22-5146

NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

DAWUD C.S. GABRIEL,

Petitioner,

v.

MELTON TRUCK LINES,

Respondent.

On Petition For Writ of Certiorari To The
United States Court of Appeals
For the Tenth (10th) Circuit
(Tenth (10th) Cir. Case No. 22-05009)

Petition for Writ of Certiorari

Dawud C.S. Gabriel
Non-Attorney, Pro Se Petitioner
1307 Thurston Avenue
Sebring, FL 33870
(561) 398-3829

II. PRESENTED QUESTIONS

1. Whether or not the U.S. Court of Appeals for the Tenth (10th) Circuit, departed far from the accepted and usual course of judicial proceedings, as to call for an exercise of the Court's supervisory power?
2. Whether or not U.S. Court of Appeals for the Tenth (10th) Circuit sanctioned District Court's far departure from the accepted and usual course of judicial proceedings?
3. Whether or not the U.S. Court of Appeals for the Tenth (10th) Circuit has decided an important question of federal law that conflicts with relevant decisions of the Court?
4. Whether or not the U.S. Court of Appeals for the Tenth (10th) Circuit violated the Petitioner's First (1st) and Fourteenth (14th) Amendment Right, to Petition the Court for Redress of Grievances, when entering the April 29, 2022, Judgment?
5. Whether or not the U.S. Court of Appeals for the Tenth (10th) Circuit, violated Petitioner's Fifth (5th) and Fourteenth (14th) Amendment, Due Process Right, to an opportunity to be heard in a meaningful time and in a meaningful manner?

III. LIST OF THE PARTIES

A. Petitioner and Respondent

Caption of the case contains names of all the parties[1].

B. Corporate Disclosure Statement

Petitioner is not a nongovernment corporation.

[1]Melton Truck Lines is not an active party to this matter, for reason that this matter was dismissed prior to service being processed.

III. LIST OF THE PARTIES (continued)

C. Relevant List of Proceedings

1. On January 14, 2022, Gabriel filed civil action against Melton Truck Lines (officially known as Melton Truck Lines Incorporated) for a violation of 42 U.S.C. § 12112(a) (the American with Disabilities Act of 1990 ("ADA")), in U.S. District Court for the Northern District of Oklahoma ("U.S. District Court-ND/OK")., Case no. 4:22-CV-00021. See Appendix, Vol. 2, App. A., Pg. 1, DE 01& DE 02.
2. On January 14, 2022, the Honorable U.S. District Judge Gregory K. Frizzell ("Judge Frizzell") was assigned to preside over this matter. See Appendix, Vol. 2, App. A., Pg. 1.
3. On January 14, 2022, Gabriel filed a Motion to *Partially* Proceed in Forma Pauperis. Gabriel requested to be allowed to pay the filing fee in partial payments of $25.00 per month. See Appendix, Vol. 2, App. A., Pg. 1, DE 03[2].
4. On January 19, 2022, District Court entered an Order, requiring Gabriel to show just cause as to why the claim filed in this matter was not duplicative of the claims filed in the matters of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021)[3] and Gabriel v. Melton Truck Lines, Case No. 4:22-CV-00529 (ND/OK.2021)[4]. See Appendix, Vol. 2, App. A., Pg. 1, DE 04.
5. On January 20, 2022, Gabriel timely filed a Response to District Court's Show Cause Order. See Appendix, Vol. 2, App. A., Pg. 1, DE 05.
6. On January 24, 2022, District Court entered an Order, dismissing this matter WITHOUT prejudice. See , Vol. 1, App. B & Appendix, Vol. 2, App. A., Pg. 1, DE 06.
7. On January 24, 2022, District Court entered a Judgment. See Appendix, Vol. 1, App. C & Vol. 2, App. A., Pg. 1, DE 07.
8. On January 29, 2022, Gabriel filed a Notice of Appeal. See Appendix, Vol. 2, App. A., Pg. 2, DE 12.

[2] On January 25, 2022. District Court entered a minute order, **GRANTING** motion to Partially Proceed in Forma Pauperis, after the matter was dismissed. See Appendix, Vol. 2, App. A., Pg. 2, DE 08.

[3] On November 16, 2021, Gabriel filed civil action against the Respondent for violations of 42 U.S.C. § 12112(a). The Honorable U.S. Chief District Judge John F. Heil III ("Chief Judge Heil") is presiding over the matter, which is currently pending.

[4] Judge Frizzell was also assigned to preside over this matter.

III. LIST OF THE PARTIES (continued)

C. Relevant List of Proceedings (continued)

9. On January 31, 2022, Gabriel was issued Case no. 22-5009 for his appeal of this matter in the Tenth (10th) Circuit Court of Appeals. See Appendix, Vol. 2, App. A., Pg. 2, DE 17.

10. On January 31, 2022, this matter was docketed in the Tenth (10th) Cir. Court of Appeals. See Appendix, Vol. 1, App. D., Pg. 3, DE 10889430.

11. On February 7, 2022, jurisdictional review was completed, and a deadline of March 21, 2022, was set for the submission of opening briefs. See Appendix, Vol. 1, App. D., Pg. 3, DE 10891118.

12. On February 8, 2022, the record on appeal was filed. See Appendix, Vol. 1, App. D., Pg. 3, DE 10891459.

13. On February 10, 2022, Gabriel filed an Entry of Appearance. See Appendix, Vol. 1, App. D., Pg. 3, DE 10892294.

14. On February 10, 2022, Gabriel timely filed a Fed.R.App.P.27(a)(l) & 10th Cir.R.27.3(A)(1)(c) Motion, requesting the Tenth (10th) Cir. Court of Appeals to vacate District Court's January 24, 2022, Dismissal Order [Vol. 1, App. B] and Judgment [Vol. 1, App. C]. See Appendix, Vol. 1, App. D., Pg. 3, DE 10892687.

15. On February 14, 2022, the Clerk of Tenth (10th) Cir. Court of Appeals, **DENIED** Gabriel's Fed.R.App.P.27(a)(l) & 10th Cir.R.27.3(A)(1)(c) Motion, for reason to require him to file opening briefs. See Appendix, Vol. 1, App. D., Pg. 3, DE 10892716.

16. On February 22, 2022, Gabriel timely filed a Fed.R.App.P.27(a)(l) & 10th Cir.R.27.3(A)(1)(c) Motion, requesting the Clerk's February 17, 2022, Order be vacated and for his February 10, 2022, Fed.R.App.P.27(a)(l) & 10th Cir.R.27.3(A)(1)(c) Motion to be reconsidered. See Appendix, Vol. 1, App. D., Pg. 3, DE 10894368.

21. On February 22, 2022, the Clerk of Tenth (10th) Cir. Court of Appeals, **GRANTED** Gabriel's February 22, 2022, Fed.R.App.P.27(a)(l) & 10th Cir.R.27.3(A)(1)(c) Motion, **VACATED** the February 17, 2022, Order, but referred Gabriel's Motion to a 10th.Cir. Court panel. The Clerk of the Tenth (10th) Cir. Court of Appeals also reminded Gabriel of his legal obligation to file an opening brief. See Appendix, Vol. 1, App. D., Pg. 3, DE 10894464.

III. LIST OF THE PARTIES (continued)

C. Relevant List of Proceedings (continued)

22. On March 14, 2022, Gabriel timely filed opening briefs. See Appendix, Vol. 1, App. D., Pg. 3, DE 10900372.

23. On March 21, 2022, a letter sent to the Clerk for the Tenth (10th) Circuit Court of Appeals, related to opening briefs not filed. See Appendix, Vol. 1, App. D., Pg. 3, DE 10901510.

24. On April 29, 2022, the Tenth (10th) Cir. Court of Appeals **DENIED** Gabriel's February 10, 2022, Gabriel February 10, 2022, Fed.R.App.P.27(a)(l) & 10th Cir.R.27.3(A)(1)(c) Motion as moot. See Appendix, Vol. 1, App. D., Pg. 3, DE 10909766.

25. On April 29, 2022, the Tenth (10th) Cir. Court of Appeals entered a Judgment (unpublished), **AFFIRMING** District Court's Dismissal Order [Vol. 1, App. B] and Judgment [Vol. 1, App. C]. See Appendix, Vol. 1, App. A & Vol. 1, App. D., Pg. 3, DE 10899767.

26. Gabriel now petitions the Court for Writ of Certiorari, to review the Judgement [Vol. 1, App. A] of the Tenth (10th) Cir. Court of Appeals.

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VI. CITATIONS OF UNOFFICIAL REPORTS

1. **Gabriel v. Melton Truck Lines, Case No. 22-05009 (10th Cir.2022)**
2. Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022)[1]
3. **Gabriel v. Melton Truck Lines, Case No. 4:22-CV-00021 (ND/OK.2022)**
4. Gabriel v. Melton Truck Lines, Case No. 4:22-CV-00529 (ND/OK.2022)[2]

VII. JURISDICTIONAL STATEMENT

Gabriel petitions the Court for writ of certiorari, to review the April 29, 2022, Judgment [Vol.1, App. A] of the Tenth (10th) Cir. Court of Appeals, **AFFIRMING** District Court's dismissal [Vol. 1 App. B & C] of this matter. The Court has jurisdiction to grant certiorari, under the Congressional provision of 28 U.S.C. § 1254(1). Hohn v. United States, 524 US 236, 241, 118 S. Ct. 1969, 141 L. Ed. 2d 242 (1998); Felker v. Turpin, 518 US 651, 666, 116 S. Ct. 2333, 135 L. Ed. 2d 827 (1996). This petition is timely filed within the time constraints of 28 U.S.C. § 2101(c). Federal Election Comm'n v. NRA Political Victory Fund, 513 US 88, 90, 115 S. Ct. 537, 130 L. Ed. 2d 439 (1994); Missouri v. Jenkins, 495 US 33, 45, 110 S. Ct. 1651, 109 L. Ed. 2d 31 (1990).

VIII. RELATED AUTHORITIES, PROVISIONS, & RULES

A. First (1st) Amendment

[T]h[e] activities protected by the First Amendment [are] speech, assembly, **petition for the redress of grievances**, and the exercise of religion. Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984). [P]ersons...have the right to petition the Government for redress of grievances. Cruz v. Beto, 405 US 319, 321, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972). "The First Amendment would, however, be a hollow promise if it left government free to destroy or erode its guarantees by indirect restraints so long as no law is passed that prohibits free speech, press, petition, or assembly as such." Mine Workers v. Illinois Bar Assn., 389 US 217, 222, 88 S. Ct. 353, 19 L. Ed. 2d 426 (1967). "[T]he plaintiff must have suffered an "injury in fact"—an invasion of a legally protected interest which is (a) concrete and particularized,...[1] and (b) "actual or imminent, not `conjectural' or `hypothetical,...[s]econd, there must be a causal connection between the injury and the conduct complained of—the injury has to be "fairly. . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court... [t]hird, it must be "likely," as opposed to merely "speculative," that the injury will be "redressed by a favorable decision."" "At the pleading stage, general factual allegations of injury resulting from the defendant's conduct may suffice, for on a motion to dismiss we "presum[e] that general allegations embrace those specific facts that are necessary to support the claim."" Lujan v. Defenders of Wildlife, 504 US 555, 560-61, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992).

"A discrete retaliatory or discriminatory act "occurred" on the day that it "happened." A party, therefore, must file a charge within either 180 or 300 days of the date of the act or lose the ability to recover for it[.]" National Railroad Passenger Corporation v. Morgan, 536 US 101, 110, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002). "We have repeatedly interpreted the term "practice" to apply to a discrete act or single "occurrence,"

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[1] Cited opinion is related to this case. On July 5, 2022, Gabriel timely mailed (filed) a petition, requesting the Court to grant certiorari to review the judgment of the Tenth (10th) Cir. Court of Appeals.

[2] Cited opinion is related to this case.

even when it has a connection to other acts." National Railroad Passenger Corporation v. Morgan, 536 US 101, 111, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002). "The existence of past acts and the employee's prior knowledge of their occurrence, however, does not bar employees from filing charges about related discrete acts so long as the acts are independently discriminatory and charges addressing those acts are themselves timely filed." National Railroad Passenger Corporation v. Morgan, 536 US 101, 113, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002). "[E]ach incident of discrimination and each retaliatory adverse employment decision constitutes a separate actionable "unlawful employment practice."" National Railroad Passenger Corporation v. Morgan, 536 US 101, 114, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002).

1. 42 U.S.C § 1981a(b)(3)(D)[3]

"The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded under this section, shall not exceed, for each complaining party...**(D)** in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $300,000."

2. 42 U.S.C. § 2000e-5(e)

"[The aggrieved] charges [are] due within 300 days "after the alleged unlawful employment practice occurred."[42 U.S.C.] § 2000e-5(e)(1)." Lewis v. City of Chicago, Ill., 560 US 205, 130 S. Ct. 2191, 2197, 176 L. Ed. 2d 967 (2010); National Railroad Passenger Corporation v. Morgan, 536 US 101, 109-22, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Alexander v. GardnerDenver Co., 415 U. S. 36, 47, 94 S. Ct. 1011, 39 L. Ed. 2d 147 (1974).

3. 42 U.S.C. § 2000e-5(f)(1)

"[W]ithin 90 days following [the passing of 180 days after timely filing a Charge of Discrimination with the EEOC], the complainant may commence a civil action against the allegedly offending employer." [42 U.S.C.] § 2000e-5(f)(1)." Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 1847, 587 US __, 204 L. Ed. 2d 116 (2019); Baldwin County Welcome Center v. Brown, 466 US 147, 149 104 S. Ct. 1723, 80 L. Ed. 2d 196 (1984). "[First], Courts have held that where an aggrieved employee files suit after the expiration of the 180 days, however, jurisdiction over his or her claim exists, even if a right-to-sue letter was not actually received." EEOC v. WH Braum, Inc., 347 F. 3d 1192, 1200 (10th Cir.2003); Wilkes v. Wyoming Dept. Employment Labor Standards, 314 F. 3d 501, 506 (10th Cir.2002); Walker v. United Parcel Service, Inc., 240 F. 3d 1268, 1271 (10th Cir. 2001). "[Secondly], under 42 U.S.C. § 2000e-5(f)(1) a complainant has ninety days in which to file suit[.] Brown v. UNIFIED SCHOOL DIST. 501, TOPEKA, 465 F. 3d 1184, 1186 (10th Cir. 2006); Witt v. Roadway Express, 136 F.3d 1424, 1429 (10th Cir.1998). "[A]ny deficiency in the EEOC's performance of its duties should not adversely affect a plaintiff's right to sue." Jones v. UPS, Inc., 502 F. 3d 1176, 1185 (10th Cir. 2007); Bihler v. Singer Co., 710 F.2d 96, 99 n.7 (3d Cir.1983). "[T]he judicial complaint nevertheless may encompass any discrimination like or reasonably related to the allegations of the EEOC charge, including new acts occurring during the pendency of the charge before the EEOC." Martinez v. Potter, 347 F. 3d 1208, 1210 (10th Cir. 2003); National Railroad Passenger Corporation v. Morgan, 536 US 101, 110-14, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Ingels v. Thiokol Corp., 42 F. 3d 616, 625 (10th Cir.1994).

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[3] 42 U.S.C § 1981a (Damages in cases of intentional discrimination in employment): US House of Representatives: Title 42 - The Public Health and Welfare: Chapter 21 - Civil Rights: Subchapter I – Generally (Jul. 2, 2022). Accessed from the US House of Representatives website at https://uscode.house.gov/view.xhtml?req=(title:42%20section:1981a%20edition:prelim).

4. 42 U.S.C. § 2000e-5(f)(3)

"The [Civil Rights] Act thus contains its own jurisdiction-conferring provision, which reads..."Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this subchapter." 42 U. S. C. § 2000e-5(f)(3)." Yellow Freight System, Inc. v. Donnelly, 494 US 820, 823, 110 S. Ct. 1566, 108 L. Ed. 2d 834 (1990); Zipes v. Trans World Airlines, Inc.,455 US 385, 393-94 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982).

B. Fifth (5th) and Fourteenth (14th) Amendments

1. Due Process

"Procedural due process imposes constraints on governmental decisions which deprive individuals of "liberty" or "property" interests within the meaning of the Due Process Clause of the Fifth [Amendment and the Equal Protection Clause of the] Fourteenth Amendment." Mathews v. Eldridge, 424 US 319, 332, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Goldberg v. Kelly, 397 US 254, 262-63, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

The fundamental requirement of Due Process is the right to the opportunity to be heard in a meaningful time and in a meaningful manner. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). Due Process requires decision to be based on the evidence readily available on the record and for the decisionmaker to state the reason it came to such decision. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970)

a. Granting of Certiorari

"The relevant statute confers unqualified power on th[e] Court to grant certiorari "upon the petition of any party." 28 U.S.C. § 1254(1)." Camreta v. Greene, 563 US 692, 131 S. Ct. 2020, 2023, 179 L. Ed. 2d 1118 (2011); Hohn v. United States, 524 US 236, 241, 118 S. Ct. 1969, 141 L. Ed. 2d 242 (1998); Felker v. Turpin, 518 US 651, 666, 116 S. Ct. 2333, 135 L. Ed. 2d 827 (1996). The Court has granted Certiorari when constitutional questions were raised. Brown v. Allen, 344 US 443, 447, 73 S. Ct. 397, 97 L. Ed. 469 (1953); Morissette v. United States, 342 US 246, 247, 72 S. Ct. 240, 96 L. Ed. 288 (1952). Also, the Court has granted Certiorari when the holdings of an US appeals court conflicts with a decision(s) of the Court. O'Melveny & Myers v. FDIC, 512 US 79, 87-88, 114 S. Ct. 2048, 129 L. Ed. 2d 67 (1994); Mine Workers v. Illinois Bar Assn., 389 US 217, 219, 88 S. Ct. 353, 19 L. Ed. 2d 426 (1967).

b. 28 U.S.C. § 2101(c)

"A petition for certiorari in a civil case must be filed within 90 days of the entry of the judgment below. 28 U. S. C. § 2101(c)." Federal Election Comm'n v. NRA Political Victory Fund, 513 US 88, 90, 115 S. Ct. 537, 130 L. Ed. 2d 439 (1994); Missouri v. Jenkins, 495 US 33, 45, 110 S. Ct. 1651, 109 L. Ed. 2d 31 (1990).

c. Pro Se Standard

[P]ro se [papers]...we hold to less stringent standards than [papers] drafted by lawyers[.] Haines v. Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); Estelle v. Gamble, 429 US 97, 106, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).

d. Claims Splitting

"A discrete retaliatory or discriminatory act "occurred" on the day that it "happened." National Railroad Passenger Corporation v. Morgan, 536 US 101, 110. 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002). "Plaintiffs generally must bring all claims arising out of a common set of facts [of one (1) cause of action] in a single lawsuit, and federal district courts have discretion to enforce that requirement as necessary "to avoid duplicative litigation." Elgin v. Department of Treasury, 567 US 1, 132 S. Ct. 2126, 2147, 183 L. Ed. 2d 1 (2012); Stone v. Department of Aviation, 453 F.3d 1271, 1278 (10th Cir. 2006); Colorado River Water Conservation Dist. v. United States, 424 U.S. 800, 817, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976); "[A] cause of action includes all claims or legal theories of recovery that arise from the same transaction, event, or occurrence. All claims arising out of the transaction must therefore be presented in one suit or be barred from subsequent litigation." "It is immaterial that the legal basis for the relief sought in the two complaints is different; it is the occurrence from which the claims arose that is central to the "cause of action" analysis. Since [Appellant's first case] and [Appellant's second case] both arise from [Appellant]'s discharge, they are based on the same cause of action." Nwosun v. General Mills Restaurants, Inc., 124 F. 3d 1255, 1258 (10th Cir. 1997); Clark v. Haas Group, Inc., 953 F. 2d 1235, 1238-1239 (10th Cir. 1992).

e. Application for Relief

Fed.R.App.P.27(a)(1) states,"[a]n application for an order or other relief is made by motion unless these rules prescribe another form. A motion must be in writing unless the [appellate] court permits otherwise."

(i) 10th.Cir.R.27.3(A)(1)(c)

10th.Cir.R.27.3(A)(1)(c) states, "[a] party may file only the following dispositive motions:...**(c)** a motion to remand for additional trial court[.]"

(ii) 10th.Cir.R.27.3(A)(3)(a)

10th.Cir.R.27.3(A)(3)(a) states, "[a] motion under [10th.Cir.R.](A)(1)(a) through **(c)** should be filed within 14 days after the notice of appeal is filed, unless good cause is shown."

(iii) 10th.Cir.R.27.3(C)

10th.Cir.R.27.3(C) states, "[t]he filing of a motion under [10th.Cir.R.27.3](**A**)...suspends the briefing schedule unless the [appellate] court orders otherwise."

(iv) 10th.Cir.R.27.5(A)(1)

10th.Cir.R.27.5(A)(1) states, "[s]ubject to review by the [appellate] court, the Clerk [of the appellate court] is authorized to act for the [appellate] court on any of the following matters, either sua sponte or on motion: **(1)** to...perform an act required by Federal Rules of Appellate Procedure...27, or by 10th Cir. R...27[.]

(v) 10th.Cir.R.27.5(B)

10th.Cir.R.27.5(B) states, "[i]f any motion for relief listed in [10th.Cir.R.27.5]**(A)** is opposed, the Clerk [of the appellate court] will submit the matter to the [appellate] court."

f. Fed.R.Civ.P.4(c)(3)

"At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by [district] court. [District] court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916." Fed.R.Civ.P.4(c)(3).

(i) Partial Payment of Filing Fee

"[N]ine...circuits have ruled on this issue, and all have concluded that imposing partial filing fees is an appropriate exercise of authority under 28 U.S.C. § 1915." Olivares v. Marshall, 59 F. 3d 109, 111 (9th Cir.1995); Clark v. Ocean Brand Tuna, 974 F.2d 48, 50 (6th Cir.1992); In re Epps, 888 F.2d 964, 967 (2d Cir.1989); Bryan v. Johnson, 821 F.2d 455, 458 (7th Cir.1987); In re Williamson, 786 F.2d 1336, 1339-41 (8th Cir.1986); Bullock v. Suomela, 710 F.2d 102, 103 (3d Cir.1983); Collier v. Tatum, 722 F.2d 653, 655 (11th Cir.1983); Smith v. Martinez, 706 F.2d 572, 574 (5th Cir.1983); Evans v. Croom, 650 F.2d 521, 522-25 (4th Cir.1981); In re Stump, 449 F.2d 1297, 1298 (1st Cir.1971).

g. Fed.R.Civ.P.4(m)

"If a defendant is not served within 90 days after the complaint is filed, [district] court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, [district] court must extend the time for service for an appropriate period." Fed.R.Civ.P.4(m).

h. Fed.R.Civ.P.5.2(e)(2)

"For good cause, [district] court may by order in a case..**(2)** limit or prohibit a nonparty's remote electronic access to a document filed with the court." Fed.R.Civ.P.5.2(e)(2).

i. Fed.R.Civ.P.15(a)(1)(A)

"A party may amend its pleading once as a matter of course within...**(A)** 21 days after serving it[.]" Fed.R.Civ.P.15(a)(1)(A).

j. Fed.R.Civ.P.41(a)(i)

"[T]he plaintiff may dismiss an action without [district] court['s] order by filing…**(i)** a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment[.]" Fed.R.Civ.P.41(a)(i).

2. 28 U.S.C. § 455(a)

"[W]e held that "[f]ailure to move for recusal at the trial level ... does not preclude raising on appeal the issue of recusal under [28 U.S.C.] § 455. "`Nonetheless, if no motion is made to the [trial court] judge...a party will bear a greater burden on appeal in demonstrating that the judge ... [erred] in failing to grant recusal under section [28 U.S.C. §]455.'"" US v. Holland, 519 F. 3d 909, 911-12 (9th Cir. 2008); Jones v. United States, 527 U.S. 373, 388, 119 S.Ct. 2090, 144 L.Ed.2d 370 (1999); United States v. Olano, 507 U.S. 725, 736, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993)."Title 28 U. S. C. § 455 provides in relevant part: "(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. Liteky v. US, 510 US 540, 547, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 858-59, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988).

"[T]wo paragraphs of the revision brought into [28 U. S. C.] § 455 elements of general "bias and prejudice" recusal that had previously been addressed only by [28 U. S. C.] § 144. Specifically, [28 U. S. C. § 144](b)(1) entirely duplicated the grounds of recusal set forth in [28 U. S. C.]§ 144 ("bias or prejudice"), but [28 U.S.C. § 455(b)](1) made them applicable to *all* justices, judges, and magistrates (and not just district judges), and (2) placed the obligation to identify the existence of those grounds upon the judge himself, rather than requiring recusal only in response to a party affidavit. [28 U.S.C. § 455](a), the provision at issue here, was an entirely new "catchall" recusal provision, covering both "interest or relationship" and "bias or prejudice" grounds…requiring them *all* to be evaluated on an *objective* basis, so that what matters is not the reality of bias or prejudice but its appearance. Quite simply and quite universally, recusal was required whenever "impartiality might reasonably be questioned."" Liteky v. US, 510 US 540, 548, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 874 n.7, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988). "A judge has a continuing duty to recuse under [28 U.S.C.] § 455(a) if sufficient factual grounds exist to cause a reasonable, objective person, knowing all the relevant facts, to question the judge's impartiality." US v. Pearson, 203 F. 3d 1243, 1277 (10th Cir. 2000); United States v. Cooley, 1 F.3d 985, 992-93 (10th Cir.1993). "[28 U.S.C.] 455(a)…addresses the appearance of partiality, guaranteeing not only that a partisan judge will not sit, but also that no reasonable person will have that suspicion. Liteky v. US, 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988).

The Tenth (10th) Cir. Court of Appeals stated in US v. Ritter, 540 F. 2d 459 (10th Cir. 1976), that Integrity and Sincerity issues of a judge are grounds for Recusal, under 28 U.S.C. § 455(a). US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). Also, in the case of US v. Ritter, 540 F. 2d 459 (10th Cir. 1976), the Tenth (10th) Cir. Court of Appeals stated that a lack of "integrity or sincerity of [a] judge" is not a prerequisite for requiring recusal, but ordering a judge to recuse "is a practical action which seeks to avoid stress, trouble and complications in the upcoming trial." US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976).

3. 42 U.S.C. § 12112(a)

ADA says that an employer may not "discriminate against a qualified individual with a disability." 42 U. S. C. § 12112(a). Raytheon Co. v. Hernandez, 540 US 44, 46, 124 S. Ct. 513, 157 L. Ed. 2d 357 (2003); US Airways, Inc. v. Barnett, 535 US 391, 396, 122 S. Ct. 1516, 152 L. Ed. 2d 589 (2002).

4. 42 U.S.C. § 12117(a)

"[T]he EEOC has authority to...carry out the employment provisions in...ADA, [42 U.S.C.]§§ 12111-12117[.]" Sutton v. United Air Lines, Inc., 527 US 471, 478, 119 S. Ct. 2139, 144 L. Ed. 2d 450 (1999); Olmstead v. LC, 527 US 581, 626 n.5, 119 S. Ct. 2176, 144 L. Ed. 2d 540 (1999).

IX. STATEMENTS OF THE CASE

1. The **current matter** before the Court originated as a refiled case, from the US District Court-ND/OK, as the case of Gabriel v. Melton Truck Lines, Case no. 4:21-CV-00519 (ND/OK 2021).
2. Under 42 U.S.C. § 2000e-5(e)(1), Congress prescribes that aggrieved persons file a Charge of Discrimination ("Charge") with the Government's Equal Employment Opportunity Commission ("EEOC"), within 300 days of the alleged unlawful employment practice's occurrence.
3. On March 22, 2021, Gabriel timely filed a Charge (Case no. 564-2021-00731[4],[5]) with the EEOC, against his former employer, Melton Truck Lines ("Melton"), alleging violations of 42 U.S.C. § 12112(a) (of ADA). See Appendix, Vol. 7, App. A., Pgs. 197-216.
4. The discriminatory allegations involved in the case of Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00731 occurred on the dates that ranged from May 2020, through July 15, 2020. See Appendix, Vol. 7, App. A., Pgs. 197-216.

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[4] Such charge included numerous allegations of ADA Disability Discrimination – Disparate Treatment (violations of 42 U.S.C. § 12112(a)), which Gabriel was allowed to file "like or related" claims when filing civil action. Martinez v. Potter, 347 F. 3d 1208, 1210 (10th Cir. 2003); National Railroad Passenger Corporation v. Morgan, 536 US 101, 110-14, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Ingels v. Thiokol Corp., 42 F. 3d 616, 625 (10th Cir.1994). Melton employs over 500 people more than twenty (20) weeks in past and present calendar year, and because of such, the cap for damages set by Congress (under 42 U.S.C § 1981a(b)(3)(D)) is $300,000.00 per claim.

[5] On May 2, 2022 (after this matter and the related matter (Gabriel v. Melton Truck Lines, Case No. 4:22-CV-00529 (ND/OK.2022) were dismissed), Gabriel filed an amended complaint [D.C. DE 13], in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021), that included 1074 claims, valued at $322,200,000.00.

5. On May 5, 2021, Gabriel timely filed a second (2nd) Charge (EEOC Case no. 564-2021-00953[6]) with the EEOC, against Melton, again, alleging violations of the 42 U.S.C. § 12112(a) (ADA). See Appendix, Vol. 3, App. A., Pgs. 198-245.

6. The discriminatory allegations involved in Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00953 occurred on the dates that ranged from July 16, 2020, through August 26, 2020. See Appendix, Vol. 3, App. A., Pgs. 198-245.

7. On June 9, 2021, Gabriel timely filed a third (3rd) Charge (EEOC Case no. 564-2021-Yet-to-Issue[7], [8]) with the EEOC, against Melton, also alleging violations of 42 U.S.C. § 12112(a) (ADA). See Appendix, Vol. 5, App. A., Pgs. 1-109.

8. The discriminatory allegations involved in Gabriel v. Melton Truck Lines, Case no. 564-2021-Yet-to-Issue, occurred on the dates that ranged from August 27, 2020, through December 22, 2020. See Appendix, Vol. 5, App. A., Pgs. 1-109.

9. The Respondent (Melton) in Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00731 [Vol. 7, App. A. 197-216], Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00953 [Vol. 3, App. A. 198-245], and Gabriel v. Melton Truck Lines, Case no. 564-2021-Yet-to-Issue [Vol. 5, App. A.], is headquartered in Tulsa, Oklahoma, within the judicial district of US District Court-ND/OK[9].

10. Melton's Tulsa, Oklahoma, headquarters, is the location where the employment records pertinent to discriminatory allegations asserted in Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00731 [Vol. 7, App. A. Pgs. 197-216], Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00953 [Vol. 3,

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[6]Gabriel alleged an untold number of discriminatory allegations in the Charge. Also, Gabriel is allowed to file "like or related" claims when filing civil action. Martinez v. Potter, 347 F. 3d 1208, 1210 (10th Cir. 2003); National Railroad Passenger Corporation v. Morgan, 536 US 101, 110-14, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Ingels v. Thiokol Corp., 42 F. 3d 616, 625 (10th Cir.1994). It is estimated that the number of claims associated with this Charge to be well in the thousands. Though "1000" does not represent the number claims related to the Charge, if Gabriel was to multiply 1000 by $300,000.00 (the cap for damages set by 42 U.S.C § 1981a(b)(3)(D)), the damages would roughly estimate, at minimum, $300,000,000.00.

[7]EEOC failed to issue a case number for this Charge; though, Gabriel still timely filed such charge.

[8]Gabriel alleged an untold number of discriminatory allegations in the Charge. Also, Gabriel is allowed to file "like or related" claims when filing civil action. It is estimated that the number of claims associated with this Charge to be well in the thousands. Though "1000" does not represent the number claims related to the Charge, if Gabriel was to multiply 1000 by $300,000.00 (the cap for damages set by 42 U.S.C § 1981a(b)(3)(D)), the damages would roughly estimate, at minimum, $300,000,000.00.

[9]The basis of District Court's jurisdiction.

App. A. Pgs. 198-245], and Gabriel v. Melton Truck Lines, Case no. 564-2021-Yet-to-Issue [Vol. 5, App. A.], are administered and maintained[10]. 42 U.S.C. § 2000e-5(f)(3).

11. As it relates to Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00731, the Government declined to investigate the allegations therein. Therefore, Gabriel had to wait until September 19, 2021 (after 180 days had passed since filing of the Charge (pursuant to 42 U.S.C. § 2000e-5(f)(1) & (3)) to file civil action in US District Court-ND/OK [11].

12. As it relates to Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00953 [Vol. 3, App. A., Pgs. 198-245], the Government declined to investigate the allegations therein. Therefore, Gabriel had to wait until November 2, 2021 (after 180 days had passed since filing of the Charge (pursuant to 42 U.S.C. § 2000e-5(f)(1) & (3)) to file civil action in US District Court-ND/OK [12].

13. As it relates to Gabriel v. Melton Truck Lines, Case no. 564-2021-Yet-to-Issue [Vol. 5, App. A.], the Government declined to investigate the allegations therein. Therefore, Gabriel had to wait until December 8, 2021 (after 180 days had passed since filing of the Charge (pursuant to 42 U.S.C. § 2000e-5(f)(1) & (3)) to file civil action in US District Court-ND/OK [13].

14. Congress prescribes a ninety (90) day deadline to filing civil action after the passing of 180 days of filing of the Charge. 42 U.S.C. § 2000e-5(f)(1)[14].

15. As it relates to Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00731 [Vol. 7, App. A. Pgs. 197-216], Gabriel's deadline for filing civil action was on December 17, 2021[15].

16. As it relates to Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00953 [Vol. 3, App. A. Pgs. 198-245], Gabriel's deadline for filing civil action was on January 30, 2022[16].

17. As it relates to Gabriel v. Melton Truck Lines, Case no. 564-2021-Yet-to-Issue [Vol. 5, App. A.], Gabriel's deadline for filing was on March 7, 2022[17].

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[10] The basis of District Court's jurisdiction.
[11] The basis of District Court's jurisdiction.
[12] The basis of District Court's jurisdiction.
[13] The basis of District Court's jurisdiction.
[14] The basis of District Court's jurisdiction.
[15] The basis of District Court's jurisdiction.
[16] The basis of District Court's jurisdiction.
[17] The basis of District Court's jurisdiction.

18. On November 16, 2021, Gabriel timely filed civil action against Melton, in US District Court-ND/OK, for the allegations asserted in Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00731 [Vol. 7, App. A.] (Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021)). See Appendix, Vol. 6, App. B., Pgs. 1-196, & Vol. 7, App. A., Pgs. 197-288.

19. On November 16, 2021, in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021), Gabriel asserted in the Statement of Claim section of the initial complaint [Vol. 6, App. B., Pgs. 1-196 & Vol. 7, App. A., Pgs. 197-288], the discriminatory allegation that occurred "between May 23, 2020, and May 30, 2020," of Melton "instruct[ing] an employee...to falsely inform Gabriel on the number of applicants that was attending a New Hire Training Class that Gabriel was expected to be included in, which allegedly began on Monday, June 1, 2020 (a violation of 42 U.S.C § 12112(a))"[18],[19]. See Appendix, Vol. 6, App. B., Pgs. 191, Paragraphs #1 & 3.

20. On December 2, 2021, Gabriel originally filed civil action against Melton for the discriminatory allegations of Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00953 [Vol. 3, App. A. Pgs. 198-245], (Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021).

21. On December 2, 2021, when filing civil action in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021), Gabriel motioned to *Partially* Proceed in Forma Pauperis, requesting District Court to allow him to make partial payments towards the filing fee until the balance was paid in full. See Appendix, Vol. 7, App. G., Pgs. 1.

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[18] On May 2, 2022, Gabriel filed an amended complaint [D.C. DE 13] in this matter. Though such amended complaint [D.C. DE 13] contained 1,074 claims, it is important to note that the first claim of such amended complaint [D.C. DE 13] is the same allegation asserted in the initial complaint [Vol. 6, App. B., Pgs. 1-196, & Vol. 7, App. A., Pgs. 197-288] related to the matter, but Gabriel did not assert any allegations that are associated with Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00953 [Vol. 3, App. A Pgs. 198-245], nor Gabriel v. Melton Truck Lines, Case no. 564-2021-Yet-to-Issue [Vol. 5, App. A.] in such pleading. See Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021), D.C. DE 13, Pg. 188-2881.

[19] On May 22, 2022, Gabriel filed a Fed.R.Civ.P.15(a)(1)(A) Motion [D.C. DE 15], as well as a second (2nd) proposed amended complaint [D.C. DE 15-1], that is currently pending. Though the second (2nd) proposed amended complaint [D.C. DE 15-1] contained 1,110 claims, it is important to note that the first claim is the same allegation asserted in the initial complaint [Vol. 6, App. B & Vol. 7, App. A] related to the matter, but Gabriel did not assert any allegations that is associated with Gabriel v. Melton Truck Lines, EEOC Case no. 564-2021-00953 [Vol. 3, App. A Pgs. 198-245] or Gabriel v. Melton Truck Lines, Case no. 564-2021-Yet-to-Issue [Vol. 5, App. A.] in such pleading. See Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021), D.C. DE 15-1, Pg.188-2972.

22. On December 2, 2021, District Court entered a minute order, ordering Gabriel to Proceed Informa Pauperis, in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021), instead of *Partially* Proceeding in Forma Pauperis; however, did not specify in the minute order why he ordered such alleged relief[20]. See Appendix, Vol. 7, App. B., Pgs. 1, DE 04.

23. On December 2, 2021, Gabriel filed a Fed.R.Civ.P.4(m) Motion[21], requesting 180 days (August 29, 2022) to perfect service on Melton, for reasons of filing a tremendous number of claims in a proposed amended pleading and to retain counsel, in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021). See Appendix, Vol. 7, App. B., Pg. 1, DE 05.

24. On December 5, 2021, Gabriel motioned for Clarification of District Court's December 2, 2021, Order, **GRANTING** Gabriel to proceed in Forma Pauperis, in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021). See Appendix, Vol. 7, App. F. Pgs. 1-2.

25. On December 6, 2021, District Court entered a Clarification Order, directing the Clerk of District Court to return the twenty-five dollar ($25.00) partial payment Gabriel sent for the filing fee, in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021). See Appendix, Vol. 7, App. E, Pg 1.

26. Also, on December 6, 2021, District Court **GRANTED** in part and **DENIED** in part, Gabriel's December 2, 2021, Fed.R.Civ.P.4(m) Motion [Vol. 7, App. B., Pg. 1, DE 05], in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021), extending the time to April 29, 2021, to perfect service, but did not state a reason doing so[22].

27. Lastly, on December 6, 2021, Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021), District Court explained that it waived the filing fee completely, contrary to Gabriel's request to *Partially* Proceed in Forma Pauperis[23] [Vol. 7, App. C]. See Appendix, Vol. 7, App. E, Pg 1.

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[20] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

[21] Fed.R.Civ.P.4(m) Motion **is not** included in Appendix.

[22] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

[23] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

28. On December 9, 2021, Gabriel filed civil action against Melton, in the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), alleging a violation of 42 U.S.C § 12112(a) (ADA). See Appendix, Vol. 4, App. A., Pgs. 1-195.

29. On December 9, 2021, Judge Frizzell was assign to preside over the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021). See Appendix, Vol. 3, App. F., Pg. 1.

30. On December 9, 2021, the Clerk of District Court entered an minute order (in the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021)), sealing all attachments of the civil complaint, for the alleged reason of violations to Fed.R.Civ.P.5.2(e)(2), even though all attachments did not have personal identifiers, in the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), upon filing. See Appendix, Vol. 3, App. H, Pg. 1, DE 04.

31. In the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), Gabriel asserted in the Statement of Claim section of the complaint [Vol. 4, App. A.], the discriminatory allegation that occurred on "August 26, 2020" of "Melton play[ing] psychological games with [him] in an attempt to cause [him] to resign from his position as a Commercial Truck Driver (a violation of 42 U.S.C § 12112(a))." See Appendix, Vol. 4, App. A., Pg. 191, Paragraphs #1 & 3.

32. On November 16, 2021, Gabriel submitted the same attachments to the initial complaint [Vol. 6, App. B., Pgs. 1-196, & Vol. 7, App. A., Pgs. 197-288] of the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021) and in Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021)[24], yet the Clerk of District Court failed to act, as it relates to sealing the documents that contained personal identifiers. See Appendix, Vol. 6, App. A., Pgs. 1-2, & Vol. 7, App. B. Pgs. 1-2, respectfully.

33. On December 9, 2021, Gabriel motioned to *Partially* Proceed in Forma Pauperis[25] in the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), requesting District Court to allow him to make partial payments towards the filing fee until the balance was paid in full. See Appendix, Vol. 3, App. H., Pg. 1., DE 03.

[24] Civil Complaint for this matter is not included in appendix.
[25] Motion not included in appendix.

34. On January 8, 2022, Gabriel filed a motion/notice for Voluntary Dismissal WITHOUT prejudice, pursuant to Fed.R.Civ.P.41(a)(i), in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021). Gabriel made such decision to file the notice of Voluntary Dismissal WITHOUT prejudice, for reason that District Court did not honor his request to *Partially* Proceed in Forma Pauperis [Vol. 7, App. G.].

35. On January 10, 2022, District Court entered an Order, dismissing the case WITHOUT prejudice, in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2022). See Appendix, Vol. 7, App. C., Pg. 1.

36. On January 11, 2022, District Court **GRANTED** Gabriel's motion to *Partially* Proceed in Forma Pauperis[26][Vol. 3, App. H., Pg. 1., DE 03], in the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), allowing Gabriel to pay monthly installments of twenty-five dollars ($25.00), until the balance of the filing fee was paid in full[27]. See Appendix, Vol. 3, App. H. Pgs. 1, DE 05.

37. On January 14, 2022, Gabriel filed a Fed.R.Civ.P.4(m) Motion[28]in the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), requesting District Court to extend the time to perfect service of a summons and complaint, until September 5, 2022. See Appendix, Vol. 3, App. H, Pg. 1, DE 06.

38. On January 14, 2022, Gabriel refiled civil action[29] in the current matter (Gabriel v. Melton Truck Lines, Case No. 4:22-CV-00021 (ND/OK.2022), for the allegations related to the Gabriel v. Melton Truck Lines EEOC Case no. 564-2021-00953 [Vol. 3, App. A., 198-245], in US District Court-ND/OK. The matter was assigned to Judge Frizzell, the same US district judge that was presiding over the matter of Gabriel v.

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[26]Order not included in appendix. District Court **GRANTED** Gabriel's request thirty-three (33) days after filing the civil complaint [Vol. 4, App. A.] and related motion [Vol. 3, App. H., Pg. 1., DE 03], and after Gabriel filed the motion/notice for Voluntary Dismissal WITHOUT prejudice [Vol. 7, App. D] and the matter was dismissed WITHOUT prejudice [Vol. 7, App. C], in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2022). "[A] reasonable, objective person, knowing all the relevant facts" would question whether such events were related. 42 U.S.C. § 455(a).

[27]Gabriel has paid the filing fee in full. See Appendix, Vol. 3, App. H., Pgs. 2-3, DE 13, 23, 24, 25, 26, 27, 28, & 29.

[28]Gabriel did not include the motion [Vol. 3, App. H, Pg. 1, DE 06] in the appendix for reason of District Court's manner of disposal, at No.43.

[29]The refiling of the cause of action for the closed matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00519 (ND/OK.2021).

Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021). See Appendix, Vol. 2, App. A., Pg. 1, Vol. 2, App. B., Pgs. 1-197, & Vol. 3, Pgs. 198-319.

39. On January 14, 2022, Gabriel pled in the Statement of Claim section of the Civil Complaint [Vol. 2, App. B., Pgs. 1-197, Vol. 3, Pgs. 198-319], of the current matter, the discriminatory allegation that occurred on "July 17, 2020," of "Melton fail[ing] to reimburse [him] for the Transportation expenses he paid to report to New Hire Training, that occurred in Tulsa, Oklahoma, which was materially adverse to [him] (a violation of 42 U.S.C § 12112(a))." See Appendix, Vol. 2, App. B., Pg. 191, Paragraphs #1 & 3.

40. The cause of action filed in the current matter occurred on a different day (July 17, 2020) than the cause of actions asserted in the matters of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021) (between May 23, 2020, and May 30, 2020) and Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021) (August 26, 2020). See Appendix, Vol. 2, App. B., Pg. 191, Paragraphs #1 & 3, Vol. 4, App. A., Pg. 191, Paragraphs #1 & 3, and Vol. 6, App. B., Pgs. 191, Paragraphs #1 & 3.

41. The cause of action filed in the present matter has different set of facts than the cause of actions asserted in the matters of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021) and Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021). See Appendix, Vol. 2, App. B., Pg. 191, Paragraphs #1 & 3, Vol. 4, App. A., Pg. 191, Paragraphs #1 & 3, and Vol. 6, App. B., Pgs. 191, Paragraphs #1 & 3.

42. The cause of action filed in the present matter is not the same cause of actions asserted in the matters of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021) and Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021). See Appendix, Vol. 2, App. B., Pg. 191, Paragraphs #1 & 3, Vol. 4, App. A., Pg. 191, Paragraphs #1 & 3, and Vol. 6, App. B., Pgs. 191, Paragraphs #1 & 3.

43. None of cause of actions filed in the present matter, the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021), nor Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021) are similar or stated similar sets of facts. See Appendix, Vol. 2, App. B., Pg. 191, Paragraphs #1 & 3, Vol. 4, App. A., Pg. 191, Paragraphs #1 & 3, and Vol. 6, App. B., Pgs. 191, Paragraphs #1 & 3.

44. On January 14, 2022, Gabriel motioned to *Partially* Proceed in Forma Pauperis[30] in the current matter requesting District Court to allow him to make partial payments towards the filing fee until the balance was paid in full. See Appendix, Vol. 3, App. H. Pgs. 1, DE 03.

45. On January 18, 2022, District Court entered a minute order in the current matter, **GRANTING** in part and **DENYING** in part Gabriel's Fed.R.Civ.P.4(m) Motion, in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), extending the June 9, 2022. District Court failed to state what evidence it relied on when entering the order[31]. See Appendix, Vol. 3, App. H., Pg. 2, DE 07.

46. On January 19, 2022, District Court entered an Order[32], requiring Gabriel to show just cause as to why the claim in this matter was not duplicative of the claims filed in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021) and in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021). See Appendix, Vol. 3, App. B. Pgs. 1-2.

47. In the January 19, 2022, Show Cause Order [Vol. 3, App. B.] in the current matter, District Court never mentioned the issue of claims splitting. See Appendix, Vol. 3, App. B. Pgs. 1- 2.

48. On January 19, 2022, District Court also entered an Order[33], in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), requiring Gabriel to show just cause as to why the claim in that matter was not duplicative of the claims filed in the current matter and in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021). See Appendix, Vol. 5, App. B. Pgs. 1-2.

49. District Court's Order [Vol. 5, App. B], in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), never mentioned the issue of claims splitting neither. See Appendix, Vol. 5, App. B. Pgs. 1-2.

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[30] Actual motion **is not** included in appendix.

[31] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

[32] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

[33] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

50. On January 20, 2022, Gabriel responded to District Court's Show Cause Order [Vol. 3, App. B.] in the current matter, asserting that the claim was not duplicative of the claim in any other matter. See Appendix, Vol. 3, App. C. Pgs. 1- 4.

51. On January 20, 2022, Gabriel also responded to District Court's Show Cause Order [Vol. 5, App. B.], in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), asserting that the claim that matter was not duplicative of the claim in any other matter. See Appendix, Vol. 5, App. C. Pgs. 1-4.

52. On January 24, 2022, District Court entered a Dismissal Order[34] in the current matter, falsely alleging duplicative claims. Also, District Court falsely alleged in the Order that Gabriel was claims splitting and ordered Gabriel to add the claim of the current matter to the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021) (which would constitute as claim splitting). See Appendix, Vol. 1, App. B. Pgs. 1-3.

53. District Court's January 24, 2022, Dismissal Order [Vol. 1, App. B] and Judgment [Vol. 1, App. C] in the current matter, violated Gabriel's First (1st), Fifth (5th), and Fourteenth (14th) Amendments' Rights.

54. District Court's January 24, 2022, Dismissal Order [Vol. 1, App. B] and Judgment [Vol. 1, App. C] in the current matter, was not based off the evidence on the record[35]. See Appendix, Vol. 1, App. B. Pgs. 1-3, Vol. 2, App. B., Pg. 191, Paragraphs #1 & 3, Vol. 3, App. C. Pgs. 1- 4, Vol. 4, App. A., Pg. 191, Paragraphs #1 & 3, Vol. 5, App. C. Pgs. 1- 4, and Vol. 6, App. B., Pgs. 191, Paragraphs #1 & 3.

55. On January 24, 2022, District Court also entered a Dismissal Order[36], in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2022), falsely alleging duplicative claims. Also, District Court falsely alleged in the order that Gabriel was claims splitting and ordered Gabriel to add the claim of the matter to the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021) (which would constitute as claim splitting). See Appendix, Vol. 3, App. I. Pgs. 1-3.

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[34] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

[35] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

[36] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

56. District Court's January 24, 2022, Dismissal Order [Vol. 3, App. I.] and Judgment [Vol. 3, App. J.], in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2022), violated Gabriel's First (1st), Fifth (5th), and Fourteenth (14th) Amendments' Rights.

57. District Court's January 24, 2022, Dismissal Order [Vol. 3, App. I.] and Judgment [Vol. 3, App. J.], in the case of Gabriel v. Melton Truck Lines, Case No. 4:22-CV-00529 (ND/OK.2022), was not based off the evidence on the record[37]. See Appendix, Vol. 1, App. B. Pgs. 1-3, Vol. 2, App. B., Pg. 191, Paragraphs #1 & 3, Vol. 3, App. C. Pgs. 1-4, Vol. 4, App. A., Pg. 191, Paragraphs #1 & 3, Vol. 5, App. C. Pgs. 1-4, and Vol. 6, App. B., Pgs. 191, Paragraphs #1 & 3.

58. On January 24, 2022, District Court dismissed the current matter (the case of Gabriel v. Melton Truck Lines, Case No. 4:22-CV-00021 (ND/OK.2022)), and terminated Gabriel's January 14, 2022, Motion to *Partially* Proceed in Forma Pauperis. However, on January 25, 2022, District Court entered a minute order, **GRANTING** the motion to *Partially* Proceed in Forma Pauperis [Vol. 3, App. H. Pgs. 1, DE 03], after the matter had be dismissed and closed[38]. See Appendix, Vol. 2, App. A. Pg. 2, DE 08.

59. District Court respectfully lacked the necessary impartiality to preside over, both, the current matter and the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021). Such lack of impartiality violates Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights to a fair tribunal.

60. "[A] reasonable, objective person, knowing all the relevant facts" would question Judge Frizzell's impartiality; therefore, 28 U.S.C. 455(a) required Judge Frizzell's recusal.

61. Prior to dismissal of the matter the current matter and the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2022), service of a summons and the civil complaint was not processed.

62. On January 29, 2022, Gabriel timely filed a Notice of Appeal in the current matter, for the Tenth (10th) Cir. Court of Appeal to review District Court's January 24, 2022, Dismissal Order [Vol. 1, App. B] and Judgment [Vol. 1, App. C]. See Appendix, Vol. 2, App. A. Pg. 2, DE 12.

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[37] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

[38] Gabriel has paid the filing fee in full. See Appendix, Vol. 2, App. A., Pgs. 2-3, DE 10, 20, 21, 22, & 23.

63. On January 29, 2022, Gabriel also timely filed a Notice of Appeal, in the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2022), for the Tenth (10th) Cir. Court of Appeal to review District Court's January 24, 2022, Dismissal Order [Vol. 3, App. I] and Judgment [Vol. 3, App. J]. See Appendix, Vol. 3, App. H. Pg. 2, DE 15.

Tenth (10th) Cir. Court of Appeals Appellate Proceedings

64. During the appeals proceedings (in this matter and the related matter[39]), Gabriel received prejudicial treatment because of the value of the claims involved and related to this matter[40]. See Appendix, Vol. 1. App. D (entire docket report) and Vol. 3, App. D (entire docket report).

65. On January 31, 2022, the appeal for this matter was docketed (Gabriel v. Melton Truck Lines, Case No. 22-05009 (10th Cir.2022). See Appendix, Vol. 1, App. D. Pg. 3, DE 10889430.

66. On January 31, 2022, the appeal for the matter of Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022) was docketed (District Court matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2022). See Appendix, Vol. 3, App. D. Pg. 3, DE 10889390.

67. On February 1, 2022, the appellate clerk issued Gabriel a briefing schedule for March 14, 2022 to file opening briefs, in the matter of Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022). See Appendix, Vol. 3, App. D. Pg. 3, DE 10889741, & Vol. 3, App. G. Pg. 1.

68. On February 7, 2022, the appellate clerk issued Gabriel a briefing schedule for March 21, 2022 to file opening briefs, a week after the deadline for the appeal related to Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022), though both appeals were docketed on the same day (because Gabriel filed the Notices of Appeal on the same day[41]). Briefing schedule were intentional separated to cause confusion of the filings deadline . See Appendix, Vol. 3, App. D. Pg. 3, DE 10891118.

69. Pursuant to Fed.R.App.P.27(a)(1) & 10th.Cir.R.27.3(A)(1)(c), on February 10, 2022, Gabriel timely filed an unopposed Motion to Vacate District Court's Order [Vol. 1, App. B] and Judgment [Vol. 1, App. C]. See Appendix, Vol. 1, App. K. Pgs. 1-27.

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[39] Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022).
[40] See Statements of the Case, Statement numbers 3, 5, & 7.
[41] See Statements of the Case, Statement numbers 62 & 63.

70. Per 10th.Cir.R.27.5(A)(1) & 10th.Cir.R.27.5(B), the appellate clerk was expected to dispose of Gabriel's motion [Vol. 1, App. J.].

71. Per 10th.Cir.R.27.3(C), the briefing schedule was supposed to be suspended on February 10, 2022, because Gabriel had filed a Fed.R.App.P.27(a)(1) & 10th.Cir.R.27.3(A)(1)(c) Motion.

72. On February 14, 2022, the appellate clerk **DENIED**[42] Gabriel's motion [Vol. 1, App. K.], for reason of ordering Gabriel to file an opening brief. See Appendix, Vol. 1, App. J. Pg. 1.

73. On February 14, 2022, the appellate clerk also **DENIED**[43] Gabriel's February 10, 2022, Fed.R.App.P.27(a)(1) & 10th.Cir.R.27.3(A)(1)(c) Motion[44] in the case of Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022), for reason of ordering Gabriel to file an opening brief. See Appendix, Vol. 3, App. D. Pg. 3, DE 10892574 & DE 10892752.

74. When denying Gabriel's motions [Vol. 1, App. K., & Vol. 3, App. D. Pg. 3, DE 10892574] on February 14, 2022, the appellate clerk violated Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights.

75. Pursuant to Fed.R.App.P.27(a)(1), on February 22, 2022, Gabriel motioned for the appellate clerk's February 14, 2022, Order [Vol. 1, App. J.] to be vacated and his motion [Vol. 1, App. K.] to be reconsidered. See Appendix, Vol. 1, App. I. Pgs. 1-46.

76. On February 22, 2022, Gabriel also motioned for the appellate clerk's February 14, 2022, Order [Vol. 3, App. D. Pg. 3, DE 10892752] to be vacated and his motion [Vol. 3, App. D. Pg. 3, DE 10892574] to be reconsidered, in the case of Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022). See Appendix, Vol. 3, App. D. Pg. 3, DE 10894366.

77. On February 22, 2022, the appellate clerk vacated its February 14, 2022, Order [Vol. 1, App. J.], stating that the motions [Vol. 1, App. K.] would be forwarded to the Tenth (10th) Cir. Court of Appeals[45], yet still ordered Gabriel to file opening briefs. See Appendix, Vol. 1, App. H. Pg. 1.

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[42] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

[43] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

[44] Motion not included in appendix.

[45] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972);

78. On February 22, 2022, the appellate clerk also vacated its February 14, 2022, Order [Vol. 3, App. D. Pg. 3, DE 10892752], stating that the motions [Vol. 3, App. D. Pg. 3, DE 10892574] would be forwarded to the Tenth (10th) Cir. Court of Appeals[46], yet still ordered Gabriel to file opening briefs, in the case of Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022). See Appendix, Vol. 3, App. G. Pg. 1.

79. The appellate clerk's February 22, 2022, Order [Vol. 1, App. H., & Vol. 3, App. D. Pg. 3, DE 10894453] violated Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights, because the appellate clerk was expected to dispose of Gabriel's motion, pursuant to 10th.Cir.R.27.5(A)(1) & 10th.Cir.R.27.5(B). Also, per 10th.Cir.R.27.3(C), there was not supposed to be a briefing schedule.

80. On March 9, 2022, Gabriel filed a Notice of Non-Intent to Filing Opening Briefs, in the case of Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022). See Appendix, Vol. 3, App. F. Pgs. 1-3.

81. On March 10, 2022, the appellate clerk entered an order (in the case of Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022)), advising Gabriel to file opening briefs. This Order compelled Gabriel to file opening briefs in this current matter (Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022)), as well as in the case of Gabriel v. Melton Truck Lines, Case No. 22-05009 (10th Cir.2022). See Appendix, Vol. 3, App. E. Pgs. 1-2.

82. The appellate clerk's March 10, 2022, Order [Vol. 3, App. E.] violated Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights, because 10th.Cir.R.27.3(C) suspended the briefing schedule.

83. On March 14, 2022 (the deadline), Gabriel simultaneously mailed opening briefs in the current matter as well as in the case of Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022).

84. On March 16, 222, the appellate clerk initially docketed the filing of the opening briefs only in the case of Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022), and not the current matter (Gabriel v. Melton Truck Lines, Case No. 22-05009 (10th Cir.2022)). See Appendix, Vol. 1, App. E, Pgs. 1-47, Vol. 3, App. D., Pg. 3, DE 10899664, & Vol. 1, App. F., Pgs. 4-22.

Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

[46] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

85. On March 18, 2022, the docket for this matter still did not reflect the filing of the opening briefs [Vol. 1, App. E], compelling Gabriel to contact the Clerk's office of the Tenth (10th) Cir. Court of Appeals, to which it was apparent that one of the deputy clerk was disinterested in attempting to locate the opening briefs nor to ensure that they were docketed. See Appendix, Vol. 1, App. F., Pgs. 1-2.

86. On March 21, 2022 (the deadline for filing the opening briefs), the docket for this matter did not reflect the filing of the opening briefs, though the docket for Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022) still stated the opening brief were filed. This prompted Gabriel to send correspondence to the Clerk's office, on March 21, 2022, along with four (4) additional copies of the opening brief[47]. See Appendix, Vol. 1, App. F., Pgs. 1-22.

87. Sometime after sending the March 21, 2022, correspondence [Vol. 1, App. F.], the docket retroactively reflected the fact of receiving the initial opening briefs, that were sent on March 14, 2022. See Appendix, Vol. 1, App. D., Pg. 3, DE10900372.

88. When filing the opening briefs [Vol. 1, App. F.], Gabriel's Fifth (5th), and Fourteenth (14th) Amendments' Due Process Right was violated, because the briefing schedule was supposed to be suspended, pursuant to 10th.Cir.R.27.3(C).

89. On April 29, 2022, the Tenth (10th) Cir. Court of Appeals entered a minute order[48], **DENYING** Gabriel's motion [Vol. 1, App. K.] as moot. See Appendix, Vol. 1, App. D., Pg. 3, DE 10909766.

90. When denying Gabriel's motion [Vol. 1, App. K.] as moot (on April 29, 2022), the Tenth (10th) Cir. Court of Appeals violated Gabriel's Fifth (5th), and Fourteenth (14th) Amendments' Due Process Rights, because the appellate clerk was supposed to dispose of such motion pursuant to 10th.Cir.R.27.5(A)(1) & 10th.Cir.R.27.5(B).

91. On April 29, 2022, the Tenth (10th) Cir. Court of Appeals entered a judgment, **AFFIRMING** District Court's Dismissal Order [Vol. 1, App. B.] and Judgment [Vol. 1, App. C.] See Appendix, Vol. 1, App. A., Pgs. 1-5.

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[47] Original copy was sent on March 14, 2022; therefore, Gabriel only sent copies of the opening brief.

[48] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

92. On April 29, 2022, the Tenth (10th) Cir. Court of Appeals entered judgments for both matters (the current matter and Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022)), as a psychological ploy to cause Gabriel to believe that he only needed to file only one (1) petition for writ of certiorari, instead of one for each matter, to request the Court to employ its supervisory jurisdiction. See Appendix, Vol. 1, App. A., Pgs. 1-5.

93. When entering the April 29, 2022, Judgment [Vol. 1, App. A.], the Tenth (10th) Cir. Court of Appeals violated Gabriel's Fifth (5th), and Fourteenth (14th) Amendments' Due Process Rights simply by entering the judgment. On February 10, 2022, Gabriel timely filed a Fed.R.App.P.27(a)(1) & 10th.Cir.R.27.3(A)(1)(c) Motion [Vol. 1, App. K.]; therefore, the Tenth (10th) Cir. Court of Appeals was never supposed to review an opening brief related to the matter, pursuant to 10th.Cir.R.27.5(A)(1), 10th.Cir.R.27.5(B), and 10th.Cir.R.27.3(C).

94. When entering the April 29, 2022, Judgment [Vol. 1, App. A.], the Tenth (10th) Cir. Court of Appeals violated Gabriel's First (1st) and Fourteenth (14th) Amendments' Rights, by affirming the District Court's Dismissal Order [Vol. 1, App. B.] and Judgment [Vol. 1, App. C.], that also violated Gabriel's First (1st) and Fourteenth (14th) Amendments' Rights.

95. When entering the April 29, 2022, Judgment [Vol. 1, App. A.], the Tenth (10th) Cir. Court of Appeals violated Gabriel's Fifth (5th), and Fourteenth (14th) Amendments' Due Process Rights because the judgment was not based off all of the evidence on the record[49].

96. While affirming District Court's Order [Vol. 1 App. B] and Judgment [Vol. 1 App. B], the respectful US Circuit judges that ruled per curium, agreed with a contradiction of judicial writer that stated Gabriel had stated different discriminatory allegations in the civil actions in question, yet concluded that the "cause of actions" were "identical." Vol. 1, App. A. Pg. 2-3.

97. When entering the April 29, 2022, Judgment [Vol. 1, App. A.], the Tenth (10th) Cir. Court of Appeals violated Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights, by not recusing themselves from this matter, pursuant to 28 U.S.C. § 455(a), when the judges that allegedly reviewed

[49] Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

District Court's Dismissal Order [Vol. 1, App. B.] and Judgment [Vol. 1, App. C.] impartialities could reasonably be questioned[50].

X. ARGUMENTS (Reasons for Granting Certiorari)

A. Tenth (10th) Cir. Court of Appeals Departed From the Accepted And Usual Course of Judicial Proceedings, As to Call For an Exercise of the Court's Supervisory Power

1. Gabriel has been So Tried During the Appellate Proceedings[51]

a. Tenth (10th) Cir. Court of Appeals Circuit Judges Failed to Recuse

The Honorable U.S. Circuit Judges Bobby R. Baldock ("Judge Baldock"), Harris L. Hartz ("Judge Hartz"), and Carolyn B. McHugh ("Madam Judge McHugh")), respectfully erred, by failing to recuse themselves from the proceeding, when their impartiality could reasonably be questioned. Liteky v. US, 510 US 540, 547, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 858-59, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988). The value of the claims of this matter, along with the other related matters, are at issue as relates to the topic of Recusal[52]. When issuing the judgment [Vol. 1, App. A.], the respectful US circuit judges failed to consider the authorities of this Court along with the authorities of the Tenth (10th) Cir. Court of Appeals that Gabriel cited in his opening brief (that he was not even supposed to file). Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). See Appendix, Vol. 1, App. E., Pgs. 1-47, & Vol. 1, App. A., Pgs. 1-5.

The respectful US circuit judges even agreed that there were different verbiage as it relates to the discriminatory allegations[53], yet, affirmed District Court's Order [Vol. 1, App. B] and Judgment [Vol. 1, App. C]. See Appendix, Vol. 1, App. A. Pg. 2. Though, the standard states that judicial opinions ALMOST never alone would show that the respectful US circuit judges lacked impartiality, the opinion of both this matter and the matter of Gabriel v. Melton Truck Lines, Case No. 22-05008 (10th Cir.2022) is indicative of judicial members that are not qualified to preside over a matter(s), that "[a] reasonable, objective person, knowing all

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[50] Liteky v. US, 510 US 540, 547, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 858-59, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988).

[51] Morissette v. United States 342 US 246, 247, 72 S. Ct. 240, 96 L. Ed. 288 (1952)

[52] See Section 9 *supra* (Statements of the Case), Statement #'s 3, 5, & 7.

[53] The Tenth (10th) Cir. Court of Appeal stated in their judgment "Mr. Gabriel alleges different instances of discriminatory conduct[.]" See Appendix, Vol. 1, App. A. Pg. 2.

the relevant facts" would question their impartiality. Liteky v. US, 510 US 540, 547, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 858-59, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988). Because the respectful US circuit judges (that allegedly reviewed Gabriel's appeal) failure to recuse, Gabriel's Fifth (5th), and Fourteenth (14th) Amendments' Due Process Rights was violated because Gabriel is entitled to a fair tribunal. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); Liteky v. US, 510 US 540, 547, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 858-59, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988).

b. Judgment Was Not Based Off the Evidence on the Record

When entering the judgment on April 29, 2022, the Tenth (10th) Cir. Court of Appeals violated Gabriel's First (1st), Fifth (5th), and Fourteenth (14th) Amendments' Rights, by **AFFIRMING** District's Court's Order [Vol.1, App. B] and Judgment [Vol.1, App. C] and failing to issue a judgment based off the evidence on the record. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. A. Pgs. 1-5, Vol. 1, App. F. Pgs. 1-47, Vol. 2, App. A., Pg. 191, Paragraphs #1 & 3, Vol. 4, App. A., Pg. 191, Paragraphs #1 & 3, and Vol. 6, App. B., Pgs. 191, Paragraphs #1 & 3.

First, Gabriel has the right to file civil action for each of the Charges he timely files, and does not have to add his claims to another civil matter. Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 1847, 587 US ___, 204 L. Ed. 2d 116 (2019); National Railroad Passenger Corporation v. Morgan, 536 US 101, 110-14. 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Baldwin County Welcome Center v. Brown, 466 US 147, 149, 104 S. Ct. 1723, 80 L. Ed. 2d 196 (1984); Zipes v. Trans World Airlines, Inc., 455 US 385, 393-94, 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982). Secondly, the claims in question occurred on three (3) different days, and are different

discriminatory acts, with different sets of facts; therefore, the causes of action are not identical. Elgin v. Department of Treasury, 567 US 1, 132 S. Ct. 2126, 2147, 183 L. Ed. 2d 1 (2012); Stone v. Department of Aviation, 453 F.3d 1271, 1278 (10th Cir. 2006); National Railroad Passenger Corporation v. Morgan, 536 US 101, 110, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Nwosun v. General Mills Restaurants, Inc., 124 F. 3d 1255, 1258 (10th Cir. 1997); Clark v. Haas Group, Inc., 953 F. 2d 1235, 1238-1239 (10th Cir. 1992); Colorado River Water Conservation Dist. v. United States, 424 U.S. 800, 817, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976). See Appendix, Vol. 1, App. A. Pgs. 1-5, Vol. 1, App. E. Pgs. 1-47, Vol. 2, App. B., Pg. 191, Paragraphs #1 & 3, Vol. 4, App. A., Pg. 191, Paragraphs #1 & 3, and Vol. 6, App. B., Pgs. 191, Paragraphs #1 & 3.

As Gabriel has argued in Section 10(A)(1)(a) *supra*, of the issue of Recusal as it relates to the respectful U.S. circuit judges' April 29, 2022, Judgment [Vol.1. App. A] is reflective of such in the manner in which the opinion was issued without consideration of record, that violates Gabriel's First (1st), Fifth (5th), and Fourteenth (14th) Amendments' Rights. Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. A. Pgs. 1-5, Vol. 1, App. E. Pgs. 1-47, Vol. 2, App. B., Pg. 191, Paragraphs #1 & 3, Vol. 4, App. A., Pg. 191, Paragraphs #1 & 3, and Vol. 6, App. B., Pgs. 191, Paragraphs #1 & 3.

(i) Judgment is Contradictory

Within the unpublished opinion of the Tenth (10th) Cir. Court of Appeals is a contradiction, which violates Gabriel's First (1st), Fifth (5th), and Fourteenth (14th) Amendments' Rights. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965).

Early in the opinion, the Tenth (10th) Cir. Court of Appeals stated, "Mr. Gabriel alleges different instances of discriminatory conduct[.]" See Appendix, Vol. 1, App. A. Pg. 2. Later on, in the same opinion (at Vol. 1, App. A. Pg. 3), the Tenth (10th) Cir. Court of Appeals stated, "we conclude that the causes of action are identical as well." If Gabriel has stated different discriminatory allegations, Gabriel has also stated different causes of actions as well. Elgin v. Department of Treasury, 567 US 1, 132 S. Ct. 2126, 2147, 183 L. Ed. 2d 1 (2012); Stone v. Department of Aviation, 453 F.3d 1271, 1278 (10th Cir. 2006); National Railroad Passenger Corporation v. Morgan, 536 US 101, 110, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Nwosun v. General Mills Restaurants, Inc., 124 F. 3d 1255, 1258 (10th Cir. 1997); Clark v. Haas Group, Inc., 953 F. 2d 1235, 1238-1239 (10th Cir. 1992); Colorado River Water Conservation Dist. v. United States, 424 U.S. 800, 817, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976). Gabriel respectfully argues that the lower court failed to render the proper judgment in the matter.

c. Tenth (10th) Cir. Court of Appeals Reviewed Gabriel's Opening Brief

The Tenth (10th) Cir. Court of Appeals violated Gabriel's Fifth (5th), and Fourteenth (14th) Amendments' Due Process Rights by allegedly reviewing Gabriel's opening brief, a brief that was not supposed to be filed. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. E. Pgs. 1-47. On February 10, 2022, Gabriel timely filed an unopposed Motion to Vacate District Court's Order [Vol. 1, App. B. Pgs. 1-3]. See Appendix, Vol. 1, App. K. Pgs. 1-29. Per 10th.Cir.R.27.3(C), the briefing schedule was supposed to be suspended; therefore, simply by the Tenth (10th) Cir. Court of Appeals allegedly reviewing Gabriel's opening brief, violated his rights. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965).

d. Tenth (10th) Cir. Court of Appeals Denied Gabriel's Motion as Moot

The Tenth (10th) Cir. Court of Appeals violated Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights, by **DENYING** Gabriel's motion [Vol. 1, App. B] as moot. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. D., Pg. 3, DE 10909766. The Tenth (10th) Cir. Court of Appeals was expected to order the appellate Clerk to dispose of Gabriel's motion [Vol. 1, App. K], pursuant to 10th.Cir.R.27.5(A)(1) & 10th.Cir.R.27.5(B). Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965).

e. Gabriel Filed Opening Briefs

Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights was violated when he filed opening briefs on February 14, 2022. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. F. Pgs. 1-47. On February 10, 2022, Gabriel timely filed an unopposed Motion to Vacate District Court's Order [Vol. 1, App. B.] and Judgment [Vol. 1, App. C.]. See Appendix, Vol. 1,. App. K., Pgs. 1-29. Per 10th.Cir.R.27.3(C), the briefing schedule was supposed to be suspended; therefore, simply by Gabriel filing opening brief, which the appellate clerk ordered Gabriel to file on at least three (3) occasions (in each the current matter and the related matter of Gabriel v. Melton Truck Lines, Case no. 22-05008 (10th Cir. 2022), that violated his rights. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. H., I., J., & K., & Vol. 3, App. E., F., & G.

f. Appellate Clerk's Ordered Gabriel To File Opening Brief

Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights was violated on March 10, 2022, by the appellate clerk ordering Gabriel to file opening briefs, in the related matter of Gabriel v. Melton Truck Lines, Case no. 22-05008 (10th Cir. 2022), that compelled Gabriel to file opening briefs in this matter. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 3, App. E., Pgs. 1-2. The appellate clerk's Order [Vol. 3, App. E.] was issued as a response to Gabriel filed Notice of Non-Intent to Filing Opening Briefs, in the matter of Gabriel v. Melton Truck Lines, Case no. 22-05008 (10th Cir. 2022).

On February 10, 2022, Gabriel timely filed an unopposed Motion to Vacate District Court's Order [Vol. 1, App. B.] and Judgment [Vol. 1, App. C.], in this matter as well as the matter of Gabriel v. Melton Truck Lines, Case no. 22-05008 (10th Cir. 2022). See Appendix, Vol. 1, App. K., Pgs. 1-29, & Vol. 3, App. 3., Pg. 3, DE 10892574. Per 10th.Cir.R.27.3(C), the briefing schedule was supposed to be suspended; therefore, the appellate clerk ordering Gabriel to file an opening brief, violated his rights. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965).

g. Appellate Clerk's February 22, 2022, Order, As it Relates to Ordering Gabriel To File Opening Briefs

Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights was violated on February 22, 2022, when the appellate clerk vacated its February 14, 2022, Order [Vol. 1, App. J.], yet still ordering Gabriel to file opening briefs. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. H., Pgs. 1. On February 10, 2022, Gabriel timely filed an unopposed Motion to Vacate District Court's Order [Vol. 1, App. B.] and Judgment [Vol. 1, App. C.]. See Appendix, Vol. 1, App. K., Pgs. 1-29. Per 10th.Cir.R.27.3(C), the briefing schedule was supposed to be suspended, therefore, by the appellate clerk ordering Gabriel to file opening briefs violated his rights. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-

81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965).

h. Appellate Clerk's February 22, 2022, Order, As it Relates to Forwarding Gabriel's Motions To the Tenth (10th) Cir. Court of Appeals

Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights was violated on February 22, 2022, when the appellate clerk forwarded Gabriel's February 10, 2022, motions [Vol. 1, App. K.] to the Tenth (10th) Circuit Court of Appeals. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. H., Pgs. 1. Per 10th.Cir.R.27.5(A)(1) & 10th.Cir.R.27.5(B), the appellate clerk was expected to dispose of Gabriel's motion [Vol. 1, App. K.,]; therefore, forwarding the motions to the Tenth (10th) Circuit Court of Appeals violated Gabriel's rights. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965).

i. Gabriel's February 22, 2022, Motion

Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights was violated on February 22, 2022, when motioning for the appellate clerk's February 14, 2022, Order [Vol. 1, App. J.], to be vacated. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. I. Pgs. 1-46. On February 22, 2022, Gabriel was compelled to file such motion [Vol. 1, App. I.] as the result of the appellate clerk **DENYING** Gabriel's February 10, 2022, motion [Vol. 1, App. K.,], for reason of ordering Gabriel to file an opening brief. Per 10th.Cir.R.27.3(C), the briefing schedule was supposed to be suspended once Gabriel filed a Fed.R.App.P.27(a)(1) & 10th.Cir.R.27.3(A)(1)(c); therefore, Gabriel's rights were violated upon the filing of such motion [Vol. 1, App. I.]. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965).

j. Appellate Clerk's February 14, 2022, Order, As it Relates to Ordering Gabriel to File Opening Briefs

Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights was violated on February 14, 2022, when the appellate clerk **DENIED** Gabriel February 10, 2022, motion [Vol. 1, App. K.,]. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. J. Pg. 1. Per 10th.Cir.R.27.3(C), the briefing schedule was supposed to be suspended; therefore, the appellate clerk ordering Gabriel to file an opening brief violated Gabriel's rights. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965).

k. Appellate Clerk's February 14, 2022, Order, As it Relates to Disposal of Gabriel's Motions

Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process Rights was violated on February 14, 2022, when the appellate clerk **DENIED** Gabriel February 10, 2022, motion [Vol. 1, App. K.,]. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). See Appendix, Vol. 1, App. J., Pg. 1. Gabriel February 10, 2022, motion [Vol. 1, App. K.,] were unopposed; therefore, 10th.Cir.R.27.5(A)(1) & 10th.Cir.R.27.5(B) required the appellate clerk to dispose of Gabriel's motions [Vol. 1, App. K.,]. By the appellate clerk denying Gabriel's motions WITHOUT prejudice, on February 14, 2022, violated his rights. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965).

I. Abnormal Appellate Proceedings

Gabriel has asserted additional instances and actions related to those instances, in which the appellate proceedings of the Tenth (10th) Court of Appeals have far departed the accepted and usual course of normal judicial proceedings. See Section 9 *supra* (Statements of the Case), at Statement #'s 64-97. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965).

B. Tenth (10th) Cir. Court of Appeals Sanctioned District Court's Departure from the Accepted and Usual Course Of Judicial Proceedings

1. Gabriel has been So Tried During District Court Proceedings[54]

a. Judge Frizzell Failed to Recuse When His Impartiality Could Reasonably Be Question

Gabriel's Fifth (5th) and Fourteenth (14th) Amendments' Due Process was violated when the Tenth (10th) Cir. Court of Appeals sanctioned Judge Frizzell's failure to recuse, pursuant to 28 U.S.C. § 455(a). Liteky v. US, 510 US 540, 547, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 858-59, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). Though Gabriel did not motion for Judge Frizzell's recusal at trial level, Gabriel did mention the issue on appeal (pursuant to 28 U.S.C. 455(a)) to the Tenth (10th) Cir. Court of Appeals in which he had a higher burden to prove, and such burden was met. US v. Holland, 519 F. 3d 909, 911-12 (9th Cir. 2008); Jones v. United States, 527 U.S. 373, 388, 119 S.Ct. 2090, 144 L.Ed.2d 370 (1999); United States v. Olano, 507 U.S. 725, 736, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993). See Appendix, Vol. 1, App. E. Pgs. 24-25.

Judge Frizzell had a continuing obligation to recuse, under 28 U.S.C. § 455(a), "if sufficient factual grounds exist to cause a reasonable, objective person, knowing all the relevant facts, to question the judge's impartiality." US v. Pearson, 203 F. 3d 1243, 1277 (10th Cir. 2000); United States v. Cooley, 1 F.3d 985, 992-93 (10th Cir.1993). Again, the value of the claims of the matter, along with the other related matters, are at issue

[54] Morissette v. United States 342 US 246, 247, 72 S. Ct. 240, 96 L. Ed. 288 (1952)

as relates to the matter of Recusal[55]. When issuing the Order [Vol. 1, App. B.] and Judgment [Vol. 1, App. C.], Judge Frizzell failed to rely on the evidence that was readily available on record, Due Process violations Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). See Appendix, Vol. 1, App. B. Pgs. 1-3, Vol. 2, App. B. Pgs. 191-194, Vol. 3, App. C., Pgs. 1-4, Vol. 4, App. A. Pgs. 191-192, Vol. 5, App. C. Pgs. 1-4, Vol. 6, App. B. Pgs. 191-193.

Further, Judge Frizzell stated that the claims filed in this matter was duplicative of the claims alleged in the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021) and Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021), and alleged that Gabriel was "claims splitting" (false allegations), yet instructed Gabriel to add the claim from this matter and the case of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00529 (ND/OK.2021) to the matter of Gabriel v. Melton Truck Lines, Case No. 4:21-CV-00493 (ND/OK.2021), which is a contradiction of his false allegation of duplicative claims as well as the false allegation of "claims splitting." Elgin v. Department of Treasury, 567 US 1, 132 S. Ct. 2126, 2147, 183 L. Ed. 2d 1 (2012); Stone v. Department of Aviation, 453 F.3d 1271, 1278 (10th Cir. 2006); National Railroad Passenger Corporation v. Morgan, 536 US 101, 110. 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Nwosun v. General Mills Restaurants, Inc., 124 F. 3d 1255, 1258 (10th Cir. 1997); Clark v. Haas Group, Inc., 953 F. 2d 1235, 1238-1239 (10th Cir. 1992); Colorado River Water Conservation Dist. v. United States, 424 U.S. 800, 817, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976); Liteky v. US, 510 US 540, 547, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 858-59, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Appendix, Vol. 1, App. B. Pgs. 1-3.

Such opinion in the Order [Vol. 1, App. B] reflects a lack of integrity, that would cause a reasonable, objective person, knowing all the relevant facts, to question Judge Frizzell's impartiality; in turn, require Judge Frizzell's recusal. Liteky v. US, 510 US 540, 547, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 858-59, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976).

[55] See Section 9 *supra* (Statements of the Case), Statement #'s 3, 5, & 7.

Within Gabriel's March 14, 2022, opening brief (in which he was not supposed to file), Gabriel made such contentions on the issues of alleged duplicative claims, claims splitting, as well as Recusal, to the Tenth (10th) Cir. Court of Appeals. See Appendix, Vol. 1, App. E. Pgs. 1-47. On April 29, 2022, the Tenth (10th) Cir. Court of Appeals **AFFIRMED** District Court's Order [Vol. 1, App. B.] and [Vol. 1, App. C.]; therefore, sanctioning District Court's far departure from the accepted and usual course of judicial proceedings, while violating Gabriel's First (1st), Fifth (5th), and Fourteenth (14th) Amendments' Rights. Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); Liteky v. US, 510 US 540, 547, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 858-59, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). See Appendix, Vol. 1, App. A. Pgs. 1-5.

b. District Court's Decision Was Not Based Off The Evidence on the Record

Gabriel has argued this issue in Section 10(A)(1)(b) & Section 10(B)(1)(a) *supra*.

c. Abnormal District Court Proceedings

Gabriel has asserted instances and actions related to those instances, in which District Court's proceedings of have far departed the accepted and usual course of normal judicial proceedings, in Section 9 *supra* (Statements of the Case), at Statement #'s 18-63. Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965);

C. Tenth (10th) Cir. Court of Appeals Has Decided an Important Question Of Federal Law That Conflicts with Relevant Decisions Of the Court

1. First (1st) & Fourteenth (14th) Amendments' Rights

This Court has emphasized the importance of the First (1st) and Fourteenth (14th) Amendments, by stating that the First (1st) and Fourteenth (14th) Amendments would "be a hollow promise if it left government free to destroy or erode its guarantees by indirect restraints so long as no law is passed that prohibits free speech, press, petition, or assembly as such." Mine Workers v. Illinois Bar Assn., 389 US 217, 222, 88 S. Ct. 353, 19 L. Ed. 2d 426 (1967). Because the Tenth (10th) Cir. Court of Appeals' April 29, 2022, Judgment [Vol. 1, App. A] is unpublished, only Gabriel's First (1st) and Fourteenth (14th) Amendments' rights have been violation; thus, is the issue at hand. Gabriel decided to petition the High Court because he believes he is entitled to First (1st) and Fourteenth (14th) Amendments' guarantees and protections, just as any other individual who approaches a district court's clerk office and files a grievance, seeking compensation in order to be made whole. Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972). Therefore, the unpublished judgment of Tenth (10th) Cir. Court of Appeals [Vol. 1, App. A.] not only affects Gabriel's natural rights, but it also affects everyone's else rights as well.

The Tenth (10th) Cir. Court of Appeals' April 29, 2022, Judgment [Vol. 1, App. A.], though contradicting, has decided an important question that conflict with relevant decisions of the US Supreme Court, in the cases of Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 587 US __, 204 L. Ed. 2d 116 (2019); National Railroad Passenger Corporation v. Morgan, 536 US 101, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002), Lujan v. Defenders of Wildlife, 504 US 555, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992), Baldwin County Welcome Center v. Brown, 466 US 147, 104 S. Ct. 1723, 80 L. Ed. 2d 196 (1984), and Zipes v. Trans World Airlines, Inc., 455 US 385, 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982). The Tenth (10th) Cir. Court of Appeals' April 29, 2022, Judgment [Vol. 1, App. A.] and District Court's Order [Vol. 1, App. B.] and Judgment [Vol. 1, App. C.], volatile directives intrudes on Gabriel's First (1st) and Fourteenth (14th) Amendments' rights, while requiring him to file all of his claims in a matter for which they do not belong.

a. Lujan v. Defenders of Wildlife

Gabriel respectfully contends that the April 29, 2022, Tenth (10th) Cir. Court of Appeals' Judgment [Vol. 1, App. A.] conflicts with this Court's decision in Lujan v. Defenders of Wildlife, 504 US 555, 560-61, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992), because Gabriel had stated a claim for which relief can be granted. Lujan v. Defenders of Wildlife, 504 US 555, 561, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992). The Tenth (10th) Cir. Court of Appeals nor District Court dispute that Gabriel has stated a claim sufficed to withstand a motion to dismiss, yet, dismissed Gabriel's matter and directed him to add such claim to another matter. See Appendix, Vol. 1, App. B. Pgs. 1-3, and Vol. 1, App. C. Pg. 1. Also, on April 29, 2022, the Tenth (10th) Cir. Court of Appeals concurred. See Appendix, Vol. 1, App. A. Pgs. 1-5. The Tenth (10th) Cir. Court of Appeals does not believe Gabriel has the right to file civil action in a separate matter, even though he had stated a claim that complies with the standard of Lujan v. Defenders of Wildlife, 504 US 555, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992). See Appendix, Vol. 1, App. A. Pgs. 1-5, Vol. 1, App. B. Pgs. 1-3, Vol. 2, App. B. Pgs. 191-194, Vol. 3, App. C., Pgs. 1-4, Vol. 4, App. A. Pgs. 191-192, Vol. 5, App. C. Pgs. 1-4, Vol. 6, App. B. Pgs. 191-193.

b. Unlawful Employment Practice Opinions

Gabriel respectfully contends that the April 29, 2022, Tenth (10th) Cir. Court of Appeals' Judgment [Vol. 1, App. A.] conflicts with this Court's decision in Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 587 US __, 204 L. Ed. 2d 116 (2019); National Railroad Passenger Corporation v. Morgan, 536 US 101, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002), Baldwin County Welcome Center v. Brown, 466 US 147, 104 S. Ct. 1723, 80 L. Ed. 2d 196 (1984), and Zipes v. Trans World Airlines, Inc., 455 US 385, 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982), because they have dismissed Gabriel's civil action, though he has timely filed Charges, which affords him the freedom to file separate civil action per every timely filed Charge. The Tenth (10th) Cir. Court of Appeals' judgment [Vol. 1, App. A.] is requiring Gabriel to condense all of his claims into one (1) civil action, even though he has timely filed three (3) Charges. See Appendix, Vol. 3, App. A Pgs. 198-245, Vol. 5, App. A, & Vol. 7, App. A, 197-216.

Under 42 U.S.C. § 2000e-5(f)(1), Congress affords aggrieved individuals, that have timely filed a Charge, the freedom of filing civil action. Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 1847, 587 US __, 204 L. Ed. 2d 116 (2019); Baldwin County Welcome Center v. Brown, 466 US 147, 149, 104 S. Ct. 1723, 80 L.

Ed. 2d 196 (1984); Zipes v. Trans World Airlines, Inc., 455 US 385, 393-94, 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982). If Gabriel is free to filing a Charge for "[e]ach incident of discrimination and each retaliatory adverse employment decision[,]" Gabriel believes he is free to file a civil action for each "[e]ach incident of discrimination and each retaliatory adverse employment decision" that was in a timely filed Charge. Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 1847, 587 US __, 204 L. Ed. 2d 116 (2019); National Railroad Passenger Corporation v. Morgan, 536 US 101, 110-14, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Baldwin County Welcome Center v. Brown, 466 US 147, 149, 104 S. Ct. 1723, 80 L. Ed. 2d 196 (1984); Zipes v. Trans World Airlines, Inc., 455 US 385, 393-94, 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982).

Gabriel understand the Court's opinion as he may file a separate civil action in district court for as many Charges that he has timely filed that includes, at minimum, one (1) incident of discrimination or retaliatory adverse employment decision. By District Court dismissing Gabriel's claim and directing Gabriel to add such claim to another matter, violates Gabriel's First (1st) and Fourteenth (14th) Amendments Rights. Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). By the Tenth (10th) Cir. Court of Appeals' Judgment [Vol. 1, App. A.], affirming and concurring with District Court's Order [Vol. 1, App. B.] and Judgment [Vol. 1, App. C.], conflicts with this Court's decisions in Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 587 US __, 204 L. Ed. 2d 116 (2019), National Railroad Passenger Corporation v. Morgan, 536 US 101, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002), Baldwin County Welcome Center v. Brown, 466 US 147, 104 S. Ct. 1723, 80 L. Ed. 2d 196 (1984), and Zipes v. Trans World Airlines, Inc., 455 US 385, 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982).

To further add to the lower court decision that conflicts with Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 587 US __, 204 L. Ed. 2d 116 (2019); National Railroad Passenger Corporation v. Morgan, 536 US 101, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002), Baldwin County Welcome Center v. Brown, 466 US 147, 104 S. Ct. 1723, 80 L. Ed. 2d 196 (1984), and Zipes v. Trans World Airlines, Inc., 455 US 385, 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982) (though this example does not apply to Gabriel), if an individual was terminated on July 1,

2022, for retaliatory reasons associated with one (1) of their federally protected classes, and that aggrieved individual files a Charge on July 5, 2022, for a violation as it relates Disparate Treatment for actual termination. This Court's opinion in National Railroad Passenger Corporation v. Morgan, 536 US 101, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002) states that such aggrieved person may also file another Charge for Reprisal related to that same termination that occurred on July 1, 2022, even though it's not necessary, considering the retaliatory action of termination is "like or related" to the Disparate Treatment discriminatory act. Martinez v. Potter, 347 F. 3d 1208, 1210 (10th Cir. 2003); National Railroad Passenger Corporation v. Morgan, 536 US 101, 110-14, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Ingels v. Thiokol Corp., 42 F. 3d 616, 625 (10th Cir.1994).

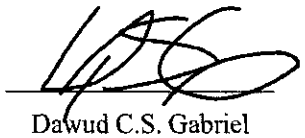
Still, the Court's opinion in National Railroad Passenger Corporation v. Morgan, 536 US 101, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002), along with Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 587 US __, 204 L. Ed. 2d 116 (2019), Baldwin County Welcome Center v. Brown, 466 US 147, 104 S. Ct. 1723, 80 L. Ed. 2d 196 (1984) and Zipes v. Trans World Airlines, Inc., 455 US 385, 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982), relays that such aggrieved individual could exercise their First (1st) and Fourteenth (14th) Amendments' Rights and file civil action in two separate matters, because they have timely filed two separate Charges. Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 1847, 587 US __, 204 L. Ed. 2d 116 (2019); National Railroad Passenger Corporation v. Morgan, 536 US 101, 110-14, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Baldwin County Welcome Center v. Brown, 466 US 147, 149, 104 S. Ct. 1723, 80 L. Ed. 2d 196 (1984); Zipes v. Trans World Airlines, Inc., 455 US 385, 393-94, 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982).

XI. CONCLUSION

For the foregoing reasons, this petition for Writ of Certiorari should be granted. Gabriel requests the Court to enter a summary disposition, reversing the April 29, 2022, decision of the Tenth (10th) Cir. Court of Appeals [Vol. 1., App. A], and remanding this matter back to District Court, with proper instructions to proceed in adjudication.

July 11, 2022

Respectfully Submitted,



Dawud C.S. Gabriel
Non Attorney - Pro Se Petitioner
1307 Thurston Avenue
Sebring, FL 33870
(561) 398-3829