

In The  
**Supreme Court of the United States**

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DORA L. ADKINS,

*Petitioner,*

v.

MERRIFIELD HOTEL ASSOCIATES, L.P.,

*Respondent.*

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PETITION FOR WRIT OF CERTIORARI  
FROM THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**BRIEF IN OPPOSITION**

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## **QUESTION PRESENTED**

Whether the U.S. District Court for the Eastern District of Virginia (“District Court”) and the U.S. Court of Appeals for the Fourth Circuit (“Fourth Circuit”) properly applied a Pre-Filing Injunction Order to deny petitioner Dora L. Adkins’ (“Adkins”) motions for leave to file a complaint against respondent Merrifield Hotel Associates, L.P. (“Merrifield”).

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## **INTRODUCTION**

Adkins' characterization of questions presented fails to describe the issues that were decided in the proceedings before the District Court and then on appeal to the Fourth Circuit. The decisions of the courts below were discretionary and consistent with prior rulings and the Pre-Filing Injunction Order that had been entered by the District Court in another of her cases. The proposed complaint against Merrifield fell squarely within the Order prohibiting filings by Adkins related to her alleged injuries sustained at business establishments, including hotels. Adkins' motions for leave to file an emergency complaint and an amended emergency complaint were properly denied, and she has not set forth any grounds that would permit her Petition for Writ of Certiorari to be granted.

## **STATEMENT OF THE CASE**

Adkins has failed to provide a clear factual or procedural background for this matter. She asserts that she is homeless, but stays in hotels at a cost of \$4,000 to \$6,000 per month (Petitioner's Motion for Leave to Proceed in Forma Pauperis, Affidavit in Support, ¶ 12). These lodgings have resulted in litigation filed by Adkins against many of the hotels in both state and federal courts, all with similar allegations. Rather than setting forth the details of these numerous cases that Adkins has filed in this brief, Merrifield refers to the summary provided by the District Court that resulted in that court entering a Pre-Filing Injunction Order (*Adkins v. Hyatt Corp.*, 1:20 cv 1410-AJT-MSN, Doc. No. 41; S Appx C).

The Pre-Filing Injunction Order proved not to be a deterrent for Adkins, who attempted to file another identical action alleging the same injuries in the District Court on April 7, 2022 - *Adkins v. Merrifield Hotel Associates, LP*, Case No. 1:22 cv 399. The proposed Complaint contained her usual counts for intentional infliction of emotional distress and gross negligence, and sought compensatory as well as punitive damages.

On April 12, 2022, the District Court entered a Pre-Filing Order denying Petitioner's Motion for Leave to File Emergency Complaint (Pet.Appx B). Noting that the Pre-Filing Injunction Order previously entered on October 1, 2021 in a separate case was based on Adkins' "extensive history of filing unsubstantiated lawsuits for the alleged injuries connected to food or chemical poisoning," and finding that the proposed complaint "does not plausibly allege a cognizable claim and that leave of Court is not warranted," Adkins' Motion for Leave was denied (Pet.Appx B). On that same day, Adkins filed another Motion for Leave to File Amended Emergency Complaint along with a proposed pleading.

On April 13, 2022, the District Court entered an Order denying Adkins' second Motion for Leave to File Amended Emergency Complaint on the same grounds as its previous Order (Pet.Appx B). The case was terminated that day.

Adkins filed a Notice of Appeal the next day, April 14, 2022, along with a Motion for Leave to Appear in *Forma Pauperis*. On April 15, 2022 the case was transmitted to the Fourth Circuit, which noted the appeal under case number 22-01414 on April 18, 2022. Adkins was granted leave to file *in forma pauperis* on May

2, 2022. Despite her pending appeal, she sent a letter to the clerk of the District Court on June 3, 2022 to notify the court of an alleged “tracking monitoring device placed on my personal vehicle” along with other complaints (Case No. 1:22 cv 399, Doc. No. 10). On July 28, 2022, the Fourth Circuit affirmed the District Court’s judgment in an unpublished opinion that found “no reversible error” (Pet.Appx A).

On August 5, 2022 the instant Petition for Writ of Certiorari was filed. Adkins seeks review of the Fourth Circuit’s Order of July 28, 2022 and the District Court’s Orders dated April 12, 2022 and April 13, 2022 denying her Motion for Leave to File Emergency Complaint and her Motion for Leave to File Amended Emergency Complaint. On August 19, 2022, the Fourth Circuit issued its Mandate for the judgment to take effect that day.

Adkins’ Statement of the Case merely restates the allegations in her “Emergency Complaint” and the “Amended Emergency Complaint” attached to her Motions for Leave in the District Court that were never permitted to be filed. Both sought compensatory damages of \$1.2 billion and punitive damages in the same amount. The merits of those cases are not at issue here. The decisions of the District Court and the affirmation by the Fourth Circuit were proper. As outlined below, certiorari is not warranted in this instance.

## **ARGUMENT**

The Petition for Writ of Certiorari should be denied, as Adkins has failed to state any valid reason why certiorari should be granted. She appears to be seeking review of the merits of the proposed complaints that were not filed, rather than the

Orders at issue below. Further, she has not identified any other valid reason for review.

### **I. Petitioner Seeks Review of Questions Not Presented.**

The basis of the Petition is that the Fourth Circuit allegedly erred by affirming “non-final” orders. However, each of the Orders issued by U.S. District Judge Anthony J. Trenga state clearly “[t]his is a Final Order for the purposes of appeal” (Pet.Appx. B). Adkins misconstrues the issues before the courts below, which were whether or not she should be granted leave to file her proposed “emergency complaint” or “amended emergency complaint” in view of her past history of filing frivolous cases resulting in a Pre-Filing Injunction Order. The issues did not include whether Merrifield “sold” her a guest room in which the door did not properly open and close; whether there was mold on the shower floor; whether she suffered “mold inhalation”; or whether the baseboard had “infestation that ate away the wood.” Finding that Adkins was previously enjoined from filing any more of these frivolous claims, the District Court properly prevented her from filing yet another action in its Final Orders. The District Court found that Petitioner did not “plausibly allege a cognizable claim and that leave of the Court is not warranted” (Pet.Appx B).

The Petition fails to state how the proposed complaints differed in any respect from the actions that the District Court sought to prevent her from filing in the Pre-Filing Injunction Order, or why she should be permitted to file the complaints. The Petition does not address the Orders at issue, which were final.

Where the questions in the Petition were not raised below, the Petition for Certiorari should be denied. *U.S. v. Williams*, 504 U.S. 36 (1992); *Ellis v. Dixon*, 349 U.S. 458 (1955), *rehearing denied* 350 U.S 855.

## **II. Petitioner Has Failed to Assert Any Valid Reason for Review.**

Pursuant to U.S. Sup. Ct. R. 10, “a petition for a writ of certiorari will be granted only for compelling reasons.” The considerations governing writs of certiorari include the following:

- (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;
- (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;
- (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

U.S. Sup. Ct. R. 10.

None of the above considerations were raised by Adkins or are present in this case. The Petition does not allege a conflict or a profoundly important issue. The Fourth Circuit's decision does not conflict with Supreme Court precedent or decisions among the federal courts of appeals or state high courts. Nor do the issues present an important federal question or one of national importance, as they are limited to this single Petitioner and her multiple filings containing similar frivolous allegations. The judgment affirming the District Court was an unpublished opinion

so that there is no precedent set by the decision. Even Adkins confirms that there are no constitutional or statutory provisions implicated (Pet. at p. 3).

This Court has stated that a principal purpose for use of certiorari jurisdiction is to resolve conflicts among the United States courts of appeals and state courts concerning the meaning of provisions of federal law. *Braxton v. United States*, 500 U.S. 344, 347 (1991). A Writ of Certiorari is granted only where special and important reasons exist. *Rice v. Sioux City Mem'l Park Cemetery*, 349 U.S. 70 (1955). As these factors are lacking here, the Petition should be denied.

### **III. The Decisions of the District Court and the Fourth Circuit Were Supported.**

The courts below did not error. Adkins' proposed complaints, attached to her Motions for Leave, alleged that she suffered headaches from inhaling mold from the shower at the Merrifield's hotel causing a multitude of injuries and sought \$1.2 billion in compensatory and punitive damages. This proposed complaint falls squarely under the type of case prohibited by the Pre-Filing Injunction Order, so that the Motions for Leave were properly denied.

Even if the decision was not supported, this Court generally does not grant certiorari to correct errors by lower courts. U.S. Sup. Ct. R. 10 ("A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law").

## CONCLUSION

For all the aforementioned reasons, the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

/s/ David D. Hudgins

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NO. \_\_\_\_\_

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**SUPPLEMENTAL APPENDIX**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

DORA L. ADKINS )  
 )  
 Plaintiff. )  
 )  
 v. )  
 )  
 HYATT CORPORATION, )  
 )  
 Defendant. )  
 )  
 \_\_\_\_\_ )  
 Case No. 1:20-cv-01410-AJT-MSN

**PRE-FILING INJUNCTION ORDER**

Base on her history of litigation in this Court, Plaintiff was ordered on September 10, 2021 to show cause at a hearing scheduled for September 29, 2021 why she, acting *pro se*, should not be enjoined from filing in this district without pre-filing leave of Court any action against Defendant Hyatt Corporation or any other company or individual that alleges under any legal theory injuries or damages arising out of alleged food or chemical poisoning. [Doc. No. 39]. The Court held that hearing as scheduled, at which Plaintiff appeared and was heard, and the Court concluding that Plaintiff has not presented any reasons why the proposed injunction should not be entered, the Plaintiff will be enjoined as set forth and for the reasons stated herein.

Plaintiff has filed more than twenty lawsuits in this District.<sup>1</sup> A number of these lawsuits make substantially similar claims of chemical and food poisoning by grocery stores,

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<sup>1</sup> See *Adkins v. Public Storage*, 1:16-cv-01556-JCC-IDD; *Adkins v. Alexandria Towers Investor, LLC*, 1:16-cv-00491-JCC-TCB; *Adkins v. Whole Foods Market Group, Inc.*, 1:16-cv-0031-CMH-JFA (EDVA); *Adkins v. City Of Fairfax - GMU Crimesolvers, Inc.*, 1:15-cv-00879-ICC-MSN; *Adkins v. Bank of America, N.A.*, 1:14-cv-00563-GBL-JFA; *Adkins v. Fairfax County School Board*, 1:09-mc-00027-GBL-TCB (EDVA); *Adkins v. Fairfax County School Board, et al.*, 1:08-cv-00091-JCC-JFA; *Adkins v. Fairfax County School Board*, 1:08-mc-00050-GBL-TRJ; *Adkins v. Fairfax County School Board*, 1:07-mc-00035-GBL-TCB; *Adkins v. Fairfax County School Board*, 1:05-mc-00005-GBL-BRP; *Adkins v. Fairfax County School Board*, 1:04-mc-00048-GBL-TCB; *Adkins v. Fairfax County School Board*, 1:03-cv-01177-GBL; *Adkins v. Fairfax County School Board*, 1:04-mc-00053-JCC-TRJ; *Adkins v. Fairfax County School Board*, 1:99-cv-00304-LMB; *Adkins v. Fairfax County School Board*, 1:98-cv-01071-LMB;

hotels and other retail establishments. *See, e.g., Adkins v. Whole Foods Mkt. Grp., Inc.,* 1:17-cv-1023-AJT-JFA [Doc. No. 3] (claiming breach of contract, intentional infliction of emotional distress, and gross negligence for allegedly being poisoned after purchasing food from a grocery store “hot bar”); *Adkins v. Whole Foods Mkt. Grp., Inc.,* 1:19-cv-1211-AJT-IDD [Doc. No. 3] (claiming intentional infliction of emotional distress and punitive damages for allegedly “suffer[ing] loss of consciousness and death” when she ate breakfast at the Embassy Suites Hotel). Most recently, Plaintiff has filed in this Court two virtually identical cases against the Hyatt and Starbucks Corporations on the same day and seeking the same damages. *See Adkins v. Hyatt Corp.,* 1:20-cv-1410; *Adkins v. Starbucks Corp.,* 1:20-cv-1409. At the September 29 hearing, Plaintiff confirmed that none of her lawsuits have been successful and she has not received medical care or treatment for any of her claimed injuries. She also stated that she plans to file additional lawsuits based on her perceived continuing exposure to food and chemical poisoning.

Plaintiff’s filings have not been limited to this Court but have extended throughout Virginia and elsewhere. For example, Plaintiff had filed forty-one *pro se* civil actions throughout Northern Virginia state courts “contain[ing] baseless allegations predicated on her belief that she is being intentionally subjected to noxious fumes, poisoned by food she consumes at restaurants, and defrauded by various retail workers and hotel proprietors[,]” in light of which the Supreme Court of Virginia has imposed a pre-filing injunction against Plaintiff “to protect Virginia citizens and business[es] from the harassment and expense of unfounded litigation and also to preserve valuable judicial resources.” *Adkins v. CP/IPERS Arlington Hotel LLC,* 799

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*Adkins v. Fairfax County Board of Education,* 1:97-cv-00835-AVB; *Adkins v. HBL, LLC,* 1:17-cv-00774-TSE-TCB; *Adkins v. Whole Food Market Group, Inc.,* 1:17-cv-1023-AJT-JFA; *Adkins v. HEI Tyson’s Corner, LLC,* 1:18-cv-00291-AJT-IDD; *Adkins v. Dulles Hotel Corporation,* 1:20-cv-00361-RDA-IDD; *Adkins v. Hyatt Corporation,* 1:20-cv-01410-AJT-MSN.

S.E.2d 929, 930-31, 933 (Va. 2017). Most recently, she has filed an action in the United States Supreme Court against the defendant in this action, Hyatt Corporation, making the same allegations of chemical poisoning as in this case. *See* [Doc. No. 37-1]. She has also demonstrated a willingness to proceed with these claims even when denied *in forma pauperis* status, as in this case. *See* [Doc. No. 14].

The All Writs Act, U.S.C. § 1651(a), gives federal courts the authority to limit access to courts by repetitive bad faith litigants. *Cromer v. Kraft Foods N. Am., Inc.*, 390 F.3d 812, 817 (4th Cir. 2004). A pre-filing injunction is a remedy that should be used sparingly, so as to protect constitutional guarantees of due process and access to courts. *Id.* Judges should not impose a pre-filing injunction on a litigant absent “exigent circumstances, such as a litigant’s continuous abuse of the judicial process by filing meritless and repetitive actions.” *Id.* at 817–18 (quoting *Brow v. Farrelly*, 994 F.2d 1027, 1038 (3d Cir. 1993)). This remedy warrants even greater caution when concerning a *pro se* plaintiff. *Id.* at 818 (citing *Pavilonis v. King*, 626 F.2d 1075, 1079 (1st Cir. 1980)). When determining whether a pre-filing injunction is appropriate, a court must consider all surrounding circumstances, including

- (1) the party’s history of litigation, in particular whether he has filed vexatious, harassing, or duplicative lawsuits; (2) whether the party had a good faith basis for pursuing the litigation, or simply intended to harass; (3) the extent of the burden on the courts and other parties resulting from the party’s filings; and (4) the adequacy of alternative sanctions.

*Id.* Before imposing a pre-filing injunction, a judge must provide the litigant notice and a chance to be heard. *Id.* at 819.

The Fourth Circuit has affirmed “that the consistent pattern of lawsuits brought by plaintiff allow for a narrowly tailored pre-filing injunction.” *Henderson v. Sony Pictures Entertainment*, No. 5:14-CV-29-Fl, 2014 WL 11498057 (E.D.N.C. Oct. 2, 2014), *aff’d*,

*Henderson v. McKenzie*, 599 F.App'x 518 (4th Cir. 2015). A pre-filing injunction is narrowly tailored when the plaintiff has a history of repetitive litigation based on recurring claims and the injunction prohibits a plaintiff from filing the same kinds of claims. *See Noble v. City of Greensboro*, No. 1:10CV572, 2012 U.S. Dist. LEXIS 93140, at \*2–3 (M.D.N.C Mar. 20, 2012), *aff'd, El-Bey v. City of Greensboro*, 539 Fed. Appx. 312 (4th Cir. 2013). However, a pre-filing injunction is not narrowly tailored when it prohibits a plaintiff from filing any action without leave of a court. *See Adkins v. Whole Foods Mkt Grp., Inc*, 795 F. App'x 217, 218 (4th Cir. 2020); *Bates v. Dickens*, 618 F. App'x 183, 185 (4th Cir. 2015).

Plaintiff's extensive history of filing unsubstantiated lawsuits for alleged injuries connected to food or chemical poisoning, as detailed above, allows for a properly narrowed pre-filing injunction. Accordingly, it is hereby

ORDERED that Plaintiff, acting *pro se*, be, and hereby is, **ENJOINED** from filing in this District without pre-filing leave of Court any action against Defendant Hyatt Corporation or any other company or individual that alleges under any legal theory injuries or damages arising out of alleged food or chemical poisoning, including, but not limited to, claims for intentional infliction of emotional distress, negligence, assault, battery, or breach of warranty.

**This is a final order for the purposes of appeal.** To appeal, Plaintiff must file a written Notice of Appeal with the Clerk of the Court within thirty (30) days of the date of this Order. A Notice of Appeal is a short statement stating a desire to appeal an order and identifying the date of the order Plaintiff wishes to appeal. Failure to timely file a Notice of Appeal waives

Plaintiff's right to appeal this decision.

The Clerk is directed to forward copies of this Order to all counsel of record and to the *pro se* plaintiff at the address provided.



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Anthony J. Trenga  
United States District Judge

Alexandria, Virginia  
October 1, 2021