No. 22-428

In The Supreme Court of the United States

DEBORAH WALTON,

Petitioner,

v.

FIRST MERCHANTS BANK,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Whether a Creditor must follow the requirements specified in 1974 by the Fair Credit Billing Act, Pub. L. 93-495, Tit. III, 88 Stat. 1511, for the correction of billing errors, regardless if a dispute letter is sent, more than once, that addresses new billing errors, and prior unresolved disputed billing errors?

II. Whether the Seventh Circuit Court of Appeals deprived a Pro Se Litigant her Fourteenth Amendment Rights; that is intended to Achieve Racial Justice; by denying her procedural due process, and sanctioning her based on Fraudulent emails?

III. Whether the Seventh Circuit deprived a Pro Se Litigant of her First Amendment Rights; by instructing all Districts in the Circuit not to submit any unfiled papers to their court for two years; while the Order directed the Districts to disposed of pending cases and new filings?

PARTIES TO THE PROCEEDING

All parties are listed in the caption.

RULE 29.6 STATEMENT

None of the petitioners is a nongovernmental Corporation. None of the petitioners has a parent Corporation or shares held Publicly traded company

STATEMENT OF RELATED CASES

Deborah Walton v. First Merchants Bank, Seventh Circuit Court of Appeals Docket No. **22-1240** Ended September 1, 2022 Southern District of Indiana Docket No. **1:22-cv-01789-JRS-MPB.** Ended September 13, 2022 Southern District of Indiana Docket No. **1:21-cv-00419-JRS-TAB.** Ended September 15, 2022 Southern District of Indiana Docket No. **1:21-cv-00365-JPH-TAB.** Ended September 16, 2022 Southern District of Indiana Docket No. **1:17-cv-01888-SEB-MPB.** Ended September 14, 2022 Southern District of Indiana Docket No. **1:17-cv-01888-SEB-MPB**. Ended September 28, 2022 United States Supreme Court Docket No. **22-295 Pending**

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUES:

OTHER AUTHORITIES:

Deborah Walton respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit.

OPINIONS BELOW

The Opinion of the United States Court of Appeals is dated September 1, 2022 (7th Cir. 2022) is found at Appendix, **App. 1**. The Southern District of Indiana, Order Dismissing Appellants Complaint, February 14, 2022, found at Appendix, **App. 2.** The Southern District of Indiana, putting on hold the Petitioners Pending Case, September 14, 2022, **U. S. Supp 22-295** is found at Appendix, **App. 7** The Southern District of Indiana, Order Dismissing Appellants Complaint, September 13, 2022, **U. S. Supp 22-295** is found at Appendix, **App. 10** The Southern District of Indiana, Order Dismissing Petitioners Pending Case, September 16, 2022, found at Appendix, **U. S. Supp 22-295 App. 13** The Southern District of Indiana, Order Dismissing Petitioners Pending Case, September 28, 2022, **U. S. Supp 22-295 Suppl.** is found at Appendix, **App. 17**

JURISDICTION

Petitioner seeks review of the decision of the United States Court of Appeals for the Seventh Circuit entered on September 1, 2022, This Court's jurisdiction rest on 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

First Amendment
Fourteenth Amendment
Fair Credit Billing Act, Pub. L. 93-495, Tit. III, 88 Stat. 1511

STATEMENT ADDRESSING ALLEGATIONS OF FRIVOLOUS COMPLAINTS

The Petition feels a need to address the allegations of her filing Frivolous complaints, and the history behind her complaints.

When the Petitioner relocated from Chicago, to Carmel Indiana, in January of 2000, for the sole purpose of having a place big enough to take care of her aging parents, whom both were dealing with health issues at the time, and in 2006, she lost her father; yet blessed to still have her mother.

However, shortly after the Petitioner moved into her home, she faced several challenges from the Homeowners Associations (Assoc), whom wanted to use her property to erect a fence. This did not sit well with the Petitioner since the Assoc., took it upon themselves to start construction on her property without the permission of the Petitioner, however, unbeknownst to the Petitioner, she was the only person in the subdivision of color. This is the beginning of all the lawsuits, and why the Petitioner took her complaints to a Federal Court.

The Assoc. sued the Petitioner, to control the easement on her property and erect a Black Rod Iron

Fence, and the Petitioner sued back. However, from the onset of the litigations, the Petitioner did have legal counsel, and paid over $450,000.00 in Attorney fees, and continued to lose in the Hamilton County State Courts. The Petitioner lived on Michigan Ave, in Chicago IL, never in her wildest dreams, did she expect to endure the crazy she went through in a small town in Indiana. This was the first small town she had ever lived in, and will be the last. Members of the Assoc, knew Judges in Hamilton County, the Mayor of Carmel, City Counsel men, Chief of Police, Electors *(lived in the Petitioners Subdivision)*, the list goes on, and they all had a hand in helping the Assoc. with their determination in making the Petitioner give them the rights to her property for the sole purpose of erecting a fence.

The Petitioner is one that will stand up for her rights, because if it wasn't for her ancestors, she would not have been afforded the right to purchase a home in an all white subdivision, in Carmel Indiana. However, the Petitioner is not making this about her race, because it's more then color, it's her pursuit for justice. This being said the Petitioner continues to fight the good fight, and will not stop until justice prevails.

The Petitioner, had to endure, her mail being destroyed, trash being thrown in her yard, and truthfully, the Petitioner is embarrassed to publish all the bad things that happened to her, in Carmel Indiana. The Petitioner was forced to sue some of the actors listed above, in Federal Court, to stop them from taking her property. The Petitioner chose to proceed as a Pro Se litigant, because she was tired

of paying Attorney fees, and never prevailing. Yes, as a Pro Se litigant, the Petitioner was without knowledge of how to file a complaint, but with her determination she taught herself. This being said, the Petitioner may have not filed complaints correctly initially, but she has been filing them correctly ever since. The Petitioner was successful in getting the Seventh Circuit Court of Appeals to remand two of her cases back to the District Court, and she prevailed on several other cases she had in the Southern District Court of Indianapolis as well, not to mention settling a few of those cases.

The Petitioner will give just a few tidbits of what she was enduring, while living in Carmel Indiana. The Petitioner was being harassed by a Carmel Police Officer (**BAD Cop**) for months, and she sued him; Carmel Police Department; City of Carmel, and the Mayor of Carmel, yet they continued to allow the harassment take place, not to mention, she was ignored by the Hamilton County Courts, so she took her complaints to Federal Court. Now, what the Petitioner is about to share with this court is pretty bad, so she will not be sharing any names.

The Officer, that made it his mission to harass the Petitioner, made sure he was at the entrance of her subdivision on several occasions, blurting tasteless comments to the Petitioner, and one time he jumped in front of her car, on Carmel Drive, causing the Petitioner to swerve, on a very busy street. During one of the court hearings, the Officer made a point to let the City Attorney know, he knew exactly where the Petitioner lived, by verbalizing it in open court so the Petitioner could hear his

comments. Well, enough was enough, the Petitioner, reached out to the Department of Justice in the Southern District of Indiana, and filed a complaint on the Officer. It wasn't until the Petitioner was coming out of a Bank in Carmel Indiana, when she ran into the Assistant Chief of Police, whom engaged in a conversation with her. This Officer proceeded to apologize for what, the Petitioner had endured, he said, "It wasn't until we were called to your home, because one of your neighbors didn't like seeing you plant flowers in your yard, and it was then that we realized it wasn't you it was your neighbors". Wow, finally the Assoc. was being blamed for their actions against the Petitioner, and the Carmel Police, stopped listening to the Association, that insisted on getting their way on the Petitioners property.

However, the Officer, proceeded to tell the Petitioner that the City of Carmel Police Department, fired the BAD Cop, he stated that, if it wasn't for you contacting the FBI, *(whom reached out to the Carmel Police)*, they would have never known that the BAD Cop, had a restraining order against him from the last Police Department he had worked for in another town in Indiana. He went on to tell the Petitioner that after they fired the BAD Cop, he used his uniform and badge to harass another woman, and he is now serving time in prison. If the Petitioner had not filed her complaints in Federal Court against the Officer, and with the DOJ, who know what would have happened to her. Well, thank God the DOJ intervened, or she probably would not be here to tell her truth.

The Petitioner was determined to continue fighting for her property rights so she retained John F. McCauley as her legal counsel, to represent her against Claybridge Homeowners Association. However, Mr. McCauley lost her case in State Court and at the Indiana Court of Appeals. The significance of Attorney John F. McCauley, is that he is the Attorney for First Merchants Bank, and he is also the Attorney that signed the motion to the District Court Judge James Sweeney, with the Fraudulent emails attached to the motion, that were allegedly drafted from his email account. The Petitioner did file several motions asking that Mr. McCauley withdraw from the case, due to a conflict of interest. Nevertheless, the Petitioners motions were denied.

It wasn't until the Petitioner decided to proceed as a Pro Se litigant, in Federal Court, and filed several complaints, against Claybridge Homeowners Association, City of Carmel, Mayor of Carmel and other actors, that they decided to withdraw their bid, to take the Petitioners property. So yes, if the Petitioner had to do it all over again, she would, because the complaints she filed in Federal Court just may have saved her life, since the BAD Cop carried a fire arm. The Assoc. backed down, because the City of Carmel refused to approve the building permit without the Petitioners signature, and the City of Carmel took the Petitioners takings claim serious, as did the Mayor of Carmel.

STATEMENT OF THE CASE

The Petitioner, Deborah Walton ("Petitioner"), filed a complaint against First Merchants Bank ("Respondents") for violations under the Fair Credit Billing Act, (FCBA), (part of the Truth In Lending Act) 15 U.S.C § 1666 *et. seq.* and Regulation Z . Yet the District Court granted the motion, for Judgment on the Pleadings, in favor of the Respondent. **App. 2.**

The Respondent relied solely on fraudulent emails that they fabricated, and submitted to the District Court, to obtain a judgment on the pleads; after the third amended complaint was filed. The Respondents answer, was accompanied by exhibits; which consisted of fraudulent emails, for the purpose of deceiving the District Court, in believing they met their obligations under the Fair Credit Billing Act. The fraudulent emails were ignored by both the District Court, and 7th Circuit Court of Appeals. App. 1, App. 2 and App. 3; 7th Cir. [Dkt 3; App. 30-App. 32]

The Petitioner sent two letters to First Merchants Bank (Respondent), on November 14, 2019, and September 14, 2020, which one was titled Notice of Dispute. The Respondents answer admitted, to receiving both letters; however, in their pleadings, they argued, they were not under any obligation to respond to the September 14, 2020 dispute letter, therefore admitting they failed to fulfill their obligations under the FCBA. The Respondent argued that they answered the November 14, 2019 letter, *(which was not labeled*

Dispute) by sending emails to the Petitioners prior Attorney, that had no knowledge of the Petitioners dispute, nor did the Petitioner ever instruct the Respondent, to send any correspondence to her Attorney, in response to the letter dated November 14, 2019.

The Fair Credit Billing Act, requires a consumer to send a letter of dispute on open ended lines of credit, when they find an error associated with the billing from the obligator. The letter of dispute must identify it is a dispute letter, to trigger a response from the obligator; which the November 14, 2019 letter, did not contain the language, notice of dispute. However, the September 14, 2020 letter, did put the obligator on notice that it was a dispute letter.

The Respondent argued, the November 14, 2019 letter, was a dispute letter, and they satisfied their obligation, under the FCBA when responding to that letter. However, they proceeded to submit Fraudulent emails, to show they met there obligation, to support their motion for judgment on the pleadings, and arguing, the statute of limitation ran out.

After three District Court Judges, entered Orders against the Petitioner, she filed a Petition for Writ of Mandamus and a Supplemental with the U.S. Supreme Court, at Docket 22-295.

REASONS FOR GRANTING THE WRIT

I. THE PETITIONER HAS STANDINGS TO FILE A FAIR CREDIT BILLING ACT CLAIM

The Seventh Circuit, erred when they ignored the September 14, 2020, dispute letter under the Fair Credit Billing Act (FCBA), 15 U.S.C § 1666 *et. seq*. Regulation Z, that the Petitioner filed against First Merchants Bank, whom failed to respond to the Petitioner's dispute letters concerning payments not being applied, statements not being sent, payments not being accepted, and negative Credit Reporting; therefore, violating the Fair Credit Billing Act.

A. The Fair Credit Billing Act Has A One Year Statute Of Limitations

According to Section 1666 has a one-year statute of limitations. 15 U.S.C. § 1640(e); *Durham v. Loan Store, Inc.*, No. 04 C 6627, 2006 WL 3422183, at *4 (N.D. Ill. Nov. 27, 2006) (Coar, J.) ("[A]ll TILA actions, unless otherwise noted, must be brought within one year from the date the violation occurred."). The one-year statute of limitations begins to run "when the creditor fails to satisfy its compliance duties within the requisite time frame." *Hill*, 2010 WL 107192, at *7 (citations omitted).

The Petitioners §§ 1666(c) and 1666(d) claims are not time-barred. The one-year statute of limitations for Petitioners' §§ 1666(c) and 1666(d) claims began to run when Petitioners first learned of these violations. *See Dawkins*, 109 F.3d at 243

(stating that the statute of limitations on the Petitioner's) Truth-in-Lending Act claims began to run, when the Petitioner first learned by a Representative at First Merchants Bank, that they had not applied her most recent payment, and her loans had been closed. The Petitioner filed their Complaint on February 23, 2021, within the one-year statute of limitations, therefore, the Petitioner's §§ 1666(c) and 1666(d) claims are not time-barred. Dist. [Dkt 1]

B. Nothing In The Fair Credit Billing Act Puts Limitations On How Many Dispute Letters A Consumer Can Send

In order to trigger the creditor's statutory duties under § 1666(a), the obligor must send the creditor "a written notice" of the alleged billing error. 12 C.F.R. § 226.13(b)(1); *see also* § 1666(a)-(b).

The Fair Credit Bill Act does not put a limitation, on how many dispute letters a Consumer can send, it only requires the Consumer submit their dispute letters within 60 days of when they first noticed the billing errors. *emphasis added* Therefore, when the District Court ignored the Petitioner's September 14, 2020 dispute letter, and the Respondent's answers to the complaint, they ignored the Truth in Lending Act and Fair Credit Billing Act under 15 C.F.R. §1666(a), § 1666(b), § 1666(c) and §1666(d). *Am. Express Co. v. Koerner*, 452 U.S. 233, 236-37 (1981).

Section 1666(a) sets out the statutory duties and timeframe for dealing with a billing error as defined

by § 1666(b). In order to trigger the creditor's statutory duties under § 1666(a), the obligor must send the creditor "a written notice" of the alleged billing error. 12 C.F.R. § 226.13(b)(1); *see also* § 1666(a)-(b). If the obligor fails to send the written notice within 60 days of the creditor's transmission of a statement with the error, the creditor's duties under § 1666(a) are not triggered. *Hill v. Chase Bank USA, N.A.*, No. 07-CV-82, 2010 WL 107192, at *6 (N.D. Ind. Jan. 6, 2010) ("Without a valid and timely notice of billing error, there's no duty to comply with § 1666(a)(A) and (B), and no violation of those sections.").

If the obligor sends the written notice within the requisite 60-day timeframe, § 1666(a) "imposes two separate obligations upon the creditor." *Am. Express Co. v. Koerner*, 452 U.S. 233, 236-37 (1981); *see also* § 1666(a). First, "within 30 days" after receipt of the written notice, the creditor must "send a written acknowledgment that it has received the notice." *Id.* Second, "within 90 days or two complete billing cycles, whichever is shorter" after receipt of the written notice, "the creditor must investigate the matter and either make appropriate corrections in the obligor's account or send a written explanation of its belief that the original statement sent to the obligor was correct." *Id.*

Sections 1666(c) and 1666(d) impose additional restrictions on a creditor's ability to collect the alleged billing error and close the account containing the alleged billing error while the error is still in dispute. §§ 1666(c)-(d); *see also Gray v. Am. Exp. Co.*, 743 F.2d 10, 14 (D.C. Cir. 1984) (stating that

pursuant to § 1666(c), the Obligor "need not pay the amount in dispute until the Creditor has complied with § 1666," and that pursuant to § 1666(d), the Creditor "may not restrict or close an account due to a obligor's failure to pay a disputed amount until the loan has been sent by the Creditor a written explanation required by § 1666(a).

However, the FCBA, which is part of TILA, "is a remedial legislation designed to prevent predatory creditor practices." *Langenfeld v. Chase Bank USA, N.A.*, 537 F. Supp. No. 2d 1181, 1191 (N.D. Okla. 2008) (citations omitted). It must be "construed liberally in favor of the consumer" to avoid harsh results for the consumer. *Id.* at 1197, 1201 n.21 (citation omitted).

II. THE CIRCUIT COURT ONLY WEIGHED IN ON ONE OF THE TWO DISPUTE LETTERS SHOWING THAT QUESTION OF FACTS EXIST

When the Circuit Court only put weight on Walton's letter dated November 14, 2019 as a dispute letter, and ignored the September 14, 2020 dispute letter; while both letters were raised and challenged in the motions for judgment on the pleads by both parties, which show question of facts exist. When the Circuit Court, raised the issue, that First Merchants Bank forgave the loans, yet ignoring the fact that First Merchants Bank, was furnishing the Credit Bureaus negative and inaccurate information on both of the Petitioners loans. These are factual questions that cannot be addressed at the motion to dismiss stage. *Gray v. Am. Exp. Co.*, 743 F.2d at 16

(D.C. Cir. 1984). Therefore, the Respondent has to establish those facts through "substantial evidentiary proceedings". Hence, First Merchants Bank admitted in their answer, at Dist. 1:21-cv-00419-JRS-TAB [Dkt 63; pg 7; ¶10], that issues of material facts exist, and Walton's dispute, also consisted of First Merchants Bank, reporting negative information on her credit report.

A. When Fraudulent e-mails Were Challenged By The Petitioner And Waived By The Respondent It Proves Questions Of Fact Exist

First Merchant Bank committed Fraud up on the Court, when they instructed their legal counsel to submit Fraudulent emails to the District Court. If the Court looked close enough, they would have seen a huge difference in the Fraudulent emails, and the actual email sent from the law firm Denton. 7th Cir. [Dkt 3; App. 30- App. 32], App. 3, compared to Dentons real email format. App. 4

Fraud upon the Court has been defined by the 7th Circuit Court of Appeals to "embrace the species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication. "Kenner v. C.I.R., 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶60.23. The 7th Circuit further stated a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

III. THE PETITIONER HAS BEEN DEPRIVED OF HER FIRST AND FOURTEENTH AMENDMENT RIGHTS

A. This Court Should Grant Certiorari To the Petitioner Since She Was Deprived Of Procedural Due Process By The Seventh Circuit Whom Also Waived The Issues

The Petitioner paid the Seventh Circuit Court of Appeals, for legal analysis, that should have been supported with legal authority, upon reviewing the Petitioner Brief. However; the Seventh Circuit proceeded to scold, and criticize the Petitioner; without any legal authority to support their assertions. The Petitioners arguments, were ignored, and without the benefit of a hearing before the panel of Judges, to insure they applied procedural due process, especially when the fabricated emails were challenged in the District Court, where the Petitioners discovery request concerning the emails were denied, then raised again at the Seventh Circuit, whom ruled that the Petitioner filed a frivolous complaint, and their decision was solely based on the Fraudulent emails. The Petitioner also argued that questions of fact existed. Therefore, if a hearing had been held, the Respondent could have testified to the authenticity of the emails that were fraudulently drafted; therefore, the lack of a hearing, and lack of authority by, the Seventh Circuit should be a waiver of the issue. Since this is settled law, that usually applies to the parties in both the District and Circuit courts, one can only assume the U. S. Supreme Court; holds the Circuits to the same standards. See *Kensington*

Rock Island L.P. v. American Eagle Historic Partners, 921 F.2d 122, 124-25 (7th Cir. 1990). Hence, when a raise or waive scenario occurs, regardless to when, what, who are where it occurs, the issue should not be given any weight, nor should the Circuit be given the authority to impose sanctions on a waived issue. Thus, a vague reference to an argument, without any legal reasoning, will be deemed waived. See, e.g., *Kensington*, 921 F.2d at 25.

The Petitioner raised the argument that 'Questions of Fact Exist'; in her Appellant Brief, stressing the lack of fairness at the District Court; which should have triggered a thorough review by the Seventh Circuit. However, they ignored the argument by the Petitioner; which denied her procedural due process, and when the Seventh Circuit ignored the Petitioners argument, they waived the issue. App. 1 *See Sutton v. City of Milwaukee, 672 F.2d 644, 645 (7th Cir. 1982).* The District Court and the Seventh Circuit, had an obligation as a branch of the government. *See Mathews v. Eldridge,* 424 U.S. 319, 335, 96 S.Ct. 893, 903, 47 L.Ed.2d 18 (1976).

Therefore, it is unclear what information the Seventh Circuit based their opinion on, when the Petitioner raised the argument of the Fraudulent emails, that were never challenged by the Respondent, while both the District Court and the Seventh Circuit, made their decision based on the fraudulent emails, with no supporting authority. 7th Cir. [Dkt 3; App. 30 – App. 32], App. 3 . Therefore; since the Respondent, failed to address the issue in

their Brief, and the Seventh Circuit failed to publish authority concerning issues raised by the Petitioner, which were, Questions of Fact Exist; Fair Credit Billing Act, and the Fraudulent emails, therefore, they waived the issues.

B. This Court Should Grant Certiorari To The Petitioner Who Was Deprived Of Her 14th Amendment Right To Procedural Due Process After The Respondent Admitted In Pleadings That They Failed To Respond To A Dispute Letter Issued Under The Fair Credit Billing Act

The U. S. Supreme Court has made it very clear that the Due Process Clause under the Fourteenth Amendment, is the fundamental right of all citizens in the United States. *See* Mapp v. Ohio, 367 U.S. 643, 655, 81 S. Ct. 1684, 1692 (1961). The Seventh Circuit has also weighed in on due process, and this court has explicitly held, there can be no claim of a denial of due process, either substantive or procedural, absent deprivation of either a liberty or property right." *Eichman v. Indiana State University Board of Trustees,* 597 F.2d 1104 (7th Cir., 1979).

Therefore, the Seventh Circuit has made it very clear that procedural due process applies equally to any alleged substantive due process claims. *Jeffries v. Turkey Run Consolidated School Dist.,* 492 F.2d 1 (7th Cir. 1974)

> *All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and 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.*

Hence, how can the Petitioners case be considered frivolous, when procedural due process was not applied to her case. The Respondent admitted they failed to comply with the Fair Credit Billing Act, and attached Fraudulent, and Fabricated e-mails. 7th Cir. [Dkt 3; App. 30 – App. 32] App. 3 It is very apparent, that the Petitioner has been damaged by being sanctioned twice by the District Court and the Seventh Circuit, based on Fraudulent emails that both, the District and Circuit, put great weight on, prior to entering their Orders. However, if the Petitioner had been given the opportunity to complete discovery concerning the emails, and with testimony from an Expert witness, the authenticity of the emails would have been proven fraudulent. App. 3, However, when the Respondent, failed to respond to the Petitioners argument, raised at the Circuit Court, concerning the fraudulent e-mails before the Circuit Court.

Therefore; the Respondents waived the issue. *See*, 7th Cir.[Dkt 3]; pg. 5; 17-19, Appellant's Argument; 7th Cir. [Dkt.9], Appellee Response; 7th Cir. [Dkt 13] Appellant Reply.

C. The First Amendment Right To Sue Is A Fundamental Right, As Redress Is A Right To Be Upheld in U.S. Courts

The First Amendment right "to petition the Government for a redress of grievances" includes a right of court access, but narrowly define this right as **the right to file a lawsuit**. First Amendment petition clause says nothing about success in petitioning — "it speaks simply of the right of the people to petition the Government for a redress of grievances." Therefore, when right-to-sue claims do not involve issues of constitutional magnitude, the Court has grounded its First Amendment analysis in associational freedoms inherent in a collective resort to the courts. But when neither constitutional issues nor collective action is present, the Court has addressed claims of the right to seek redress in court as a due-process or equal-protection challenge.

1. Petitioners First Amendment Rights Were Violated By The District Court

The Judicial Branch of government performs the essential role of ensuring that all persons, should be able to enforce their legal rights, and the First Amendment recognizes the right to access the courts as the principal means by which the Judicial Branch performs this role. See Marbury v. Madison. In Marbury v. Madison, Chief Justice Marshall stated: "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. Marbury v. Madison, 5 U.S. (1 Cranch)

137, 163 (1803). Through civil litigation, persons can seek enforcement of their legal rights against entities and persons who violate them. They can also seek to invoke the law-making authority of judges to define the common law. Finally, they can seek to enforce provisions of the Constitution against entities or persons who transgress them. It is imperative that all persons have access to the Judicial Branch of government to enforce their rights under law. The First Amendment to the Constitution of the United States of America is the legal basis of the right to access the courts. It provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

2. The Seventh Circuit Entered An Order On September 1, 2022, fueling Orders From Judge, Sarah Evans Barker, Judge James Sweeney and Judge James Hanlon, That Deprived The Petitioner Of Her First Amendment Rights.

Three District Judges, interpreted the Seventh Circuits Order; as a right to dispose of the Petitioners pending cases and complaints, which allowed them to deprived the Petitioner of her First Amendment rights, when they all came to the same conclusion, U. S Supp. No. 22-295. Prompting the Petitioner to file a Petition for Writ of Mandamus on all three Judges Orders. *See* U. S. Supp 22-295 & U. S. Supp 22-295 Supplemental. Dist. 1:17-cv-01888-

SEB-MPB; Dockets 430;432;433; Dist. 1:21-cv-00419-JRS-TAB; Dockets 109; 110; 128; 129; 131, and Dist. 1:21-cv-00365-JPH-TAB Dkt 83 and Dkt 84.

The following Orders, that deprived the Petitioner of her First Amendment Rights are as follows:

> Hon. Judge Sarah Evans Barker Order Dated September 14, 2022:
>
> Hon. Judge Sarah Evans Barker in Southern District Court, entered an **ORDER** under cause number **1:17-cv-01888-SEB-MPB**; which clearly states: On September 1, 2022, the Seventh Circuit issued an order imposing the following sanction on Plaintiff Deborah Walton for her repeated filing of frivolous suits and appeals in this district: "We now direct the clerks of all federal courts in this circuit to return unfiled any papers that Walton tries to file for two years, other than in cases concerning a criminal prosecution against her or a habeas corpus proceeding. "*Walton v. First Merchants Bank*, 2022 WL 3999965, at *2 (7th Cir. 2022) (citing Support Sys. Int'l, Inc. v. Mack, 45 F.3d 185, 186 (7th Cir. 1995). **Thus, we need not consider Walton's Notice to the Court Concerning Future Appeals to the U.S. Supreme Court" [Docket No. 428]**, and the clerk is directed to return any unfiled papers that Walton attempts to file in this case for two years, per the Seventh Circuit's

imposition of the *Mack* bar. U. S. Supp. No. 22-295 App. 7

3. Hon. Judge Sarah Evans Barker Order Dated September 28, 2022 Ignored The Seventh Circuit Courts Order Remanding The Case Back To The District Court For A Jury Trial

Hon. Judge Sarah Evans Barker's Order, Dated September 28, 2022, shows the District Court was determined to throw the Petitioners case out, after the Seventh Circuit Court of Appeals REMANDED the case back to the District Court for a Jury Trial. 7th Cir. 2019-cv-3370; Docket 39, U. S. Supp 22-295 App. 30. The dismissal order made it very clear that Judge Barkers decision was derived from the Seventh Circuit Order, dated September 1, 2022, which Judge Barker's interpretation is as follows:

> ***The Seventh Circuit "direct[ed] the clerks of all federal courts in this circuit to return unfiled any papers that Walton tries to file for two years, other than in cases concerning a criminal prosecution against her or a habeas corpus proceeding." Id. at 3-4. That order applies to the case before us, given that the Seventh Circuit did not include filings in pending civil cases in its enumerated exceptions to its filings bar. See id.***

The Petitioner has had a pending case against First Merchants Bank since June of 2017, and was

denied a Jury Trial, and sanctioned for filing a motion to compel, and a frivolous Reg E claim, of which she paid. The District Court disposed of the case, prompting the Petitioner to Appeal the decision. The Seventh Circuit, reversed the District Courts decision, and remanded it back to the District Court, instructing them to allow the Petitioner a Jury trial on her TCPA claim only. 7th Cir. 2019-cv-3370; Docket 39, U. S. Supp 22-295 App. 30

However, when First Merchants Bank took the Petitioners signature that was intended for a product the Bank was offering, then used it to convince the District Court Judge, that the Petitioner had agreed to Reg E, when she had not, it was Appealed several times. The Seventh Circuit, entered an Order, that instructed the Petitioner to raise the issue at the upcoming trial, scheduled for July 12, 2021, 7th Cir. No. 21-2020 [Dkt 12]. However, Judge Barker canceled the trial and never put it back on her schedule. Then Judge Barker Dismissed the case with prejudice, based on the Seventh Circuits Order, and did not allow the Petitioner to show cause, which denied her due process. U. S. Supp 22-295 Suppl. App. 17

What is so disheartening, is after the Petitioner had paid for a Jury Trial: ***1)*** $13,108.00 was paid, for sanctions that should have never happened, just because the Petitioner filed a motion to Compel discovery, and used Mr. Brian T. Hunt's email in another case; ***2)*** $57,951.00, U. S. Supp. No. 22-295 Suppl. App. 42, was paid for sanctions after First Merchants Bank used the Petitioners signature, they already had on file prior to Regulation E, ever being

enacted, to avoid a Reg E claim; ***3)*** over $128,000.00 for Attorney fees, preparing for a Jury Trial that never took place. At least Hon. Judge Jane Magnus-Stinson, extended the courtesy to the Petitioner, that if she didn't pay the $13,108.00, she would throw the case out. Now, that the Petitioner has paid all this money for a Jury Trial, her case was still thrown out.

Now, Judge James R. Sweeney II, has also Ordered the Petitioner to pay attorney fees $186,220.33, under cause number is **1:21-cv-00419-JRS-TAB** at Docket 131; **App. 26** based on the fraudulent emails. Judge James R. Sweeney II, has ignored the Petitioners request for a hearing to challenge the Attorney fees, and provide proof that the e-mails are fraudulent. The Petitioner responded to Attorney fees at 1:21-cv-00419-JRS-TAB at Docket 120, from the Respondents motion of Attorney fees at 1:21-cv-00419-JRS-TAB at Docket 119.

The Hon. Judge James R. Sweeney II, entered an Order under cause number is **1:21-cv-00419-JRS-TAB**, which clearly states:

> The Seventh Circuit has barred Deborah Walton *from filing any papers in all federal courts i*n the Seventh Circuit for two years, with two exceptions not applicable here. See Walton v. First Merchants Bank, No. 22-1240, WL 3999965 (7th Cir. Sept. 1, 202). Walston presented a Notice to the Court Concerning Future Appeals to the U.S. Supreme Court on September 12, 2022.

> Because the Clerk's Office was unaware of the Seventh Circuit's order, it erroneously accepted her papers for filing. Walton's Notice to the Court is now stricken from the docket. U. S. Supp 22-295 App. 9

The Hon. Judge James R. Sweeney II, entered a second Order under cause number is **1:21-cv-00419-JRS-TAB**, which clearly states:

> Vexatious litigant Deborah Walton is subject to a filing bar in all courts of the Seventh Circuit as a result of her persistent pursuit of frivolous litigation. See Walton v. First Merchants Bank, No. 22-1240, 2011 WL 3999965, at *2 (7th Cir. Sept. 1, 2022). Walton presented the instant case to this Court on September 12, 2022. Because the Clerk's Office was unaware of the Seventh Circuit's order, it erroneously accepted Waltons papers and opened the instant case. Because Walton was prohibited from filing this case and cannot file any other papers in this Court for two years, she cannot prosecute this matter and it must be dismissed. Accordingly, this action is **DISMISSED WITH PREJUDICE**. Judgment consistent with this Order shall now issue. U. S. Supp 22-295 App. 10

The Hon. Judge James P. Hanlon, entered an Order that was pending under cause number is **1:21-cv-00365-JPH-TAB**, stated the following:

> Ms. Walton is therefore unable to prosecute this case until at least September 1, 2024. Because of that delay, dismissal of this case for failure to prosecute under Federal Rule of Civil Procedure 41(b) is appropriate. *See Bolt v. Loy*, 227 F.3d 854, 856 (7th Cir. 2000) ("A plaintiff's failure to respond that delays the litigation can be a basis for a dismissal for lack of prosecution."); *Tome Engenharia E. Transportes, Ltda v. Malki*, 98 Fed. App'x 518, 520 (7th Cir. Apr. 6, 2004) ("[A] lengthy period of inactivity" can warrant Rule 41(b) dismissal). U. S. Supp 22-295 App. 13

However, what Hon. Judge James P. Hanlon failed to include in his order, is that he Ordered the Petitioner to file a motion for default judgment by July 1, 2022 with the Clerk of the Court. Dist. 1:21-cv-00365-JPH-TAB [Dkt 75], at which time the Petitioner submitted her motion to the Clerk of the Court. Dist. 1:21-cv-00365-JPH-TAB [Dkt 76 – 79]. Yet the motion remained pending on the docket for over three months. Therefore, since the Petitioners motion for default judgment was awaiting a signature from the Clerk, the 41(b), was misplaced by Judge Hanlon, since the Petitioner was not required to file anything else with the court. Nevertheless, Judge Hanlon, mis-interrupted the Seventh Circuits Order, and violated the Petitioners Fourteenth Amendment. Supp. No. 22-295 and Supp. No. 22-295 Suppl.

However, the Order from the Seventh Circuit is very clear:

> The 7th Circuit Court of Appeals Order clearly states: This appeal is **DISMISSED** as frivolous. The clerks of all federal courts in this circuit are hereby **ORDERED** to return unfiled any papers submitted to ***this*** court by or on behalf of Deborah Walton, with the exceptions previously noted. App. 1

Whereas the language in Mack 45 F.3 186, 186 (7th Cir. 1995), is as follows:

> As explained in this opinion, the clerks of the federal courts of this circuit are hereby **ORDERED** to return unfiled any papers submitted to ***these*** courts either directly or indirectly (as by mail to individual judges) by or on behalf of Richard Mack, with the exceptions noted in the opinion. The injunction issued by the district court, though of limited significance in light of our order, is **AFFIRMED**.

Due Process under the Fourteenth Amendment, is the fundamental right of all citizens in the United States. *See* Mapp v. Ohio ,367 U.S. 643, 655, 81 S. Ct. 1684, 1692 (1961). As Judge Posner recognized years ago "[b]revity may be the sole of wit, but seismic constitutional change is not a laughing matter." *Hospital Corp. of America v. FTC*, 807 F.2d 1381, 1392 (7th Cir. 1986). The Petitioner was denied her right to **THREE FEE HEARINGS**; a Jury Trial, and the basic right to receive legal authority in the Appellate Order; which was used to strip the Petitioner of her right, to challenge a

District Judges Order, in the Seventh Circuit Court of Appeals.

The ruling from the Seventh Circuit Court of Appeals, caused a tsunami effect in the Southern District of Indiana, and with great consequences to the rule of law, especially; when three District Judges felt comfortable in striping the Petitioner of her First Amendment rights. When any individual, is given a little power, how they use it speaks volumes about their character. However, when a Federal Judge is entrusted with the greatest power in the court system, by upholding the Constitutional rights of citizens, it changes the landscape, of the district, that court is in.

CONCLUSION

For all these reasons this Court should grant the Writ of Certiorari Petition. However, if the Petitioners Writ of Certiorari Petition is granted, the Petitioner respectfully request the Court for a 30 day enlargement of time to hire legal counsel.

Respectfully submitted,

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