22-5145 ORIGINAL

No. ____

In the Supreme Court of the United States

MICHAEL KIM,

Petitioner,

v.

THE TWELFTH JUDICIAL CIRCUIT COURT,
WESTWATER CONSTRUCTION, INC.,
HUNTER W. CARROLL,
MICHAEL MORGAN,
MARK S. MILLER,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE Eleventh CIRCUIT

PETITION FOR WRIT OF CERTORARI

Michael Kim
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May 4, 2022

Pro Se Petitioner

QUESTIONS PRESENTED

1. Should this Court overrule *Home Depot U.S.A., Inc. v. Jackson, 139 S. Ct. 1743 (2019)*, affirmed on 5-4 (1 dissent), or hold that a defendant in a civil action cannot remove the claim under 28 U.S.C.S. § 1441(a) because all defendants who have been properly joined and served must join in or consent to the removal of the action, pursuant to 28 U.S.C.S. § 1446(b)(2)(A)?

2. Should this Court overrule *Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89 (1984)*, or hold that The Eleventh Amendment prevents federal courts from exercising jurisdiction over state defendants?

3. Should this Court overrule *Aetna Life Ins. Co. v. Lavoie, 475 U.S. 813 (1986), or* hold that under the Due Process Clause, no judge could be a judge in his own case or be permitted to try cases where he had an interest in the outcome?

4. Should this Court overrule *Adkins v. E. I. DuPont de Nemours & Co., 335 U.S. 331 (1948)*, or hold that a petitioner could not be denied an opportunity to commence, prosecute, or defend an action in a federal court solely because poverty made it impossible to pay the litigation costs?

RULE 29.6 STATEMENT

Petitioner Michael Kim, pro se individual, has no parent company or publicly held company with a 10% or greater ownership interest in it.

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

[ ] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

United States District Court (MD Florida):

Florida State Tort Claims Act (F.S. 768.28 Title XLV) Case

Michael Kim v. The Twelfth Judicial Circuit Court, et al., No. 8:20-cv-02934-TJC (Dec. 11, 2020), (Order DENYING Plaintiff's Motion for Summary Judgment)

Michael Kim v. The Twelfth Judicial Circuit Court, et al., No. 8:20-cv-02934-TJC (Jan. 5, 2021), (Order of recusal)

Michael Kim v. The Twelfth Judicial Circuit Court, et al., No. 8:20-cv-02934-TJC (Jan. 7, 2021), (Order directing the Clerk to reassign the cases to the Defendant judge; dismissing these cases with prejudice; directing the Clerk to terminate all pending motions and close the files.)

42 USC 1983 (Deprivation of Civil Rights) Case

Michael Kim v. The United States District Court for the Middle District of Florida, et al., No. 8:20-cv-03041-TJC (Dec. 22, 2020), (Order of recusal #1)

Michael Kim v. The United States District Court for the Middle District of Florida, et al., No. 8:20-cv-03041-TJC (Dec. 22, 2020), (Order of recusal #2)

Michael Kim v. The United States District Court for the Middle District of Florida, et al., No. 8:20-cv-03041-TJC (Dec. 29, 2020), (Ordered: Plaintiff's motion for recusal 17 is GRANTED. In light of Plaintiff's request, the undersigned hereby disqualifies herself from these proceedings, pursuant to 28 U.S.C. §§ 455(a) & 455(b)(5). The undersigned requests Chief United States District Judge Timothy J. Corrigan to reassign this case.)

Michael Kim v. The United States District Court for the Middle District of Florida, et al., No. 8:20-cv-03041-TJC (Jan. 7, 2021), (Order directing the Clerk to reassign the cases to the undersigned Defendant; dismissing these cases with prejudice; directing the Clerk to terminate all pending motions and close the files.)

United States Court of Appeals (11th Cir.):

Florida Tort Claims Act (F.S. 768.28 Title XLV) Case

Michael Kim v. The Twelfth Judicial Circuit Court, et al., No. 21-10450 (Feb. 8, 2022), (opinion)

42 USC 1983 (Deprivation of Civil Rights) Case

Michael Kim v. The United States District Court for the Middle District of Florida, et al., No. 21-10451 (Feb. 8, 2022), (opinion)

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OPINIONS BELOW

The opinion of the United States Court of Appeals Eleventh Circuit appears at Appendix _App.1-30_ to the petition and is reported at Case #: 21-10450.

The opinion of the United States District Court Middle District of Florida appears at Appendix _App.31-60_ to the petition and is reported at Case #: 8:20-cv-02934 and 8:20-cv-03041.

JURISDICTION

The date on which the United States Court of Appeals Eleventh Circuit decided my case was February 9, 2022.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: February 8, 2022, and a copy of the order denying rehearing appears at Appendix H.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The pertinent statute is Constitution of United States of America 1789 (rev. 1992):

28 U.S. Code § 1441 - Removal of civil actions

(a)Generally.—

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

28 U.S. Code § 1446 - Procedure for removal of civil actions

(b)Requirements; Generally.—

(2)

(A)When a civil action is removed solely under section 1441(a), *all defendants who have been properly joined and served must join in or consent to the removal of the action*.

Amendment XI

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

28 U.S. Code § 455 - Disqualification of justice, judge, or magistrate judge

(a)Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b)He shall also disqualify himself in the following circumstances:

(5)He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i)Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii)Is acting as a lawyer in the proceeding;

(iii)Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv)Is to the judge's knowledge likely to be a material witness in the proceeding.

28 U.S. Code § 1915 - Proceedings in forma pauperis

(a)

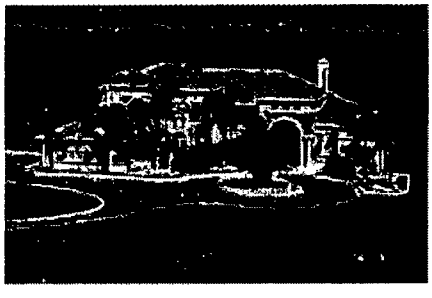
(1)Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

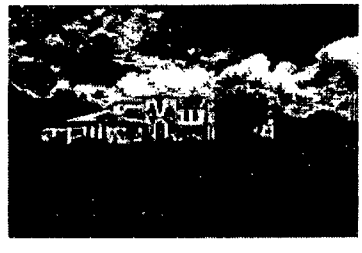
INTRODUCTION

Michael Kim ("KIM"), pro se Petitioner, is fully aware that only about 2.8% of all petitions for a writ of certiorari are granted each year. He is also aware that for pro se litigants, that number is even smaller.

When he knows that his chance of being heard by the Highest Court of our great nation is quite slim, why is he petitioning for the Writ in this Court? He'd better have an exceptional reason to convince not just four (4) judges as in *Home Depot U.S.A., Inc. v. Jackson, 139 S. Ct. 1743 (2019)*, which was affirmed on 5-4 (1 dissent), but *all nine (9) Supreme Court justices*. And here is a reason:

We as the greatest nation must uphold our Constitution and leave absolutely ZERO ambiguity in misinterpreting 28 U.S. Code § 1441 - Removal of civil actions, 28 U.S. Code § 1446 - Procedure for removal of civil actions, and the Eleventh Amendment by lower courts, from this day forward, even if it's a State Judge Defendant who failed to get the mandatory consent from his employer in the Florida Tort Claim case, pursuant to the Florida Statute 768.28 (18) Waiver of sovereign immunity in tort actions.





KIM will not bore this Honorable Court with his unbelievable *7-year true-life events leading up to living on the streets in a school bus* after buying his lien-free "American Dream" house from the IRS, then being included in a lawsuit between a previous homeowner and his contractor who filed a 100% fraudulent mechanics lien (and confirmed by a Court-approved expert witness). Kim had a whistle blower come forward regarding the contractor's bribery of a Florida official to obtain a false judgment, but got evicted from his own house during the pandemic.

He suffered from a severe COVID while living on the streets and Walmart parking lots in a $2,000 school bus without water or power, taking showers at the local gym and using Wi-Fi signal from Dunkin and public libraries. Kim still fears for his life as he may magically be "erased" by those who want to cover up, while recently finding out from a U.S. Bankruptcy administrator with access to NSA that the contractor ("WESTWATER") committed one of the biggest bankruptcy frauds in Florida history by using his proxies to own KIM's house today.

As crazy and intriguing as his "story" sounds, why does KIM not want to legally argue his sob story to this Honorable Court? Because as much as this Court may "empathize" with American homeowners who become homeless overnight by a contractor who files a false mechanics lien to steal their homes, it is NOT this Honorable Court's job to put a fraudulent mechanics lien filer in prison.

This Court's job is not to hear one of those "sob stories" from thousands of pro se petitioners each year, but to strictly follow the Constitution of our great nation so that in case there is ambiguity or confusion in the lower court today, it will NEVER happen again in the future, thus protecting all of our children and grandchildren who will thank us for making America a better place for them to grow up in.

Therefore, even if this Petition may not be heard by this Court, Petitioner KIM prays to God that God continues to bless all nine (9) of our Justices and let them have the courage to rule based on the Laws of our great nation, rather than succumb to the temptation of protecting one of the fallen-from-grace brothers who took a bribe from the contractor.

As a mechanical engineer who almost went to Wayne State University Law School while working for Ford Motor Company during his years in Michigan, KIM is known in the Florida legal community as a fearless Asian Pitbull that will stand up to anyone who does not follow the law, *especially if a State official acts <u>without</u> subject matter jurisdiction.*

While others may care more about money and fame, KIM chooses to serve GOD instead, since our job is to help those who are less fortunate than we are. *As a devout Catholic, KIM will never commit suicide*, so if his body is somehow found in the future, then this Honorable Court shall know that KIM would never kill himself. KIM is just proud of the fact that his own son now wants to become a Judge Advocate General (JAG) so that he can serve our country while serving justice no matter how evil temptations may try to change him in the future.

"Our nation gave its word over and over again: it promised in every document of more than two centuries of history that all persons shall be treated Equally." *Price v. Civil Serv. Comm'n*, 604 P.2d 1365, 1390 (Cal. 1980) (Mosk, J., dissenting). "Our constitution," as Justice Harlan recognized, "is color-blind, and neither knows nor tolerates classes among citizens." *Plessy v. Ferguson*, 163 U.S. 537, 559 (1896) (dissent).

KIM was told by more than two attorneys that, if he was a rich white man in Florida, what happened to him and his house would not have happened. While he could play the race card and try to get empathy from this Court, KIM chooses to argue LAW and convince this Court why granting KIM one (1) hour of their precious time would benefit every homeowner of our nation. Clarifying our Eleventh Amendment and eliminating any ambiguity regarding 28 U.S.C.S. § 1441(a) and 28 U.S.C.S. § 1446(b)(2)(A) within the United States Supreme Court will not only prevent other homeowners from losing sanctuaries for their families to those who play jurisdiction games to get away with thefts, but will also save BILLIONS of the judicial resources in all fifty (50) states that carefully set their own Statutes on Eleventh Amendment.

This case is the kind of important individual and state rights dispute that this Court has not hesitated to hear. Review thus would be warranted if the defendant were any entity owned by one of the fifty states that attempts to remove a State Tort action to a Federal Court without consent from other Defendants.

STATEMENT OF THE CASE

Before Petitioner KIM starts rambling about how a simple fraudulent mechanics lien case in the Florida state court ended up all the way to the United States Supreme Court, KIM would like to reassure this Court the following:

1. KIM is ***not*** asking this Court to put the fraudulent mechanics lienor in prison. Once the Office of Inspector General (OIG) completes its thorough investigation on Westwater Construction, Inc. ("WESTWATER") on its numerous fraudulent lien filings and bribery of a local state judge, Hunter W. Carroll ("CARROLL"), the OIG will take the appropriate actions on WESTWATER.

2. KIM is ***not*** asking this Court to give him his house back. While being evicted from his own house and living on the streets is not what he expected when he bought the house from the IRS in 2016, KIM has no doubt that Westwater's massive bankruptcy fraud will soon be exposed since it made another fatal error of holding the title of KIM's house under its proxies, as a United States Bankruptcy Administrator with NSA database access recently had confirmed it.

3. Although there has been numerous efforts by the Middle District of Florida to paint KIM as some "vexatious" or annoying litigant, KIM respectfully argues that he is just an honest Asian American homeowner with Ivy League education who lawfully bought a house from the IRS "free of all junior liens" and he is pursuing all legal avenues to have just ONE (yes, 1) Court provide *a written ruling with findings of fact and conclusions of law* whether WESTWATER's fraudulent mechanics lien was indeed superior to the IRS Federal Tax Lien, as KIM's every motion for summary judgment has been either stuck or denied without ANY opposition from WESTWATER, ever since KIM involuntarily became a third-party defendant in the Florida state case in 2017.

The ONLY two (2) things KIM is requesting this Court to rule on are:

1. *28 U.S. Code § 1446* (Procedure for removal of civil actions), as the recent *Home Depot U.S.A., Inc. v. Jackson, 139 S. Ct. 1743 (2019)* decision that was affirmed on 5-4 (1 dissent), are not followed by all 13 appellate courts, as at least one of them (Eleventh Circuit) refuses to hold that a defendant in a civil action could not remove the claim under 28 U.S.C.S. § 1441(a) because all defendants who have been properly joined and served must join in or consent to the removal of the action, pursuant to 28 U.S.C. § 1446(b)(2)(A).

2. *Eleventh Amendment,* as two of its own case authorities *Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89 (1984)* and *Lapides v. Bd. of Regents, 535 U.S. 613 (2002)* seem to contradict each other in some fashion, and how the lower courts should start ruling from this point on when each state has its own specific statute regarding the application of Eleventh Amendment, such as the Florida Statute 768.28 (18) Waiver of sovereign immunity in tort actions.

Whatever happened to KIM since January of 2017 could be viewed as a jaw-dropping saga by all homeowners in America, and this Honorable Court might eventually want to know the entire background history anyway. Therefore, Petitioner KIM respectfully supplies the entire statement of facts below, for the judicial economy and easier review by this Honorable Court.

A. History of Subject Property

1. On May 3, 2011, Suzanne and Stephen Morse ('MORSE") purchased 5351 Saddle Oak Trail, Sarasota, FL 34241 (the "subject property") for $800,000.00 cash, while Stephen Morse refused to pay Federal Income Tax to the United States Treasury and the Internal Revenue Service (IRS).

2. On October 3, 2011, IRS filed a Notice of Federal Tax Lien ("NFTL") for $446,309.06 for unpaid Federal taxes by MORSE.

3. After paying all cash for the property, MORSE entered a contract with Mark Miller d/b/a Westwater Construction, Inc., to remodel the property.

4. On or about December 6, 2012, Stephen Morse discovered that MILLER had been having a sexual affair with his wife, Suzanne Morse, so he filed for a divorce and hired Mr. David McCulla ("McCULLA"), a construction cost expert witness, to investigate his payments of $724,432.39 to WESTWATER against the total cost of WESTWATER's work to date. Mr. McCULLA gathered all of the actual receipts and payments to WESTWATER's subcontractors and concluded that WESTATER completed only $340,070.14 worth of work, resulting in $384,362.25 of OVERPAYMENT that is due back to MORSE [**EXHIBIT A**].

5. On December 20, 2012, WESTWATER unilaterally recorded a Mechanics Lien against the Morse property for $134,559.86 without any prior notice as required by its contract [**EXHIBIT B**].

6. Eight days later on December 28, 2012, WESTWATER belatedly served its pre-lien notice which was actually a condition precedent to filing the mechanics lien.

7. On April 3, 2013, MORSE filed a lawsuit against WESTWATER for Breach of Contract and Fraudulent mechanics lien [**EXHIBIT C**].

8. On August 6, 2013, the IRS recorded its Federal Tax Lien against MORSE's property. With this recording, the IRS perfected the tax lien and gave the IRS lien priority on the subject property [**EXHIBIT D**].

9. On September 30, 2013, almost 2 months after the IRS perfected its lien, WESTWATER filed its final affidavit to support its alleged "mechanics lien".

10. On October 18, 2013, WESTWATER filed a counterclaim against MORSE.

11. On December 19, 2013, after WESTWATER failed to protect its lien position by filing the mandatory Lis Pendens within one (1) year of filing the Claim of Lien, WESTWATER's mechanics lien became *unenforceable against Morse's creditors* (IRS) and subsequent purchasers by Florida Statute s.713.22 [**EXHIBIT E**] and reinforced by Decks N Such Marine Inc. v. Daake, 297 So.3d 653 (Fla 1st DCA 2020) [**EXHIBIT F**].

12. On September 24, 2015, the IRS as a creditor of MORSE since 2011, officially seized the property and placed "PROPERTY OF THE UNITED STATES" signs *all over the property*. At the time of the MORSE property seizure by the United States, there was no notice of lis pendens recorded against the property by anyone.

13. On October 5, 2015, ten (10) days after it found out that the United States of America had already seized the subject property from Plaintiff MORSE, WESTWATER belatedly and unlawfully filed its untimely Notice of Lis Pendens on the property [**EXHIIBT G**].

14. WESTWATER, as MORSE's potential creditor subject to perfecting its mechanic's lien, failed to perfect its mechanics lien since it failed to file anything by December 19, 2013, within one (1) year as required by Florida Statute 713.22. When WESTWATER belatedly and unlawfully filed its Lis Pendens on October 5, 2015, it was almost three (3) years too late, and ten (10) days after the United States of America had already seized the property from MORSE.

15. On or about January 28, 2016, Plaintiff KIM and his company Trail Management, LLC ("TRAIL") acquired the subject property, directly from the IRS at a public Federal Tax Lien auction foreclosure sale. Since WESTWATER never finished the work as paid and it was sold in "as is" condition, nobody bid higher than TRAIL's bid of $348,000.00, which the IRS accepted as the final bid.

16. The NFTL was filed on October 3, 2011 and perfected on August 6, 2013.

17. Pursuant to Internal Revenue Codes and Manual, the IRS is required to pay ALL mechanics lienors as priority, unless the mechanics lienor failed to "perfect" its lien [**EXHIBIT I**].

18. The IRS perfected its lien on August 6, 2013 while WESTWATER never perfected its lien. Therefore, WESTWATER's mechanics lien did not have priority over the federal tax lien, and *The United States Treasury and the IRS* ***decided not to pay*** *WESTWATER*, the junior lien holder, when it held a public auction on January 28, 2016.

19. The IRS, by 26 USC 6337, is required to have a 180-day Redemption Period, to allow MORSE and all junior lien holders such as WESTWATER, to match the $348,000 price, the highest bid by KIM and TRAIL, before the IRS could officially issue its IRS Director's Deed of Real Estate to the winning bidder, FREE OF ALL JUNIOR LIENS under IRC 6339 (c).

20. Neither MORSE nor WESTWATER contacted the IRS to pay $417,600 by July 27, 2016. Both waived their rights to the Property as of July 28, 2016, after the 180-day Redemption Period expired. Neither WESTWATER nor MORSE made effort to redeem it.

21. WESTWATER failed to raise the issue of priority to the IRS either before and after the sale. WESTWATER never filed any Interpleader or an injunction with the Federal court to determine lien priority as they had a right to do. In fact, on June 19, 2020, the Office of the IRS Chief Counsel said such action by WESTWATER against the IRS would have been "fruitless."

22. On August 1, 2016, after neither MORSE nor WESTWATER matched KIM's highest bid within the 180-day Redemption Period, The United States Treasury and the IRS issued the official IRS Director's Deed of Real Estate which states that the IRS perfected its tax lien on August 6, 2013 [**EXHIBIT H**]. The official IRS Director's Deed of Real Estate discharged WESTWATER's Mechanics lien as a Junior lien by 26 U.S.C. 6339 (c).

26 U.S.C. § 6339(c) -- Effect of Junior Encumbrances

A certificate of sale of personal property given or a deed to real property executed pursuant to section 6338 shall discharge such property from all liens, encumbrances, and titles over which the lien of the United States with respect to which the levy was made had priority.

23. Therefore, as of August 1, 2016, when the United States Treasury issued the official IRS Director's Deed of Real Estate to TRAIL and KIM, there was no such mechanics lien against the property, as it was officially discharged as a Junior lien under 26 U.S.C. 6339 (c).

24. In Florida, the only way a mechanics lien is perfected against a creditor of homeowner is by filing a lis pendens within one (1) year of filing a mechanics lien, per Florida Statute 713.22, which is supported by Decks N Such Marine v. Daake, 297 So. 3d 653 (Fla 1st DCA 2020).

25. WESTWATER failed to file a Lis Pendens prior to the IRS perfecting its lien, and when WESTWATER did attempt to file it untimely on October 5, 2015, the IRS had already seized the property and had cemented the Federal Tax Lien priority since August 6, 2013.

26. As the IRS Office of Chief Counsel stated, this is a "open-and-shut case." Plaintiff could not agree more, as the actual timeline of events do not lie **[EXHIBIT K]**.

B. Defendant's Response to This Lawsuit

On September 10, 2020, KIM sent a Notice of Improper Conduct by a Florida State employee Hunter W. Carroll, to all judges of the Twelfth Judicial Circuit Court ("Twelfth Circuit"), including Chief Judge Kimberly Bonner [**EXHIBIT 1**].

On October 13, 2020, the Twelfth Judicial Circuit Court dissolved Carroll's Division E and demoted him from the main Sarasota Courthouse to the South County Administrative Center in Venice, FL.

Despite demoting Carroll away from the main Courthouse, Defendant Twelfth Circuit failed to vacate any of the orders and judgments that Carroll entered without subject matter jurisdiction, keeping all of the harm Defendant Carroll intentionally caused on KIM after taking a bribe from Mark Miller and Westwater.

In November 2020, KIM sued Defendant Twelfth Circuit in Sarasota, Florida (Case #: 2020 CA 004792 NC), for violations of due process, as Florida Statute 768.28 Title XLV allows individuals to bring a tort claim against the state government when the state's employees' actions resulted in property loss, personal injuries, or wrongful deaths.

After properly served with Summons and Complaint on December 16, 2020, Defendant Twelfth Circuit failed to respond to KIM's complaint for over sixteen (16) months. KIM is entitled to a Default Judgment against Defendant Twelfth Circuit.

Meanwhile, Defendant Carroll failed to respond to KIM's complaint by December 1, 2020 as required, and KIM is entitled to a Default Judgment against Defendant CARROLL.

On December 9, 2020, Defendant CARROLL, *without ever getting any consent from Defendant Twelfth Circuit as required by 28 U.S. Code § 1441 and 28 U.S. Code § 1446*, unlawfully and unilaterally removed this Florida Tort Claim action to the Middle District Federal Court in Tampa, Florida.

The Florida Statute 768.28 (18) Waiver of sovereign immunity in tort actions explicitly states that "no provision of this section, or of any other section of the Florida Statutes, shall be construed to waive the immunity of the state or any of its agencies from suit in federal court, as such immunity is guaranteed by the Eleventh Amendment to the Constitution of the United States, *unless such waiver is explicitly and definitely stated to be a waiver of the immunity of the state and its agencies from suit in federal court*".

To this date, Defendant Carroll failed to provide any explicit or definite statement from the State of Florida waiving its immunity, allowing a Florida agency (i.e. Twelfth Circuit) to be litigated in the federal court.

Further, on December 11, 2020, two days after Defendant Carroll unlawfully removed this Florida Tort Claim action to the federal court, ***Chief Justice Charles T. Canady of the Supreme Court of Florida, under Article V of Section 2 of the Constitution of Florida, ordered*** the Honorable Keith R. Kyle, Circuit Judge of the Twentieth Judicial Circuit Court of Florida, to try this Florida Tort Claim Case (Order #: 2021-42) [**EXHIBIT 2**].

Now, the common sense tells all of us that no federal judge shall have jurisdiction over this Florida State Tort Claim action and must remand the case back to Florida State Court, especially when the Supreme Court of Florida explicitly assigned a neutral judge in its Order "2021-42", to expedite and determine the liability of the Defendant Carroll and his employer, Defendant Twelfth Circuit.

Then why is the United States District Court for the Middle District of Florida so hell bent on keeping the Florida Tort Claim action in its jurisdiction, against the Order of the Supreme Court of Florida?

This litigation also revealed Defendant Carroll's longtime defiance of 28 U.S. Code § 1441 and 28 U.S. Code § 1446, as well as the Constitution of Florida.

C. Trial Evidence

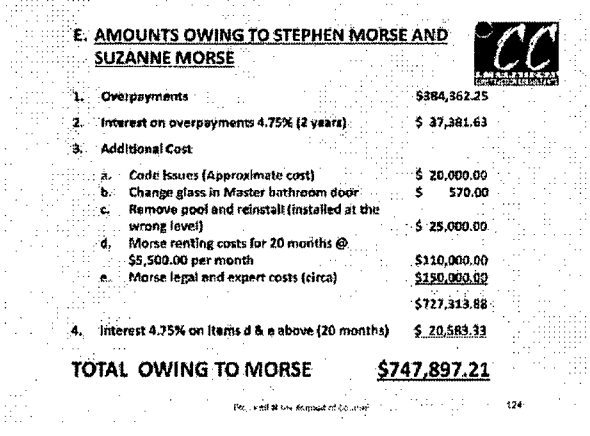
In its original Florida fraudulent mechanics case (Morse v. Westwater, 2013 CA 002930 NC), Carroll actively denied *every discovery request* from Third-party Defendant KIM, who was wrongly included in the case where KIM never met either Plaintiff Morse or Defendant WESTWATER.

Carroll denied KIM's jury trial request and held a non-jury trial where he could be the only fact finder of the trial on February 13-14, 2020.

At the trial, the ONLY witness WESTWATER brought was its President, Mark Miller. Miller failed to provide a single evidence of how much he or his company paid ANY of the subcontractors, as all he submitted for trial evidence was just an excel spreadsheet that did not match any of the numbers that added up to his $134,559.86 lien amount.

(1) LIEN ANALYSIS

When Mr. David McCulla, a Court-approved expert witness as a construction cost expert, showed up at the trial to testify against WESTWATER after confirming all paid receipts with all subcontractors involved in the project. He was willing and able to expose how WESTWATER not just committed a partial fraud in its mechanics lien filing, but the entire $134,559.86 lien amount was fabricated, but Carroll actively denied Mr. McCulla to even testify after reviewing his Lien Analysis report [**EXHIBIT 3**].



E. AMOUNTS OWING TO STEPHEN MORSE AND SUZANNE MORSE

1.	Overpayments	$384,362.25
2.	Interest on overpayments 4.75% (2 years)	$ 37,381.63
3.	Additional Cost	
	a. Code Issues (Approximate cost)	$ 20,000.00
	b. Change glass in Master bathroom door	$ 570.00
	c. Remove pool and reinstall (installed at the wrong level)	$ 25,000.00
	d. Morse renting costs for 20 months @ $5,500.00 per month	$110,000.00
	e. Morse legal and expert costs (circa)	$150,000.00
		$727,313.88
4.	Interest 4.75% on items d & e above (20 months)	$ 20,583.33
	TOTAL OWING TO MORSE	$747,897.21

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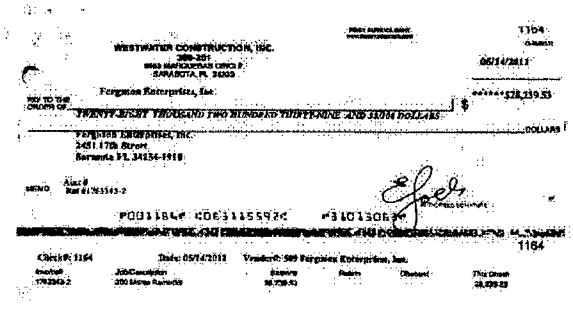
(2) FORGED CHECK

When Ferguson Enterprises, WESTWATER's equipment supplier, took the stand and testified that WESTWATER forged a check, CARROLL disregarded that evidence [**EXHIBIT 4**].



WESTWATER CONSTRUCTION, INC.

Ferguson Enterprises, Inc.

TWENTY-EIGHT THOUSAND TWO HUNDRED THIRTY-NINE AND 53/100 DOLLARS

1164

WW claimed $28,239.53 in September 2012 payment #1 within the revised cost to complete.

Most significantly and shockingly, Carroll committed ex parte communication with Shirin Mohammadbhoy Vesely ("VESELY"), attorney for WESTWATER, as ***VESELY literally wrote the entire Final Judgment in favor of WESTWATER***, and Carroll just signed it on February 25, 2020. When pushed on the record to state her position on unlawfully drafting the Final Judgment for Carroll via ex parte communication, VESELY did not deny it.

(3) JOB COST REPORT

What WESTWATER never wanted anyone to see was its ***own*** JOB COST JOURNAL, which proves beyond any shadow of doubt, that 100% of its mechanics lien filing was fraudulent [**EXHIBIT 4**].

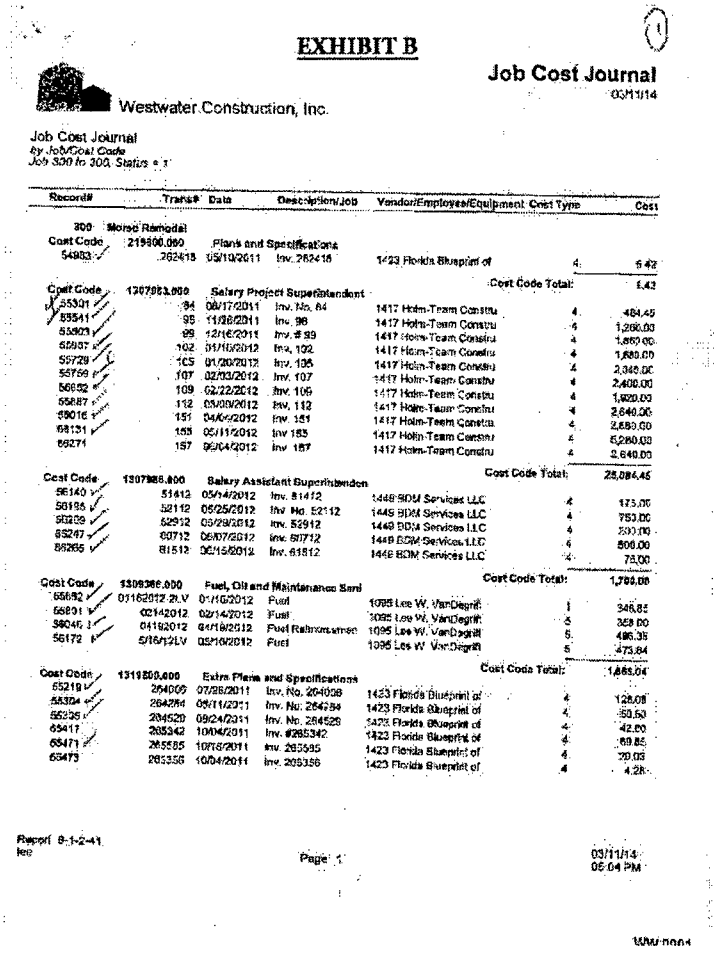


EXHIBIT B

Job Cost Journal
03/11/14

Westwater Construction, Inc.

Job Cost Journal
by Job/Cost Code
Job 300 to 300, Status a,i

Record#	Trans#	Date	Description/Job	Vendor/Employee/Equipment	Cost Type	Cost
300 Morse Remodel						
Cost Code 219000.000			Plans and Specifications			
54983	262418	05/10/2011	Inv. 262418	1423 Florida Blueprint of	4	5.42
					Cost Code Total:	5.42
Cost Code 1307983.000			Salary Project Superintendent			
55301	84	06/17/2011	Inv. No. 84	1417 Holm-Team Constru	4	484.45
55541	98	11/28/2011	Inv. 98	1417 Holm-Team Constru	4	1,260.00
55923	99	12/16/2011	Inv. # 99	1417 Holm-Team Constru	4	1,680.00
55937	102	01/16/2012	Inv. 102	1417 Holm-Team Constru	4	1,680.00
55729	105	01/20/2012	Inv. 105	1417 Holm-Team Constru	4	2,345.00
55769	107	02/03/2012	Inv. 107	1417 Holm-Team Constru	4	2,400.00
56652	109	02/22/2012	Inv. 109	1417 Holm-Team Constru	4	1,920.00
55887	112	03/30/2012	Inv. 112	1417 Holm-Team Constru	4	2,640.00
56016	151	04/06/2012	Inv. 151	1417 Holm-Team Constru	4	2,680.00
56131	155	05/11/2012	Inv 155	1417 Holm-Team Constru	4	5,280.00
56271	157	06/04/2012	Inv 157	1417 Holm-Team Constru	4	2,640.00
					Cost Code Total:	25,084.45
Cost Code 1307986.000			Salary Assistant Superintendent			
56140	51412	05/14/2012	Inv. 51412	1448 BDM Services LLC	4	175.00
56195	52112	05/25/2012	Inv No. 52112	1448 BDM Services LLC	4	750.00
56309	52912	05/29/2012	Inv. 52912	1448 BDM Services LLC	4	300.00
56247	60712	06/07/2012	Inv. 60712	1448 BDM Services LLC	4	500.00
56266	61512	06/15/2012	Inv. 61512	1448 BDM Services LLC	4	75.00
					Cost Code Total:	1,700.00
Cost Code 1308986.000			Fuel, Oil and Maintenance Sand			
56682	03162012.2LV	03/16/2012	Fuel	1095 Lee W. VanDegrift	1	346.85
56691	02142012	02/14/2012	Fuel	1095 Lee W. VanDegrift	5	358.00
56045.1	04162012	04/16/2012	Fuel Reimbursmen	1095 Lee W. VanDegrift	5	486.35
56172	5/16/12LV	05/16/2012	Fuel	1095 Lee W. VanDegrift	5	473.84
					Cost Code Total:	1,665.04
Cost Code 1319500.000			Extra Plans and Specifications			
55219	264099	07/26/2011	Inv. No. 264099	1423 Florida Blueprint of	4	128.08
55324	264264	08/11/2011	Inv. No. 264264	1423 Florida Blueprint of	4	50.50
55235	264520	09/24/2011	Inv. No. 264520	1423 Florida Blueprint of	4	42.00
55417	265342	10/04/2011	Inv. #265342	1423 Florida Blueprint of	4	69.85
55471	265585	10/18/2011	Inv. 265585	1423 Florida Blueprint of	4	29.03
55479	265356	10/04/2011	Inv. 265356	1423 Florida Blueprint of	4	4.28

Report 8-1-2-41
lee

Page: 1

03/11/14
05:04 PM

WW 0004

Carroll actively denied KIM's motion to reopen the testimony of MILLER and McCulla, since Carroll knew that Westwater's own JOB COST JOURNAL will put MILLER in prison for committing fraud upon the court, as he lied under the oath on 4 separate occasions.

D. Lower Courts' Rulings

In February 2020, Hunter Carroll on behalf of the Florida Twelfth Circuit court entered judgment (***Case #: 2013 CA 002930 NC***) for WESTWATER. The Twelfth Circuit court held that WESTWATER's mechanics lien was not fraudulent, and it had priority over the IRS Federal Tax Lien. KIM demonstrated that WESTWATER lien was 100% fabricated and was a junior lien to the IRS lien. But CARROLL ruled for WESTWATER when it never provided its own Job Cost Journal [**EXHIBIT 4**], which would have put its President Mark Miller in prison for fabricating a mechanics lien, a third-degree felony. The court concluded that WESTWATER's mechanics lien was 100% valid without any errors, and it also had a priority position over the IRS, even though the IRS refused to pay WESTWATER a penny at the public auction sale of January 2016.

When KIM opened a new case to set aside Carroll's judgment, CARROLL intentionally hijacked the new case (***Case #: 2020 CA 003133 NC***) without any pending motion from any party on September 9, 2020, and he immediately canceled KIM's Summary Judgment Hearing set for September 24, 2020 on the same day. CARROLL declined to hold that WESTWATER's mechanics lien was 100% fabricated and the IRS indeed held priority over WESTWATER's mechanics lien. CAROLL did not allow KIM to have any chance to present the mountain of evidence to any other judge in the Twelfth Circuit.

When Twelfth Circuit received KIM's Notice of Clear Error of Law and subsequently demoted CARROLL to the DMV building in Venice, FL, Twelfth Circuit still failed to strike the judgment entered by CARROLL, which allowed WESTWATER to take over KIM's property and caused injury to KIM.

The state court never had subject matter jurisdiction as of September 24, 2015, when the IRS seized the property away from the previous owners Suzanne and Stephen Morse for unpaid back taxes. Contrary of many beliefs, judicial immunity is not applied in Tort Claims when a judicial officer acts without subject matter jurisdiction

Since Twelfth Circuit failed to remedy all of the injury its employee CARROLL has caused KIM while CARROLL never had subject matter jurisdiction over the property, KIM had no other choice but to exercise his legal remedy provided by the State of Florida, which is called Florida Tort Claims Act pursuant to Florida Statute 768.28 Title XLV.

In November 2020, KIM filed his Florida Tort Claims case against Defendant Twelfth Circuit in Sarasota, Florida (***Case #: 2020 CA 004792 NC***), for violations of due process, as Florida Statute 768.28 Title XLV allows individuals to bring a tort claim against the state government when the state's employees' actions resulted in property loss, personal injuries, or wrongful deaths.

In *McCullough v. Finley*, 907 F.3d 1324, 2018 U.S. App. LEXIS 30554 (October 29, 2018) HN5 -- Subject Matter Jurisdiction, Jurisdiction Over Actions "When judges' acts are judicial, they enjoy absolute judicial immunity unless they acted in the clear absence of all jurisdiction. *A judge acts in clear absence of all jurisdiction only if he lacked subject-matter jurisdiction."*

In December 2020, Defendant Carroll unlawfully removed this Florida State Tort Claims case to the Middle District of Florida Federal Court (***Case #: 8:20-cv-02934***), and the Federal Court repeatedly refused to remand this case back to the Florida State Court, despite the fact that Florida Supreme Court had assigned a new judge to oversee the case in the Florida Court (Order #:2021-42).

When KIM repeatedly demanded the case to be remanded and the Middle District of Florida refused to remand it back to Florida State Court despite the exact order from the Florida Supreme Court, KIM again had no other choice but to sue Middle District of Florida as a Defendant for clear violation of due process and the Eleventh Amendment (***Case #: 8:20-cv-03041***). Since Defendant Middle District clearly lacked subject matter jurisdiction, no judicial immunity applied in this case either.

Then the most unthinkable act by an employee of Defendant Middle District happened. Instead of requesting the Eleventh Circuit Court for a new unbiased judge from another District, as the Honorable Chief Justice Canady in the Florida Supreme Court did a month before, Timothy J. Corrigan, Chief U.S. District Judge as an employee of Defendant Middle District totally forgot the fact that he cannot be both a Defendant and a Fact Finder, and assigned both cases (Florida Tort Claim case and the Eleventh Amendment violation case) to himself, and immediately dismissed both cases with prejudice, while KIM had motions for summary judgment pending in both cases.

As a result, ever since KIM was wrongfully brought into the fraudulent mechanics lien case (Morse v. Westwater) in January 2017 after purchasing the lien-free property from the IRS in January 2016, KIM was never allowed to have either discovery or even his summary judgment hearing for over five (5) years. If this is not a clear violation of civil due process, KIM does not know what is.

On February 10, 2021, KIM timely filed his appeal for both Florida Tort Claim case (***21-10450***) and the Eleventh Amendment violation case (***21-10451***) in the Eleventh Circuit Court in Atlanta, Georgia. By November 13, 2020, KIM was evicted from his own house at the height of the COVID-19 pandemic, and he was forced to live on the streets in a $2,000 old school bus, which KIM personally removed all seats so he could fit all of his personal belongings and live without any water and power, and not even a toilet.

After exhausting all his personal funds in the 5+ year legal battle against WESTWATER and CARROLL, KIM filed MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS (IFP) AND AFFIDAVIT in both Appeals [**EXHIBIT 5**].

On March 19, 2021, after Appellant KIM filed the IFP motions in each appeal in the Eleventh Circuit, Timothy J. Corrigan as an employee of Appellee Middle District filed his Order denying KIM's IFP motion, even though he explicitly admitted that ***"...plaintiff may meet the financial requirements for proceeding in forma pauperis."***

For the record, an IFP motion shall be ruled solely based on the Appellant meeting the financial requirements for proceeding in forma pauperis, not whether he is a vexatious or annoying litigant.

In *Fisher v. Miller, 373 Fed. Appx. 148 (2010)*, United States Court of Appeals for the Third Circuit ruled that District court erred when it denied former employee's in forma pauperis (IFP) motion on basis that he did not state claim, under 28 U.S.C.S. § 1915(e)(2)(B)(ii), because *it reviewed claims without considering whether his financial status qualified him for IFP status*, facts supported IFP status, and he should have been permitted to amend complaint.

On June 23, 2021, The Eleventh Circuit affirmed CORRIGAN's order denying KIM's IFP motion.

On December 29, 2021, The Eleventh Circuit denied KIM's Motion for Reconsideration en banc (with panel rehearing).

On February 8, 2022, The Eleventh Circuit denied KIM's Motion to Appoint Special Master for the Limited Scope of Overseeing the IFP Status of Appellant Kim and dismissed the Appeals for both Florida Tort Claim case (21-10450) and the Eleventh Amendment violation case (21-10451).

REASONS FOR GRANTING THE PETITION

According to www.ballotpedia.org, the following indicate the character of the three (3) reasons the Court considers for granting a writ of certiorari:

A) A U.S. court of appeals has entered a decision in conflict with the decision of another U.S. court of appeals on the same important matter, has decided an important federal question in a way that conflicts with a decision by a state court of last resort, or has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the Court's supervisory power.

B) A state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a U.S. court of appeals.

C) A state court or a U.S. court of appeals has decided an important question of federal law that has not been, but should be, settled by the Court, or has decided an important federal question in a way that conflicts with relevant decisions of the Court.

The Court should hear this case for three (3) independent reasons.

I. Eleventh Amendment shall be upheld by all 13 Appellate Courts, and no civil case shall be removed unless all defendants join in or consent to the removal of the action. 28 U.S.C.S. § 1446(b)(2)(A).

In *Home Depot U.S.A., Inc. v. Jackson, 139 S. Ct. 1743 (2019)*, Third-party retailer that was named as a defendant in a counterclaim could not remove the counterclaim under 28 U.S.C.S. § 1441(a) because the term "the defendant or the defendants" referred only to the party sued by the original plaintiff; nor could a third-party counterclaim defendant remove under CAFA, 28 U.S.C.S. § 1453(b).

Removal of Causes § 6 > RESTRICTIONS — ORIGINAL JURISDICTION

HN4.

In addition to granting federal courts jurisdiction over certain types of cases, Congress has enacted provisions that permit parties to remove cases originally filed in state court to federal court. 28 U.S.C.S. § 1441(a), the general removal statute, permits the defendant or the defendants in a state-court action over which the federal courts would have original jurisdiction to remove that action to federal court. To remove under this provision, a party must meet the requirements for removal detailed in other provisions. *For one, a defendant cannot remove unilaterally. Instead, all defendants who have been properly joined and served must join in or consent to the removal of the action. 28 U.S.C.S. § 1446(b)(2)(A).* Moreover, when federal jurisdiction is based on diversity jurisdiction, the case generally [**36] must be removed within 1 year after commencement of the action, § 1446(c)(1), and the case may not be removed if any defendant is a citizen of the state in which such action is brought, § 1441(b)(2).

(Thomas, J., joined by Ginsburg, Breyer, Sotomayor, and Kagan, JJ.)

Soon after this brilliant ruling by the Supreme Court, the Eleventh Circuit followed suit. In *Bowling v. United States Bank N.A., 963 F.3d 1030, United States Court of Appeals for the Eleventh Circuit (2020)*, The Honorable Patrick E. Higginbotham, United States Circuit Judge for the Fifth Circuit, sitting by designation stated:

The Eleventh Amendment prevents federal courts from exercising jurisdiction over state defendants--the federal court will not even hear the case if a state is the defendant. A state may not be sued in federal court by its own citizen or a citizen of another state, unless the state consents to jurisdiction.

A) The Eleventh Circuit U.S. court of appeals has entered a decision in conflict with the decision of the other 12 U.S. courts of appeals on the Eleventh Amendment, has decided an important federal question of Eleventh Amendment in a way that conflicts with a decision by the Supreme Court of Florida, and has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the Court's supervisory power.

In this case, the Eleventh Circuit U.S. Court of Appeals has sided with Middle District of Florida, which dismissed Kim's Florida Tort Claim action with prejudice, when ***Defendant Twelfth Circuit never waived its sovereign immunity or consented the removal of the Florida State Tort case into the Federal Court***, even when one of its employees (Carroll) unlawfully removed the case to the Federal Court without getting any written consent from the State of Florida, as required by the Florida Statute 768.28 (18).

B) The Supreme Court of Florida has decided on the Eleventh Amendment in a way that conflicts with the decision of the Eleventh Circuit U.S. court of appeals.

Supreme Court of Florida

2021-42

WHEREAS, it officially has been made known to me that it is necessary to the dispatch of business of the TWELFTH JUDICIAL CIRCUIT COURT OF FLORIDA that a judge be temporarily assigned to duty in that court to hear the case of:

Michael Kim v. The Twelfth Judicial Circuit
Sarasota County Case Number: 2020 CA 4792

NOW, THEREFORE, I, CHARLES T. CANADY, under authority vested in me as Chief Justice of the Supreme Court of Florida, under article V, section 2 of the Constitution of Florida and the rules of this Court promulgated thereunder, do hereby assign and designate THE HONORABLE KEITH R. KYLE, CIRCUIT JUDGE from the TWENTIETH JUDICIAL CIRCUIT COURT OF FLORIDA, to proceed to the TWELFTH JUDICIAL CIRCUIT COURT OF FLORIDA to hear, conduct, try, and determine the above cause, which shall be presented to the judge as a temporary judge of said court, and thereafter to dispose of all matters considered by the judge in said cause, including issues of fees and costs arising out of said cause, but excluding other matters subsequently raised that are collateral to said cause. JUDGE KYLE, under and by virtue of the authority hereof, is hereby vested with all and singular the powers and prerogatives conferred by the Constitution and laws of the State of Florida upon a judge of the court to which the judge is hereby assigned.

DONE AND ORDERED at Tallahassee, Florida, on December 10, 2020.

CHIEF JUSTICE CHARLES T. CANADY
SUPREME COURT OF FLORIDA
2021-42 12/10/2020

ATTEST:

DEPUTY CLERK

SUPREME COURT OF THE STATE OF FLORIDA [SEAL] CITO SI REQUIRIS

This is self-explanatory, so Kim hereby makes no further comments on this issue.

C) The Eleventh Circuit U.S. court of appeals has decided an important question of the Eleventh Amendment that has decided an important federal question in a way that conflicts with relevant decisions of the Court.

The Eleventh Circuit has always been aware of the following facts:

1. Defendant Carroll unlawfully and unilaterally removed the case, without ever getting consent from Defendant Twelfth Circuit, which got served in the State Court.
2. Defendant Carroll never received the mandatory written waiver from the State of Florida prior to removing the case, as required by ***Florida Statute 768.28 (18) Waiver of sovereign immunity in tort actions***, which explicitly states that "no provision of this section, or of any other section of the Florida Statutes, shall be construed to waive the immunity of the state or any of its agencies from suit in federal court, as such immunity is guaranteed by the Eleventh Amendment to the Constitution of the United States, ***unless such waiver is explicitly and definitely stated to be a waiver of the immunity of the state and its agencies from suit in federal court***".

Should this Court hold that Florida official's voluntary removal of action from state court to federal court without such explicit waiver of immunity still invoked jurisdiction of federal courts and thus constituted waiver of sovereign immunity?

Common sense tells Petitioner (and most of the law-abiding citizens of our nation) that this case simply needs to be remanded back to the Florida State Court, where The Honorable Keith R. Kyle had already been assigned by the Florida Supreme Court, to either rule for Kim, or dismiss it. Whatever the Florida Court decides on this Tort Claim action, the jurisdiction shall be given to the Florida State Court.

II. No judge could be a judge in his own case where he had an interest in the outcome, under the Due Process Clause.

In *Aetna Life Ins. Co. v. Lavoie, 475 U.S. 813 (1986)*, the Court ruled that Judge should have recused himself from case involving insurance company with whom he had personal lawsuits. Under the Due Process Clause, no judge could be a judge in his own case or be permitted to try cases where he had an interest in the outcome. This Court went further:

> "We conclude that Justice Embry's participation in this case violated appellant's due process rights as explicated in Tumey, Murchison, and Ward. We make clear that we are not required to decide whether in fact Justice Embry was influenced, but only whether sitting on the case then before the Supreme Court of Alabama "'would offer a possible temptation to the average . . . judge to . . . lead him not to hold the balance nice, clear and true.'" Ward, 409 U.S., at 60 (quoting *Tumey v. Ohio*, supra, at 532). HN5 The Due Process Clause "may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties. But to perform its high function in the best way, 'justice must satisfy the appearance of justice.'" *Murchison, 349 U.S.,* at 136 [****23]."

Even in this exact case, the Honorable Charlene Edwards Honeywell emphasized the need for an unbiased judge from another United States District Court to reside over the case, by stating in her December 20, 2020 order:

"As a member of the United States District Court for the Middle District of Florida, the undersigned finds that she must recuse herself pursuant to 28 U.S.C. § 455(b)(5). Additionally, the undersigned finds it appropriate to recuse herself so as to avoid even the appearance of partiality or impropriety. See 28 U.S.C. § 455(a). Accordingly, it is therefore

ORDERED:

1. Plaintiff's motion (Doc. 17) is GRANTED.

2. In light of Plaintiff's request, the undersigned hereby disqualifies herself from these proceedings, pursuant to 28 U.S.C. §§ 455(a) and 455(b)(5)."

What Judge Timothy Corrigan, as another member of the of the United States District Court for the Middle District of Florida, should have done was to request the Eleventh Circuit Court of Appeals to assign an unbiased judge to oversee both cases (8:20-cv-02934, the Florida Tort Claim action that was unlawfully removed to the federal court, and 8:20-cv-03041, the Deprivation of Civil Rights action), or request a Special Master. Judge Corrigan failed to do so and decided to rule on a case where he knew he was a member of the Defendant, while fully being aware of WESTWATER's fraudulent lien filing and the existence of a whistleblower who can testify under oath regarding the bribery of a Florida official by WESTWATER.

While the correct thing to do is to remand the original Florida Tort Claim action back to Florida State Court, pursuant to Florida Supreme Court Order #2021-42, which still has the Honorable Judge Kyle waiting to rule on the case, Petitioner would be perfectly fine with this Honorable Court to assign an unbiased, non-party Judge in both cases to rule, so as to avoid even the appearance of partiality or impropriety.

Since 1948, this case law has been the cited by over 4,000 courts in our nation, to give an average Joe like myself a chance to fight the rich with plentiful legal resources in the court, especially when one gets evicted from his own house by a fraudulent mechanics lien filer and is forced to move into a $2,000 retired school bus with all his belongs during the COVID pandemic.

In a recent 2015 case, *Coleman v. Tollefson, 575 U.S. 532 (2015)*, this Court went further:

> "Congress first enacted an in forma pauperis statute in 1892. See Act of July 20, ch. 209, 27 Stat. 252. Congress recognized that "no citizen sh[ould] be denied an opportunity to commence, prosecute, or defend an action, civil or criminal, in any court of the United States, solely because his poverty makes it impossible for him to pay or secure the costs." Adkins v. E. I. DuPont de Nemours & Co., 335 U.S. 331, 342, 69 S. Ct. 85, 93 L. Ed. 43 (1948). It therefore permitted a citizen to "commence and prosecute to conclusion any such . . . action without being required to prepay fees [**1762] or costs, or give security therefor before or after bringing suit." §1, 27 Stat. 252. **HN3** The current statute permits an individual to litigate a federal action in forma pauperis if the individual files an affidavit stating, among other things, that he or she is unable to prepay fees "or give security therefor." 28 U.S.C. §1915(a)"

In 2020, however, *Young v. Hill, 2020 U.S. Dist. LEXIS 262312*, United States District Court for the District of Wyoming took a slightly difference stance to Adkins:

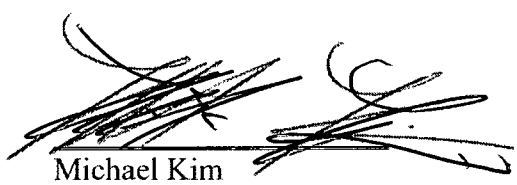
> "Adkins is still correct that absolute destitution is not required, but to the extent it held an affidavit did not need to provide financial information, this is no longer the law. At the time Adkins was decided, Section 1915 did not specify what information was required in an affidavit to support in forma pauperis status. The statute was amended in 1996 to specify the affidavit must include a "statement of all assets."

Since Coleman (2015) and Young (2020) are starting to separate their legal stances, it's time for this Honorable Court to clarify the original Adkins (1948) once and for all, so that all 13 appellate courts can follow the suit.

CONCLUSION

This Court should grant certiorari.

Respectfully submitted,



Dated: May 6, 2022.

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