundancy and largely irrelevant." *Cf. McHenry*, 84 F.3d at 1177. It set out more factual detail than necessary, but the overview was relevant to Petitioner's causes of action for employment discrimination. Nor was it "confusing and conclusory." *Cf. Nevijel*, 651 F.2d at 674. The complaint is logically organized, divided into a description of the parties, a chronological factual background, and a presentation of enumerated legal claims, each of which lists the liable Defendants and legal basis therefor. The FAC and the original complaint contain excessive detail, but are intelligible and clearly delineate the claims and the Defendants against whom the claims are made. These facts distinguish this complaint from the ones that concern the dissent. Here, the Defendants should have no difficulty in responding to the claims with an answer and/or with a Rule 12(b)(6) motion to dismiss."

Id. at *1132. The complaint at issue in this action

plainly passes the analysis set forth in *Hearns*. *See* App'x L at *148a-149a.

The Sixth Circuit adopted, in *Kensu v. Corizon, Inc. et al.*, Case No. 21-1083 (6th Cir. 2021), the well established views of *Hearns* that Rule 8 is violated *only* when the substance of the complaint, *i.e.*, the legal and factual grounds, are not pled with sufficient clarity, or "obfuscated" within a "morass of irrelevancies," rising to "fatal unintelligibility." App'x L at *146a-150a. That did not happen here.

"We have not had much occasion to interpret Rule 8 . . . [we] therefore publish this opinion to set precedent for any future cases in this vein." *Kensu* at *5.

The Sixth Circuit fully understands as to why the complaint filed in the District Court strictly complies with Rule 8:

> On appeal, Knapp [] argues that: (1) the district court erred in concluding that "only a complaint that is 'simple'" meets Rule 8's pleading requirements; (2) his original complaint, though lengthy, complied with Rule 8 because it was coherent and intelligible and put the defendants on notice of the claims against them[.]

App'x B at *5a. But instead, the Sixth Circuit directly overruled the published *Kensu* panel, and this Court's binding precedent, as to when Rule 8 is satisfied by denying Petitioner the protection of its own precedent [6], claiming Petitioner "did not raise a due process argument"

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[6] "As with most decisions interpreting procedural rules, our most important task, after fidelity to any Supreme Court decisions bearing upon the question, is to provide an understandable and practical guide to the application of the federal rules so that litigants don't innocently frustrate their access to our courts." *Minority Employees v. Tennessee Dep't of Employment Security*, 901 F.2d 1327, 1328 (6th Cir. 1990).

despite, in fact, the citations to the record showing as much, shown further. App'x F at *65a-68a.

Kensu makes clear: A Rule 8 violation occurs because obfuscated pleading fails to provide "fair notice" of claims and "the grounds upon which they rest." *Kensu* at *5 (citing *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 514 (2002)):

> "What is a short and plain statement of a claim or a simple, clear, and direct allegation will, of course, depend on the totality of the circumstances: more complicated cases will generally require more pleading."

Kensu at *6. The record shows Respondents fully comprehend "the legal and factual grounds upon which relief is sought" and were able to "easily identify the soul" (*Kensu* at *10) of this independent action, consistent with receiving fair notice.

Petitioner respectfully submits that the Court should adopt as supreme law the 9th Circuit's approach to Rule 8 analysis in *Hearns*.

"[W]here, as here, the complaint is not "too confusing to determine the facts that constitute the alleged wrongful conduct," dismissal based on "undue length" or "the inclusion of superfluous material" generally is inappropriate." *Watford v. Pfister*, No. 19-3221 at *2 (7th Cir. 2020) (quoting *Stanard v. Nygren*, 658 F.3d 792, 797-98 (7th Cir. 2011)).

"There is no bright-line rule providing that the length of a complaint, in and of itself, is a basis for dismissal . . . verbosity or length is not by itself a basis for [violation] of Rule 8(a)." *Grubbs v. Sheakley Grp.*, Inc., Case No. 1:13-cv-246 at *10 (S.D. Ohio Jan. 17, 2014).

"On its face, the complaint might seem intimidating. But upon a close and diligent reading, it becomes clear that many of the claims can withstand scrutiny. Dismissal of the complaint in its entirety is thus not appropriate." *Glover v. Rivas*, 2:19-cv-13406 at *9 (E.D. Mich. 2021).

Not only did the District Court fail to perform a "close and diligent reading" consistent with due process of law to consider the totality of the circumstances, no Respondent, nor the District Court, nor the Sixth Circuit, has alleged or shown the complaint is so fatally unintelligible or legally deficient as to fail to provide fair notice of stated claims – only inconvenient for stating claims with sufficient factual particularity rising to a plausible, non-negligible right to relief in complex multiclaim, multiparty litigation. "Pleadings must be construed so as to do justice." Fed. R. Civ. P. 8(e). Justice did not happen, here.

The District Court and Sixth Circuit's judgments rest upon firmly and consistently rejected legal grounds. *See Kensu* (adopting *Hearns*):

> "Two Ninth Circuit cases decided shortly after *Agnew* characterize the holding of *Agnew* as being limited to a complaint that is "so verbose, confused and redundant that its true substance, if any, is well disguised." *Gillibeau*, 417 F.2d at 431; *Corcoran*, 347 F.2d at 223. *Agnew* has never been cited by this court as standing for the proposition that a complaint may be found to be in violation of Rule 8(a) solely based on excessive length, nor does any other Ninth Circuit case contain such a holding. Decisions from other circuits are also consistent with the view that verbosity or length is not by itself a basis for dismissing a complaint based on Rule 8(a)."

Hearns at *1131. The District Court intentionally concluded, arbitrarily, and contrary to all of Petitioner's legitimate briefings on the issue when opposing Respondents' motions to dismiss, that Rule 8 compliance turns solely on whether a complaint is "simple" and if the length is to the District Court's subjective liking, rather than if the *substance* of the complaint, *which the District Court did not meaningfully review*, imputes fair notice to

the Respondents of the legal and factual grounds upon which relief is sought.

At no point have Respondents denied receiving fair notice, requested a more definite statement, or otherwise legitimately identified *anything* coming close to "fatal unintelligibility" or other irrelevancies.

B. Judicial Misconduct Must Be Publicly Corrected.

"[T]o perform its high function in the best way[,] `justice must satisfy the appearance of justice.'" *Republican Party of Minn. v. White*, 536 U.S. 778, 817 (2002) (quoting *Offutt v. United States*, 348 U.S. 11, 14 (1954)).

If a judge of the United States can (i) arbitrarily cast aside with defiance legal standards of Rule 8 binding upon the courts and (ii) announce unwarranted prejudgments of the merits of a case in totality without prior review, relying on that defiance, then that "judge" is unrestrained by law, prejudicing Petitioner's fundamental right to be fairly heard according to law. *Davidson v. Cannon*, 474 U.S. 344, 106 (1986) ("[T]he touchstone of due process is protection of the individual against arbitrary action of the government.").

"In short, the judiciary collapses if the public loses faith in its integrity; and one aspect of integrity, of course, is honesty. Put plainly, the public is unlikely to view a lying judge as a fair judge." *Winter v. Wolnitzek*, 186 F. Supp. 3d 673, 697 (E.D. Ky. 2016).

Holmes and Richardson are lying judges.

1. Holmes intended to deceive Petitioner.

Holmes lied about Rule 8 in attempting to deceive and intimidate Petitioner, a non-attorney *pro se* litigant. That is a foul.

Holmes intended to impose her own subjective limitations and assert unbridled judicial discretion in the

First Void Order by cherry-picking *dicta* from *Kadamovas v. Stevens*, 706 F.3d 843, 844 (7th Cir. 2013):

> "District judges are busy, and therefore have a right to dismiss a complaint that is so long that it imposes an undue burden on the judge, to the prejudice of other litigants seeking the judge's attention."

App'x K at *38. Except the "undue burdens" of fatal unintelligibility, irrelevancy, and lack of fair notice is absent here. Moreover, a long and complex complaint detailing Respondents' decade long, complex pattern of criminality is entirely warranted.

Holmes deceptively misapplied *Kadamovas* to support the arbitrary legal conclusion that "length" alone, without fatal unintelligibility is violative of Rule 8.

Misapplication of law is "always an abuse of discretion." *United States v. Taylor*, 286 F.3d 303, 305 (6th Cir. 2002).

In truth, *Kadamovas* supports Plaintiff's position, and all authority cited *supra,* that the complaint in this action fully complies with the legitimate legal standards of Rule 8 – fair notice and intelligibility.

Since a plaintiff must now show plausibility above the speculative level, complaints are "likely to be longer—and legitimately so—than before *Twombly* and *Iqbal.*" *Kadamovas at* *845.

Holmes ignored the reasoning and ultimate findings of *Kadamovas* to support her intentionally arbitrary legal conclusions.

Kadamovas' primary holding further establishes that a long, coherent, but judicially disfavored complaint complies with Rule 8 when it imputes fair notice, consistent with the analysis and findings of the 9th Circuit in *Hearns. See Kensu.*

Holmes offered no other "burden" that "would cause both the court and the defendants undue difficulty in determining the claims and allegations actually at issue"

and failed to "accurately explain" according to law. *Kensu* at *7.

Holmes also cites *Davis v. Anderson*, No. 17-1732 (7th Cir. 2017), but deceptively omits the fatal unintelligibility and irrelevance therein:

> "The judge also noted that the amended complaint blatantly violated Rule 10(b)'s requirement that allegations be set forth in separately numbered paragraphs.
> ...
> The amended complaint, like the original version, also failed to connect claims to defendants; most counts, the judge noted, were contained in a "single mammoth paragraph.""
> ...
> Many of the numbered paragraphs in this section continue on for many pages and encompass wholly unrelated or irrelevant circumstances. A representative example is paragraph 4(s), which spans 14 pages, contains 67 unnumbered paragraphs, and covers multiple unrelated and often incoherent topics
> ...
> Other unnumbered paragraphs in the Preliminary Statement are similar; the last one in this section begins on page 53 and continues for 37 pages.
> ...
> The amended complaint then provides a "Chronology" that consists of many unnumbered paragraphs. This section covers myriad events broken down by year, with subheadings for each year from 1991 to 2015. After discussing "Jurisdiction and Venue" for two pages, the amended complaint moves on to "Common Allegations," followed by legal theories arranged into 16 counts. It's not clear, however, which defendants are alleged to be liable under each count. Thirteen of the sixteen counts are

> pleaded in a single paragraph; most of the "counts" are at least a page long.

Davis v. Anderson, No. 17-1732, 3 (7th Cir. 2017). No such similar pleading irrelevancies have been cited by Respondents, the District Court, or the Sixth Circuit because they do not exist. *Davis* concerns a 500+ page complaint concerning the *single issue* of child custody and is totally incongruent to the circumstances of this matter.

In ignoring the ultimate findings of *Kadamovas* to steer the outcome of the proceedings to her will, rather than towards the law and justice, Holmes ignores *Kadamovas'* directive that length must be meaningfully considered relative to the totality of the circumstances:

> "[t]he word "short" in Rule 8(a)(2) is a **relative term**. Brevity must be calibrated to the number of claims and also to their character, since some require more explanation than others to establish their plausibility—and the Supreme Court requires that a complaint establish the plausibility of its claims."

Kadamovas at *844 (internal quotations omitted) (emphasis added). Holmes' intentional misapplication of *Davis* and misrepresentation of *Kadamovas* supports Petitioner's argument that Holmes intentionally failed to meaningfully consider whether the complaint's length is warranted "relative" to FREEMAN-WEBB's longstanding pattern of injuring citizens and denying protection of federal law over the course of at least a decade.

"The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." *Swierkiewicz v. Sorema N. A.*, 534 U.S. 506, 514 (2002). Holmes certainly treated this case as a game, and Petitioner a pawn.

In summary, all cases Holmes cited in the First Void Order supporting length alone as a Rule 8 violation were substantively unintelligible or contained irrelevant material presented in a disjointed manner, unlike the complaint at issue in this litigation.

Holmes' intentional misrepresentation of Rule 8 jurisprudence and false comparisons were not error, but judicial misconduct.

2. Richardson prejudged the issues of Rule 8, voidness, and the merits of the action in totality, causing voidness.

On December 21st, 2020, prior to Petitioner filing his objections to dismissal on January 4th, 2021, Richardson's actual and apparent judicial bias became objectively present in the record:

> "The Court . . . will not allow Plaintiff to monopolize its time with filings that are entirely unreasonable and unauthorized in their length."

Order, R. 338 at *2, PageID#: 3706. If that is not a prejudgment, then *nothing* is a prejudgment. Richardson's unwarranted, negative prejudgment-in-fact of the issue of Rule 8, the voidness of the First Void Order, and Holmes' unconstitutional judicial misconduct is the source of the Void Final Order and Judgment's voidness.

"A trial judge's announced intention . . . to make a specific ruling, regardless of any evidence or argument to the contrary, is the paradigm of judicial bias and prejudice. We could not imagine a more telling basis for a party to fear that he will not receive a fair hearing." *Gonzalez v. Goldstein,* 633 So. 2d 1183 (Fla. Dist. Ct. App. 1994) (citing *Fischer v. Knuck*, 497 SO.2d 240 (Fla. 1986)).

"A claimant may bring a due-process claim of judicial bias by showing either actual bias or the appearance of bias . . . the standard is purely objective and the inquiry is

limited to outward manifestations and reasonable inferences drawn therefrom." *United States v. Akers*, 561 F. App'x 769 (10th Cir. 2014).

In seeking to set aside the Void Final Order and Judgment of dismissal, Richardson's actual and apparent judicial bias *before dismissal* was laid bare:

> "On December 21st, 2020 Judge Eli Richardson announced his negative pre-judgments on the issues of (i) whether Holmes' committed multiple judicial due process violations and bias relating to the issue of Rule 8, (ii) whether the First and Second Void Orders (Dkt. 202, 306) were void, and (iii) whether [Petitioner's] lawful, respectful, and procedurally proper resistance and non-compliance with those void orders was proper, without ever considering the prior motions, objections, reasons, arguments, or binding Supreme Court authority. They were still pending[.]"

App'x F at *65a. Petitioner cited the record with factual particularity objectively showing Richardson's unwarranted prejudgments-in-fact and reasonable inferences therefrom, *i.e.*, judicial bias. *Id* at *66a-68a:

> "Plaintiff did not comply with an order of the Magistrate Judge which ordered him to file an amended complaint in compliance with Fed. R. Civ. P. 8 . . . Plaintiff has not filed an amended complaint that complies with Fed. R. Civ. P. 8."

Order, R. 338 at *2, PageID#: 3706. Richardson had already decided the issue of voidness before seeing Petitioner's objections to dismissal which contained the legal authority supporting voidness and authorizing disobedience.

Petitioner did not argue "that the order [of dismissal] was void because it [the order itself] deprived him of due

process" (clarification added). App'x B at *5a. The Sixth Circuit's panel's re-statement is factually and legally unsupported by the record.

Richardson's unwarranted, hostile prejudgments-in-fact aimed at the "four motions challenging the legitimacy of the magistrate judge's orders" (App'x at *4a) on Rule 8 are the object of Richardson's judicial bias and the source of the order of dismissal's voidness because Richardson created, *before dismissal,* (i) the objective appearance of bias by announcing the outcomes of those "four motions" in advance of their actual adjudication and (ii) actually denied a meaningful opportunity to be heard according to the legitimate legal standards of Rule 8, foreclosing any chance of success, objectively inconsistent with judicial impartiality:

> Judge Eli Richardson fully decided [the issues of Rule 8, voidness, and judicial due process violations] (which are the basis of Petitioner's Objections to Holmes' R&R recommending dismissal with prejudice) and announced his negative prejudgments in multiple instances, with absolutely zero consideration to the prior motions or Petitioner's arguments and binding precedential legal authorities contained therein[.]

App'x at *65a (clarification added). In refusing to acknowledge his unwarranted prejudgments-in-fact, Richardson objectively confirmed his hostile judicial bias in negatively prejudging, in fact, the action's merits in totality without prior substantive review: "Petitioner is not entitled to relief from this Court[.]" App'x C at *14a.

Richardson has zero clue if the complaint states a claim upon which relief can be granted, but purports to already know it does not. That is textbook prejudgment.

"It is a denial of justice to force a litigant to try his case before a judge who has already decided it, and has announced that decision in advance of the hearing." *In re*

Cameron, 151 S.W. 76-77. "A fair trial is the heart of due process. It, therefore, goes without saying that a trial before a biased or prejudiced fact finder is a denial of due process." *Leighton v. Henderson*, 414 S.W.2d 419 (Tenn. 1967).

3. The District Court's orders are void.

"The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases." *Marshall v. Jerrico*, Inc., 446 U.S. 238, 242 (1980).

It is impartiality that "seeks to guarantee each litigant, not an equal chance to win the legal points in the case, but at least some chance of doing so." *White* at *536.

One meaning of "impartiality" is "lack of bias for or against either party to [a] proceeding." *Id.* at 775. This notion "assures equal application of the law" because it "guarantees a party that the judge who hears his case will apply the law to him in the same way he applies it to any other party." *Id.* at 776. The District Court intentionally did not apply Rule 8 "the same way" to Petitioner.

"[T]he appearance of bias is as injurious to the integrity of the judicial system as actual bias." *Davis v. Liberty Mut. Ins. Co.*, 38 S.W.3d 560, 565 (Tenn. 2001).

The Sixth's Circuits finding that "[a] judgment is not void . . . simply because it is . . . erroneous" (App'x at *7a) obfuscates the record, specifically, Holmes' intentional misrepresentation of *Kadamovas* and *Davis* in the First Void Order and Richardson's prejudgments-in-fact thereto as to the issues of Rule 8, voidness, and the action's merits in totality.

"While trial courts have a duty to remain impartial and neutral, judges are not merely umpires or moderators. They also have a duty to apply the law and assist in the search for truth." *State v. Baldwin*, 388 So. 2d 679 (La. 1980) (citing *Knapp*). Prior to dismissal, Petitioner clearly

and respectfully communicated why compliance was not legally required, as provided by law:

> Petitioner respectfully declines to comply with the [First Void Order] (Dkt. 202) . . . [b]ecause the [Holmes] has not shown sufficient compliance with the fundamental requirements of due process . . . resulting in an Order that is null, void, and without legal effect.

Notice, R. 282, PageID#: 2759 (clarification added). The Sixth Circuit panel's affirmance relies upon the same procedurally defective, circular reasoning as the District Court in stating Holmes "was not required to review a complaint that did not comply with the Federal Rules" (App'x B at *7a) and when giving "notice that his complaint did not comply with Rule 8 and an opportunity to amend" (*Id.*) No such underlying Rule 8 violation legally exists. *Kensu, Hearns, Bhatt, Kadamovas, Twombly, Iqbal.*

Holmes' "opportunity to amend" is the judicial equivalent of receiving a "warning" for a "busted tail light" by the cop who smashed it – a corrupt act.

The Sixth Circuit's unsupported restatement that Petitioner argued the First Void Order was void because Holmes "did not adjudicate the claims" (App'x B at *4a) further obfuscates the merit of this petition. Lack of "adjudication," *i.e.*, judgment, was not alleged as the source of Holmes' denial of due process or the First Void Order's voidness.

The source of the First Void Order's voidness is Holmes' procedurally defective (i) superficial review, (ii) unwarranted, hostile prejudgment of the complaint without meaningful review, and (iii) refusing to consider the totality of the circumstances or comply with binding legal standards of Rule 8, foreclosing any chance of success, offending due process.

> "[Holmes] did not, and cannot, "meaningfully" weigh whether the length of the Complaint is proper "relative" to the FREEMAN-WEBB Racketeering Enterprises' decade long pattern of fraud, abuse, and criminality. Nor did the [Holmes] "meaningfully" weigh the Complaint's length against the [binding legal standards] of Rule 8, i.e., imputation of fair notice and coherence (also referred to as "intelligibility" in Rule 8 jurisprudence). Instead, the [Holmes] fixated exclusively on page count[.]"

App'x K at *133a (clarification added). Holmes' admittedly "brief review of this case" falls far short of providing the requisite "meaningful" adjudication required by due process of law necessary to promulgate a valid order. *See, e.g., generally, Lashley v. Secretary of Health Human Serv,* 708 F.2d 1048 (6th Cir. 1983) ("Lashley contends that the hearing before the [administrative law judge] was so superficial as to deny him due process . . . . We agree[.]"

"The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge,* 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo,* 380 U.S. 545, 552 (1965); *see also Tate v. Ault,* 771 S. 416, 419 (Tenn. Ct. App. 1989).

Absent "some chance" of success or being heard in a "meaningful manner" a tribunal ceases to be impartial, judicial bias is present, and due process offended. "Fairness requires an absence of actual bias or prejudice[.]" *Knapp at* *465.

In direct conflict with *White,* the Sixth Circuit panel relies on *Liteky v. United States,* 510 U.S. 540, 555 (1994) for the proposition that a litigant must instead show a subjective "deep-seated favoritism or antagonism" to establish bias sufficient for recusal. App'x B at *7a.

But this petition is not about extrajudicial "personal bias" for recusal – it is about actual and apparent "judicial bias" inconsistent with due process.

The validity of a District Court's orders and judgments turn on sufficient due process of law, *i.e.*, judicial impartiality and a meaningful adjudication process. *Doe v. Lexington-Fayette Urb. Cnty. Gov't*, 407 F.3d 755, 761 (6th Cir. 2005) (quoting *Antoine v. Atlas Turner, Inc.*, 66 F.3d 105, 108 (6th Cir. 1995)).

This necessarily includes consideration and compliance with binding legal authority set forth by this Court, absent here, and absence of actual and apparent judicial bias, also absent.

Liteky's application conflicts with *White* as to the criteria of when judicial "impartiality" is actually and apparently absent, resulting in void *ab inito* orders and judgments.

The source of actual and apparent judicial bias removing impartiality, denying due process, and causing voidness is the District Court's (i) foreclosing of any chance of success and meaningful opportunity to be heard on the issue of Rule 8 through *active disregard* of the this Court's binding authority as to when Rule 8 is satisfied; (ii) unwarranted, hostile prejudgments-in-fact of the action's legal merits in totality without prior, meaningful substantive review, and (iii) objectively inequitable standards of conduct and scrutiny of the parties, *i.e.*, excessive negative scrutiny for Petitioner, and zero scrutiny or skepticism for Respondents despite their painfully absurd fabrications of the record and objective violations of local court rules. *See* App'x L at *154a-162a.

All are set forth in factual particularity (i) during litigation and objection to dismissal, (ii) moving to set aside judgment, and (iii) on appeal, to no just outcome. The Sixth Circuit's finding of innocent judicial "error" is unsupported by the record, shown *supra*, and certiorari is warranted.

"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance

with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it." *Butz v. Economou*, 438 U.S. 478, 506 (1978) (citing *United States v. Lee*, 106 U.S. 220 (1882)).

The actual and apparent judicial impartiality demanded by due process of law to render a valid order of dismissal is absent, and unjustly favors/aligns with the Respondents, immunizing them from the rule of law. "At its core, due process demands a neutral judge." *Gafurova v. Sessions*, Case No. 16-4688 (6th Cir. Nov. 8, 2017).

As briefed *supra*, the law provides a legal path to disobey judicial authority when due process is offended. Petitioner has legitimately availed himself of this legal remedy in good faith and in a procedurally proper manner. *Declaration*, R. 305, PageID#: 3384-3385.

In misapplying the criteria of "personal bias" for recusal the panel to avoid analyzing the issue of Rule 8, the Sixth Circuit is in conflict with the criteria establishing the actual and apparent judicial bias present. "We may accept as fundamental, the axiom that a trial by a biased judge is not in conformity with due process of law." *National Labor Relations Bd. v. Ford Motor Co.*, 114 F.2d 905 (6th Cir. 1940) (citing *Tumey v. Ohio*, 273 U.S. 510, 522 (1927)).

The Sixth Circuit's affirmance directly conflicts with longstanding Sixth Circuit precedent concerning Judge Richardson's unwarranted, hostile prejudgments-in-fact:

> "When the remarks of a judge clearly indicate a hostility to one of the parties, or an unwarranted prejudgment of the merits of the case, or an alignment on the part of the Court with one of the parties for the purpose of furthering or supporting the contentions of such party, the judge indicates, whether consciously or not, a personal bias and prejudice which renders invalid any resulting judgment in favor of the party so favored."

Knapp at *466. "If a trial judge's involvement . . . has resulted in bias or an unwarranted prejudgment of the merits of the case, *or the appearance thereof*, then any resulting judgment in favor of the party so favored is invalid." *Anderson v. Sheppard*, 856 F.2d 741, 747 n.1 (6th Cir. 1988) (emphasis original).

The binding precedent of *Knapp* and its progeny directs that even the *appearance* of the *Knapp* factors requires reversal. All are present in the record, which the Sixth Circuit acknowledges but ordains judicial misconduct as insignificant "slights." App'x B at *7a. The law of the Sixth Circuit is clear, as is the District Court's judicial misconduct, rendering its orders void.

The law provides such void orders may be legitimately attacked and disobeyed. *United States v. Di Mauro,* 441 F.2d 428, 436 (8th Cir. 1971) ("[A] party [may] disobey a void order without punishment. . . if he has first made attempts to have the order vacated."). Petitioner followed the law as to attempting to vacate the First Void Order to no success. App'x J-K at *124a-138a.

The Sixth Circuit says a judge can never lose their authority, effectively decreeing that "the judge is always right," even when ignoring binding legal standards, using deception to trick litigants, and making unwarranted, hostile prejudgments.

This is plainly, legally, and morally wrong, inherently inequitable, and requires public correction. "The duty to obey exist[s] only if the order was constitutional." *Zal v. Steppe*, 968 F.2d 924, 934 (9th Cir. 1992).

Like the District Court, the Sixth Circuit will not be impartially bound by the rule of law, or its prior published decision in *Kensu* adopting the views of *Hearns* as to Rule 8, or the longstanding jurisprudence of *Knapp* and its progeny as to judicial misconduct, or this Court's decisions in *White* as to the objective criteria of what judicial "impartiality" means.

4. The District Court usurped legislative rulemaking power.

A District Court making up the rules as it goes along with subjective, standardless standards is inherently problematic and presents a Constitutional separation of power issue.

The District Court appears to be unconstitutionally usurping legislative rulemaking power to arbitrarily impose its own subjective standards of Rule 8 compliance so as to avoid providing equal administration of justice. App'x G at *79a-83a.

The District Court's conclusions and misapplications of law are arbitrary, inconsistent with due process of law, and wholly unsupported by the breadth of authoritative Rule 8 jurisprudence.

Petitioner made civil, reasoned, objective, professional, and procedurally proper attempts to resist and set aside the District Court's void orders before respectfully declining to comply. Petitioner's civil resistance to complying with void orders from actually and apparently biased jurists is fully justified by the law and weight of the record.

The District Court denied due process, equal protection, abused discretion, and engaged in judicial misconduct in (i) dismissing Petitioner's independent action based on willful misapplication of the law, (ii) attempting to force Petitioner's compliance with willful misapplication of the law and fabricating legal standards in multiple void orders, (iii) and refusing to set aside those void orders, aligning with the Respondents' argument that due process of law is "irrelevant." "[R]efusal to vacate/set aside a void Order is a *per se* abuse of discretion." *Burrell v. Henderson*, 434 F.3d 826, 831 (6th Cir. 2006).

C. Respondents' Decade Long Pattern Of Criminality Is At The "Core" Of Matters Of Public Concern

"Perjury is a most serious offense and anyone who commits perjury should be punished for it." *Whiteside v. Scurr*, 750 F.2d 713 (8th Cir. 1984).

Respondents have a longstanding, unchecked pattern to commit, or tolerate, multiple premeditated frauds on citizens, Courts, and state and federal regulatory bodies – this is the *substance* of the complaint, *clearly set forth in the first three pages,* and objectively documented in official audio/video evidence. *See Video Exhibit U*, R. 1 at *339, ¶ 1228, PageID#: 339.

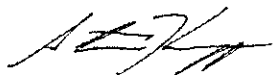
"[E]vidence implicating a government official in criminal activity goes to the very core of matters of public concern." *Nebraska Press Assn. v. Stuart*, 427 U.S. 539, 606 (1976).

For the reasons briefed, the subject-matter of this petition "goes to the very core of matters of public concern" and certiorari is warranted to (i) correct precedent-defying conflicts of exceptional public importance affecting all federal litigants relying on the Federal Rules, (ii) correct Richardson, Holmes, and the Sixth Circuit, (iii) publicly declare adherence to the rule of law, and (iv) reach a just decision on the merits. *Shepard Cl. Serv., v. William Darrah Assoc.*, 796 F.2d 190 (6th Cir. 1986) (strong policy favoring deciding cases on their merits outweighs any inconvenience to the courts); *Nichols v. U.S.*, 563 F.3d 240, 247 (6th Cir. 2009).

CONCLUSION

The Court should grant certiorari.

Respectfully submitted,



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