

Supreme Court, U.S.  
FILED

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

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IN THE  
SUPREME COURT OF THE UNITED STATES

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DAWUD C.S. GABRIEL,

Petitioner,

v.

WINDY HILL FOLIAGE INC.,

Respondent.

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On Petition for Writ of Certiorari to the  
United States Court of Appeals  
For the Eleventh (11th) Cir.  
(Eleventh (11th) Cir. Case No. 21-12901)

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*Petition for Writ of Certiorari*

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**ORIGINAL**

## **II. PRESENTED QUESTIONS**

1. Whether or not the U.S. Court of Appeals for the Eleventh (11th) Circuit Court of Appeals, departed far from the accepted and usual course of judicial proceedings (S.Ct.R.10(a)), as to call for an exercise of the Court's supervisory authority under 28 U.S.C. § 1254(1)?
2. Whether or not the U.S. Court of Appeals for the Eleventh (11th) Circuit Court of Appeals sanctioned District Court's far departure from the accepted and usual course of judicial proceedings (S.Ct.R.10(a)), as to call for an exercise of the Court's supervisory authority under 28 U.S.C. § 1254(1)?

## **III. LIST OF THE PARTIES**

### **A. Petitioner and Respondent**

Caption of the case contains names of all the parties.

### **B. Corporate Disclosure Statement**

Petitioner is not a nongovernment corporation.

### **C. Relevant List of Proceedings**

1. Pursuant to 42 U.S.C. § 2000e-5(e), on June 30, 2020, the Petitioner **DAWUD C.S. GABRIEL** ("Gabriel") timely filed a Charge of Discrimination<sup>1</sup> ("Charge") with the Government's Equal Employment Opportunity Commission ("EEOC"), against the Respondent **WINDY HILL FOLIAGE INC.** ("Windy Hill"), for violations of 42 U.S.C. § 12112(a) (Americans with Disabilities Act of 1990 ("ADA")). See Vol. 4, App. B., Pgs. 193<sup>2</sup>-196.
2. On August 18, 2020, Windy Hill filed a Position Statement with the EEOC<sup>3</sup>. See Vol. "PL11-1," App. "PL11-1," Pgs. 207-229.
3. On January 29, 2022, the EEOC terminated the processing of Charge in the administrative proceedings of Gabriel v. Windy Hill Foliage Inc., Case no. 510-2020-04516, issuing Gabriel a Right to Sue letter. See Vol. 4, App. C., Pg. 1.

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<sup>1</sup> EEOC Case no. 510-2020-04516.

<sup>2</sup> The Clerk of District Court switched the cover pages with cover page of January 29, 2021, EEOC Right to Sue Letter [Vol. 4, App. C.].

<sup>3</sup> On October 2, 2022, Gabriel filed a Response to Windy Hill's Position Statement. However, such response was not filed in the record nor therein the appendix.

III. LIST OF THE PARTIES (continued)

C. Relevant List of Proceedings (continued)

4. On April 26, 2021, Gabriel timely filed civil action against Windy Hill, within the U.S. District Court for the Southern District of Florida ("U.S. District Court – F.L.S.D."). See DE 01, Pgs. 1-198.
5. On June 21, 2021, The Clerk of District Court – F.L.S.D. issued Gabriel the summons. See Vol. 4, App. I., Pg.1.
6. On July 6, 2021, Gabriel filed the Amended Complaint. See Vol. "PL," App. "PL," Pgs. 1-200, Vol. "PL-1," App. "PL-1," Pgs. 201-253, Vol. "PL1," App. "PL1," Pgs. 1-200, Vol. "PL1-1," App. "PL1-1," Pgs. 201-250, Vol. "PL2," App. "PL2," Pgs. 1-200, Vol. "PL2-1," App. "PL2-1," Pgs. 201-251, Vol. "PL3," App. "PL3," Pgs. 1-200, Vol. "PL3-1," App. "PL3-1," Pgs. 201-252, Vol. "PL4," App. "PL4," Pgs. 1-200, Vol. "PL4-1," App. "PL4-1," Pgs. 201-251, Vol. "PL5," App. "PL5," Pgs. 1-200, Vol. "PL5-1," App. "PL5-1," Pgs. 201-251, Vol. "PL6," App. "PL6," Pgs. 1-200, Vol. "PL6-1," App. "PL6-1," Pgs. 201-254, Vol. "PL7," App. "PL7," Pgs. 1-200, Vol. "PL7-1," App. "PL7-1," Pgs. 201-252, Vol. "PL8," App. "PL8," Pgs. 1-200, Vol. "PL8-1," App. "PL8-1," Pgs. 201-253, Vol. "PL9," App. "PL9," Pgs. 1-200, Vol. "PL9-1," App. "PL9-1," Pgs. 201-253, Vol. "PL10," App. "PL10," Pgs. 1-200, Vol. "PL10-1," App. "PL10-1," Pgs. 201-253, Vol. "PL11," App. "PL11," Pgs. 1-200, Vol. "PL11-1," App. "PL11-1," Pgs. 201-253.
7. On July 8, 2021, service of the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] was processed on Windy Hill. See Vol. 4, App. K., Pgs. 1-27.
8. On July 29, 2021, Mendy Halberstam ("Mr. Halberstam") filed a Notice of Appearance on behalf of Windy Hill. See Vol. 5, App. A., Pgs. 1-2.
9. On July 29, 2021, Windy Hill filed a Fed.R.Civ.P.12(b)(2), (5), & (6), & (f)(2) Motion to Dismiss. See Vol. 5, App. I., Pgs. 1-11.

III. LIST OF THE PARTIES (continued)

C. Relevant List of Proceedings (continued)

10. On July 30, 2021<sup>4</sup>, Gabriel filed a Fed.R.Civ.P.15(a)(1)(A) Motion and a proposed Second (2nd) Amended Complaint<sup>5</sup>. See Vol. 5, App. J., Pgs. 1-8.
11. On August 6, 2021, District Court entered an unconstitutional order that 1) unconstitutionally struck the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] from the record (falsely alleging it to be frivolous and containing shotgun pleadings), 2) unconstitutionally **DENIED** Windy Hill's Fed.R.Civ.P.12(b)(2), (5), & (6), & (f)(2) Motion to Dismiss as moot, 3) unconstitutionally ordered Gabriel to file another pleading, while limiting the pages to such proposed pleading to no more than twenty-five (25), 4) unconstitutionally set an August 31, 2021, deadline for filing the proposed pleading, 5) unconstitutionally instructed that the matter would be dismissed (pursuant to Fed.R.Civ.P.41(b)) if the proposed pleading did not comply Fed.R.Civ.P.8, and 6) unconstitutionally **DENIED** Gabriel's Fed.R.Civ.P.15(a)(1)(A) Motion [Vol. 5, App. J.], (falsely alleging that the proposed Second (2nd) Amended Complaint failed to comply to federal pleading standards. See Vol. 1, App. B., Pgs. 1-3.
12. On August 13, 2021, Gabriel filed a Fed.R.Civ.P.60(b)(4) Motion, requesting District Court's August 6, 2021, Order [Vol. 1, App. B.] be set aside. See Vol. 5, App. K., Pgs. 1-14.
13. On August 15, 2021<sup>6</sup> (in a minute order), District Court unconstitutionally denied Gabriel's Fed.R.Civ.P.60(b)(4) Motion [Vol. 5, App. K.]. See Vol.4, App. A., Pg. 4, DE 28.
14. On August 23, 2021, Gabriel filed a Notice of Appeal to the Eleventh (11th) Circuit Court of Appeals. See Vol.4, App. A., Pg. 4, [DE 29].

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<sup>4</sup> The Fed.R.Civ.P.15(a)(1)(A) Motion [Vol. 5, App. J.] and the proposed Second (2nd) Amended Complaint was actually received by the Clerk of District Court on July 29, 2021. However, the Clerk of District Court did not file the Fed.R.Civ.P.15(a)(1)(A) Motion [Vol. 5, App. J.], until July 30, 2021.

<sup>5</sup> The Clerk of District Court failed to file the proposed Second (2nd) Amended Complaint nor is it therein the appendix.

<sup>6</sup> On a Sunday.

### III. LIST OF THE PARTIES (continued)

#### C. Relevant List of Proceedings (continued)

15. On August 25, 2021, Gabriel filed a Fed.R.App.P.27(a)(1) Motion, requesting that District Court's August 6, 2021, Order [Vol. 1, App. B] and August 15, 2021, Order [Vol.4, App. A., Pg. 4, DE 28] be vacated. See Vol. 2, App. B., Pgs. 1-25.
16. On September 1, 2021, the Eleventh (11th) Cir. entered an unconstitutional Order, that **DENIED** Gabriel's Fed.R.App.P.27(a)(1) Motion [Vol. 2, App. B.]. See Vol. 2, App. C., Pg. 1.
17. On October 15, 2021, Gabriel filed an initial/opening brief. See Vol. 2, App. F., Pgs. 1-63.
18. On November 16, 2021, Windy Hill filed an answering/response brief. See Vol. 2, App. H., Pgs. 1-43.
19. On January 10, 2022, Gabriel filed a Correct Corrected Motion for Leave – Extends Word/Page Limitations and Proposed Reply Brief. See Vol. 2, App. L., Pgs. 1-11, Vol. 3, App. A., Pgs. 1-146.
20. On February 14, 2021, the Eleventh (11th) Cir. unconstitutionally **DENIED** the unopposed Corrected Motion for Leave – Extends Word/Page Limitations [Vol. 2, App. L.]. See Vol. 2, App. A., Pg. 6 [DE 9566515-2].
21. On February 22, 2022, Gabriel filed an Amended Motion to Vacate/Reconsideration January 5, 2022, Corrected Motion for Leave – Extends Word/Page Limitations (Proposed Reply Brief) [Vol. 2, App. L.]. See Vol. 3, App. G., Pgs. 1-16.
22. On March 21, 2022, the Eleventh (11th) Cir. unconstitutionally **DENIED** the unopposed Amended Motion to Vacate/Reconsideration January 5, 2022, Corrected Motion for Leave – Extends Word/Page Limitations (Proposed Reply Brief) [Vol. 3, App. G.]. See Vol. 3, App. H., Pg. 1.
23. On June 24, 2021, the Eleventh (11th) Cir. entered a judgment<sup>7</sup> that unconstitutionally affirmed the decision of the District Court. See Vol.1, App. A., Pgs. 1-7.

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<sup>7</sup> Per curium.

III. LIST OF THE PARTIES (continued)

C. Relevant List of Proceedings (continued)

24. On July 22, 2022, Gabriel moved the Court for an extension (until November 21, 2022) to file a § 1254(1) petition.
25. On July 27, 2022, the Court (the Honorable Associate Justice Clarence Thomas ("Justice Thomas")) **GRANTED** Gabriel an extension to and including October 24, 2022, to file a § 1254(1) Petition. See Vol. 1, App. C., Pg. 1.
26. On October 7, 2022, Gabriel moved the Court for a second (2nd) extension (until November 21, 2022) to file a § 1254(1) petition.
27. On October 13, 2022, the Court (Justice Thomas) **DENIED** Gabriel's second (2nd) extension request. See Vol. 1, App. D., Pg. 1.
28. Gabriel now submits this timely § 1254(1) petition for certiorari.

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## VI. CITATIONS OF UNOFFICIAL REPORTS

1. Gabriel v. Windy Hill Foliage Inc., Case No. 21-12901 (11th Cir.2022).
1. Gabriel v. Windy Hill Foliage Inc., Case No. 4:21-cv-14177 (S.D. FLA 2021).

## VII. JURISDICTIONAL STATEMENT

Gabriel petitions the Court for writ of certiorari, to review the June 26, 2022, Judgment [Vol.1, App. A] of the Eleventh (11th) Cir. Court of Appeals, **AFFIRMING** District Court's Dismissal Order [Vol. 1 App. B] 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 (1<sup>st</sup>) 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).

#### 1. 42 U.S.C § 1981a(b)(3)(B)

"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... **(B)** in the case of a respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$100,000[.]" 42 U.S.C § 1981a(b)(3)(B).

#### 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). "[A] plaintiff's judicial complaint is limited by the scope of the EEOC investigation which can reasonably be expected to grow out of the charge of discrimination." ...[Sanchez v. Standard Brands, Inc., 431 F. 2d 455, 466 (5th Cir. 1970)] (noting that the allegations in a judicial complaint filed pursuant to Title VII may encompass any kind of discrimination like or related to the allegations contained in the charge)." Gregory v. Georgia Department of Human Resources, 355 F. 3d 1277, 1280 (11th Cir. 2004); Alexander v. Fulton County, Ga., 207 F.3d 1303, 1332 (11th Cir.2000); National Railroad Passenger Corporation v. Morgan, 536 US 101, 113, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002)

### **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 (5<sup>th</sup>) and Fourteenth (14<sup>th</sup>) 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). "[T]he decision maker should state the reasons for his determination and indicate the evidence he relied on[.]" 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). "Generally, courts should not raise sua sponte nonjurisdictional defenses not raised by the parties." Acosta v. Artuz, 221 F. 3d 117, 122 (2nd Cir. 2000); United States v. Burke, 504 US 229, 246, 112 S. Ct. 1867, 119 L. Ed. 2d 34 (1992). "A "district court can only dismiss an action on its own motion "as long as the procedure employed is fair." "...To employ fair procedure, a district court must generally "provide the plaintiff with notice of its intent to dismiss or an opportunity to respond."" Tazoe v. AIRBUS SAS, 631 F. 3d 1321, 1336 (11th Cir. 2011); American United Life Ins. Co. v. Martinez, 480 F. 3d 1043, 1069 (11th Cir. 2007).

### **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).

**(i) U.S. Supreme Court Rule 10**

"Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers...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" S.Ct.R.10.

**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. Personal Jurisdiction**

"Service of process is a jurisdictional requirement: a court lacks jurisdiction over the person of a defendant when that defendant has not been served. Objections to service of process, however, like any other objection to jurisdiction over the person, can be waived by the party over whom jurisdiction is sought." Pardazi v. Cullman Medical Center, 896 F. 2d 1313, 1317 (11th Cir. 1990); United States v. Gluklick, 801 F.2d 834, 837 (6th Cir.1986); Harris Corp. v. National Iranian Radio & Tele., 691 F.2d 1344, 1352 (11th Cir.1982). "[O]bjection[s] to service of process does not preserve the issue of personal jurisdiction." In re Worldwide Web Systems, Inc., 328 F. 3d 1291, 1299 (11th Cir. 2003); Harris Corp. v. National Iranian Radio & Tele., 691 F.2d 1344, 1358 n.18 (11th Cir.1982).

**d. 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).

**e. Fed.R.App.P.10(e)**

"(1) If any difference arises about whether the record truly discloses what occurred in the district court, the difference must be submitted to and settled by that court and the record conformed accordingly.

(2) If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded:

(A) on stipulation of the parties;

(B) by the district court before or after the record has been forwarded; or

(C) by the court of appeals[.]" Fed.R.App.P.10(e)

**f. Fed.R.App.P.27(a)(1)**

"(a) In General.

(1) *Application for Relief.* An 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 court permits otherwise."

Fed.R.App.P.27(a)(1).

**g. Fed.R.Civ.P.3**

"A civil action is commenced by filing a complaint with the court." Fed.R.Civ.P.3.

**h. Fed.R.Civ.P.4(b)**

"On or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is properly completed, the clerk must sign, seal, and issue it to the plaintiff for service on the defendant. A summons—or a copy of a summons that is addressed to multiple defendants—must be issued for each defendant to be served." Fed.R.Civ.P.4(b).

**i. 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).

**j. Fed.R.Civ.P.4(h)(1)(B)**

"Unless federal law provides otherwise or the defendant's waiver has been filed, a domestic or foreign corporation, or a partnership or other unincorporated association that is subject to suit under a common name, must be served: (1) in a judicial district of the United States:... B) by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and—if the agent is one authorized by statute and the statute so requires—by also mailing a copy of each to the defendant[.]" Fed.R.Civ.P.4(h)(1)(B).

**k. Fed.R.Civ.P.4(l)(1)**

"Unless service is waived, proof of service must be made to the court." Fed.R.Civ.P.4(l)(1).

**l. Fed.R.Civ.P.5(d)(2)(A)**

"A paper not filed electronically is filed by delivering it: (A) to the clerk[.]" Fed.R.Civ.P.5(d)(2)(A).

**m. Fed.R.Civ.P.5(d)(4)**

"The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice." Fed.R.Civ.P.5(d)(4).

**n. Fed.R.Civ.P.8(a)**

"A pleading that states a claim for relief must contain: (1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought, which may include relief in the alternative or different types of relief." Fed.R.Civ.P.8(a).

**(i) Fair Notice Standard**

"Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." Specific facts are not necessary; the statement need only "give the defendant fair notice of what the ... claim is and the grounds upon which it rests." Erickson v. Pardus, 551 U.S. 89, 127 S.Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); Bell Atlantic Corp. v. Twombly, 550 US 544, 127 S. Ct. 1955, 1959, 167 L. Ed. 2d 929 (2007).

**(ii) Prima Facie Pleadings  
Not Required**

"The complaint "need not allege facts sufficient to make out a classic McDonnell Douglas prima facie case." Surtain v. Hamlin Terrace Foundation, 789 F. 3d 1239, 1246 (11th Cir. 2015); Swierkiewicz v. Sorema NA, 534 US 506, 515, 122 S. Ct. 992, 152 L. Ed. 2d 1 (2002).

**(iii) ADA Pleading Standards**

An ADA plaintiff must introduce evidence of substantial limitation of one or more major life activities at some point during trial court proceedings, that are before the summary judgment phase. Munoz v. Selig Enterprises, Inc., 981 F. 3d 1265, 1273 (11th Cir. 2020); Bragdon v. Abbott, 524 U.S. 624, 632-42, 118 S.Ct. 2196, 141 L.Ed.2d 540 (1998).

**o. Fed.R.Civ.P.10(b)**

"A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances. A later pleading may refer by number to a paragraph in an earlier pleading. If doing so would promote clarity, each claim founded on a separate transaction or occurrence—and each defense other than a denial—must be stated in a separate count or defense." Fed.R.Civ.P.10(b)

**p. Fed.R.Civ.P.12(b)(2)**

"Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion...lack of personal jurisdiction[.]" Fed.R.Civ.P.12(b)(2).

**q. Fed.R.Civ.P.12(b)(5)**

"Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion...insufficient service of process[.]" Fed.R.Civ.P.12(b)(5).

**r. Fed.R.Civ.P.12(b)(6)**

"Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion...failure to state a claim upon which relief can be granted[.]" Fed.R.Civ.P.12(b)(6).

**s. Fed.R.Civ.P.12(f)(2)**

"The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act... on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading." Fed.R.Civ.P.12(f)(2).

**t. 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).

**u. Fed.R.Civ.P.41(b)**

"Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal under this paragraph (2) is without prejudice." Fed.R.Civ.P.41(b).

**v. Fed.R.Civ.P.55(b)**

"If the plaintiff's claim is for a sum certain or a sum that can be made certain by computation, the clerk— on the plaintiff's request, with an affidavit showing the amount due—must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person." Fed.R.Civ.P.55(b).

**w. Fed.R.Civ.P.60(b)(4)**

"On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons...the judgment is void[.]" Fed.R.Civ.P.60(b)(4).

**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).

### 3. 28 U.S.C. § 1391(b)(2)

"A civil action may be brought in...a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated[.]" 28 U.S.C. § 1391(b)(2).

### 4. 42 U.S.C. § 12112(a)

ADA forbids an employer to "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).

#### a. ADA Disparate Treatment

"[A] prima facie case of disability discrimination by a preponderance of the evidence, which requires a demonstration that she (1) is disabled, (2) is a qualified individual, and (3) was subjected to unlawful discrimination because of her disability." *Hilburn v. Murata Electronics North America, Inc.*, 181 F. 3d 1220, 1226 (11th Cir. 1999); *Morisky v. Broward County*, 80 F.3d 445, 447 (11th Cir. 1996).

#### b. ADA Hostile Work Environment

"[T]he burden-shifting analysis of Title VII employment discrimination claims is applicable to ADA claims." *Holly v. Clairson Industries, LLC*, 492 F. 3d 1247, 1255 (11th Cir. 2007); *Earl v. Mervyns, Inc.*, 207 F. 3d 1361, 1365 (11th Cir. 2000). "A plaintiff wishing to establish a hostile work environment claim show: (1) that he belongs to a protected group; (2) that he has been subject to unwelcome harassment; (3) that the harassment must have been based on a protected characteristic of the employee, such as national origin; (4) that the harassment was sufficiently severe or pervasive to alter the terms and conditions of employment and create a discriminatorily abusive working environment; and (5) that the employer is responsible for such environment under either a theory of vicarious or of direct liability." *Miller v. Kenworth of Dothan, Inc.*, 277 F. 3d 1269, 1275 (11th Cir. 2002); *Mendoza v. Borden, Inc.*, 195 F. 3d 1238, 1245 (11th Cir. 1999).

#### (i) Pretext

"[T]he burden-shifting analysis of Title VII employment discrimination claims is applicable to ADA claims." *Holly v. Clairson Industries, LLC*, 492 F. 3d 1247, 1255 (11th Cir. 2007); *Earl v. Mervyns, Inc.*, 207 F. 3d 1361, 1365 (11th Cir. 2000). "Once the plaintiff has made out a prima facie case of discrimination, the employer must articulate some legitimate, non-discriminatory reason for the employee's rejection....If the employer meets

this burden of production, the plaintiff then must establish that each of the defendant's proffered reasons for hiring someone of a different race is pretextual." Bass v. Board of County Com'rs, Orange County, Fl., 256 F. 3d, 1095, 1104 (11th Cir. 2001); Standard v. ABEL Services, Inc., 161 F. 3d 1318, 1333 (11th Cir. 1998).

**5. 42 U.S.C. § 12112(b)(5)**

"As used in subsection (a), the term "discriminate against a qualified individual on the basis of disability" includes-not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or (B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant[.]" 42 U.S.C. § 12112(b)(5)

**a. ADA Failure-to-Accommodate**

"To establish a prima facie case of discrimination under the ADA, a plaintiff must show: (1) he is disabled; (2) he is a qualified individual; and (3) he was subjected to unlawful discrimination because of his disability." Holly v. Clairson Industries, LLC, 492 F. 3d 1247, 1255-56 (11th Cir. 2007); Hilburn v. Murata Electronics North America, Inc., 181 F. 3d 1220, 1226 (11th Cir. 1999); Morisky v. Broward County, 80 F.3d 445, 447 (11th Cir. 1996). "[T]he term 'discriminate' includes...not making reasonable accommodations to the known physical...limitations of an otherwise qualified individual with a disability who is an...employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business[.]" Holly v. Clairson Industries, LLC, 492 F. 3d 1247, 1262 (11th Cir. 2007); US Airways, Inc. v. Barnett, 535 U.S. 391, 3976, 122 S.Ct. 1516, 152 L.Ed.2d 589 (2002).

**6. 42 U.S.C. § 12112(d)(2)(A)**

"Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability." 42 U.S.C. § 12112(d)(2)(A).

**7. 42 U.S.C. § 12203**

**a. 42 U.S.C. § 12203(a)**

"No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter." 42 U.S.C. § 12203(a).

**b. 42 U.S.C. § 12203(b)**

"It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter." 42 U.S.C. § 12203(b).

**(i) Reprisal**

"In order to establish a prima facie case of retaliation under the ADA, [a plaintiff] must show (1) that he engaged in statutorily protected activity; (2) that he suffered an adverse employment action; and (3) a causal link between the protected activity and the adverse action." Standard v. ABEL Services, Inc., 161 F. 3d 1318, 1328 (11<sup>th</sup> Cir. 1998); Stewart v. Happy Herman's Cheshire Bridge, Inc., 117 F. 3d 1278, 1287 (11th Cir.1997).

**(ii) Retaliatory Hostile Work Environment**

""[T]he burden-shifting analysis of Title VII employment discrimination claims is applicable to ADA claims." Holly v. Clairson Industries, LLC, 492 F. 3d 1247, 1255 (11th Cir. 2007); Earl v. Mervyns, Inc., 207 F. 3d 1361, 1365 (11th Cir. 2000). "We now join our sister circuits and recognize the cause of action [of Retaliatory Hostile Work Environment]." Edgerton v. City of Plantation, Case No. 16-16064 (11th Cir. 2017); Kelly v. Dun & Bradstreet, Inc., Case No. 15-1188 (11th Cir. 2016); Gowski v. Peake, 682 F. 3d 1299, 1312 (11th Cir.2012). "To establish that claim, a plaintiff must show that: (1) he engaged in a statutorily protected activity [or is a member of a protected class]; (2) he has been subject to unwelcome harassment; (3) the harassment was based on his engaging in the protected activity [or his protected class]; and (4) the harassment was sufficiently severe or pervasive to alter the terms and conditions of his employment." Kelly v. Dun & Bradstreet, Inc., Case No. 15-1188 (11th Cir. 2016); Clark v. South Broward Hospital District, Case No. No. 13-14848 (11th Cir. 2015).

**8. S.D.Fla. L.R.11.1(d)(4)**

"Whenever a party has appeared by attorney, the party cannot thereafter appear or act on the party's own behalf in the action or proceeding, or take any step therein, unless an order of substitution shall first have been made by the Court, after notice to the attorney of such party, and to the opposite party; provided, that the Court may in its discretion hear a party in open court, notwithstanding the fact that the party has appeared or is represented by an attorney." S.D.Fla.L.R.11.1(d)(4).

**9. F.L.S.D. IOP 2.01.01**

**(i) F.L.S.D. IOP 2.01.01(a)**

"All civil and criminal cases, including those within a weighted category, shall be assigned on a blind random basis so that the District workload is fairly and equally distributed among the active Judges irrespective of jury division; provided that, whenever necessary in the interest of justice and expediency, the Court may modify the assignments made to active or senior Judges." F.L.S.D. IOP 2.01.01(a).

**(ii) F.L.S.D. IOP 2.01.01(d)**

"The District is divided into five (5) Divisions: the Fort Pierce Division (Highlands, Indian River, Martin, Okeechobee and St. Lucie Counties)[.]" F.L.S.D. IOP 2.01.01(d).

**10. Filing Restrictions**

"[C]ourts may take...actions to discourage hyperactive litigators as long as some access to the courts is allowed." Cofield v. ALA. Public Service Com'n, 936 F. 2d 512, 518 (11th Cir.1991); Procup v. Strickland, 792 F. 2d 1069, 1072-76 (11th Cir. 1986).

**11. 49 C.F.R § 382.213(c)**

"No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function." 49 C.F.R § 382.213(c).

**IX. STATEMENTS OF THE CASE**

**A. Administrative Proceedings**

1. 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.
2. Pursuant to 42 U.S.C. § 2000e-5(e)(1)<sup>1</sup>, on June 30, 2020, Gabriel timely filed a Charge of Discrimination<sup>2</sup> ("Charge") with the Government's Equal Employment Opportunity Commission ("EEOC"), against the Respondent Windy Hill, for violations of 42 U.S.C. § 12112(a) (ADA). See Vol. 4, App. B., Pgs. 193-196.
3. On August 18, 2020, Windy Hill filed a Position Statement with the EEOC. See Vol. "PL11-1," App. "PL11-1," Pgs. 207-229.
4. Within Windy Hill's EEOC Position Statement, Windy Hill's proffered, legitimate reason for failing to hire Gabriel (a qualified individual with a disability) for the position of Commercial Truck Driver, was the alleged violation of a company policy<sup>3</sup>. Bass v. Board of County Com'rs, Orange County, Fl., 256 F. 3d, 1095, 1104 (11th Cir. 2001); Standard v. ABEL Services, Inc., 161 F. 3d 1318, 1333 (11th Cir. 1998). See Vol. "PL11-1," App. "PL11-1," Pgs. 208-216.

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<sup>1</sup> The basis of District Court's jurisdiction.

<sup>2</sup> EEOC Case no. 510-2020-04516.

<sup>3</sup> Windy Hill falsely alleged that their decision not to hire Gabriel after 1) Gabriel allegedly failed to submit himself to a company paid U.S. Department of Transportation ("DOT") Medical Examination on June 12, 2020, and 2) because of Gabriel's alleged failure to submit to a medical examination, prompting Windy Hill to request Gabriel to provide proof of a valid DOT Medication Examination and Certification (a pretext). To the contrary, Gabriel did submit himself for the DOT Medical Examination on June 12, 2020, and Windy Hill requested Gabriel submit a DOT Medical Examination that he completed for a driving position with a former employer, to persuade Gabriel to make an employee's admission of taking a legally prescribed controlled substance. 49 C.F.R § 382.213(c). See Vol. 4, App. L., Pg.1. In fact, numerous claims in this matter are the result of the June 12, 2020, DOT Medical Examination. Bass v. Board of County Com'rs, Orange County, Fl., 256 F. 3d, 1095, 1104 (11th Cir. 2001); Standard v. ABEL Services, Inc., 161 F. 3d 1318, 1333 (11th Cir. 1998). See. Vol. "PL2," App. "PL2," Pgs. 49-244 (not exhaustive).

5. On January 29, 2022, the EEOC terminated the processing of the Charge in the administrative proceedings of Gabriel v. Windy Hill Foliage Inc., Case no. 510-2020-04516, issuing Gabriel a Right to Sue letter. See Vol. 4, App. C., Pg. 1.

#### **B. Pre-District Court Events**

6. Under 42 U.S.C. § 2000e-5(f)(1), Congress prescribes a ninety (90) day deadline (April 29, 2021) to filing civil action within an U.S. District Court that has subject matter jurisdiction<sup>4</sup> to hear the grievances, after receipt of an EEOC Right to Sue letter. ).” 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).
7. U.S. District Court – F.L.S.D. had subject-matter jurisdiction<sup>5</sup> to hear Gabriel’s claims because all of the allegations asserted therein the Charge [Vol. 4, App. B.], as well as “like or related” allegations that were not asserted therein in the Charge, (whether substantially or fully) occurred within the State of Florida. 28 U.S.C. § 1391(b)(2) & 42 U.S.C. § 2000e-5(f)(3).
8. The Original Complaint [DE 01] contained fifty-eight (58) claims. See DE 01, Pgs.5-190.
9. Within EEOC Position Statement [Vol. “PL11-1,” App. “PL11-1”], Windy Hill asserted to employ an average of 175 people. See Vol. “PL11-1,” App. “PL11-1,” Pg. 208.
10. Because of the number of people Windy Hill employed, Congress prescribes (under 42 U.S.C § 1981a(b)(3)(B)) that the claims of the Original Complaint [DE 01] were valued at \$5.8 million<sup>6</sup>.

#### **C. District Court Proceedings**

11. On April 26, 2021, Gabriel receive an email that his legal papers were filed on April 26, 2021.
12. On April 26, 2021, the Honorable U.S. District Judge Aileen M. Cannon<sup>7</sup> (“Judge Cannon”) was assigned to preside over the matter. See Vol. 4, App. A., Pg. 2, DE 02.

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<sup>4</sup> The basis of District Court’s jurisdiction.

<sup>5</sup> The basis of District Court’s jurisdiction.

<sup>6</sup> Such figure does not include back pay nor frontal pay. Id.

<sup>7</sup> It was very much possible that this matter was specifically assigned to Judge Cannon, to disguise improprieties. Because of such, Judge Cannon violated Gabriel’s Fifth (5th) & Fourteenth (14th) Amendments’

13. Judge Cannon's chambers is located at F.L.S.D.'s Fort Pierce, Florida location. See Vol. 4, App. A., Pg. 1 (Docket Report's header).
14. F.L.S.D.'s Fort Pierce, Florida location mainly handles civil and criminal matters that arose out of Highlands, Indian River, Martin, Okeechobee, and St. Lucie Counties in the State of Florida. F.L.S.D. IOP 2.01.01(d).
15. Gabriel resides in Sebring, Florida (the county seat of Highlands County, Florida). See Vol. 4, App. A., Pg. 1 (Docket Report's header).
16. At the time of filing civil action, the Honorable U.S. District Judge K. Michael Moore ("Judge Moore") was the Chief District Judge<sup>8</sup> for F.L.S.D. See Vol. 4, App. O., Pg. 2.
17. Fed.R.Civ.P.15(a) allows a pleading to be amended within 21 days after processing service, with the consent of the opposing party, or by leave of District Court. However, no rule regulates the number of times a pleading may be amended before service is processed of such pleading.
18. Federal law allows a plaintiff to file any type of discriminatory charges/claims that are "like or related" to the claims alleged in the Charge. Gregory v. Georgia Department of Human Resources, 355 F. 3d 1277, 1280 (11th Cir. 2004); Alexander v. Fulton County, Ga., 207 F.3d 1303, 1332 (11th Cir.2000); National Railroad Passenger Corporation v. Morgan, 536 US 101, 113, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002).
19. Gabriel has a July 25, 2021, deadline to perfect service of a pleading.
20. ADA requires a plaintiff to offer evidence in their own experience of how a physical or mental condition substantially limits a major life activity, at some point during litigation, before summary judgment phase. Munoz v. Selig Enterprises, Inc., 981 F. 3d 1265, 1273 (11th Cir. 2020); Bragdon v. Abbott, 524 U.S. 624, 632-42, 118 S.Ct. 2196, 141 L.Ed.2d 540 (1998).

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Due Process rights by failing to recuse when her impartiality could be reasonably 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); F.L.S.D. IOP 2.01.01(a).

<sup>8</sup> On July 1, 2021, the Honorable U.S. District Judge Cecelia Altonaga ("Madam Chief District Judge Altonaga") was appointed Chief District Judge for F.L.S.D. See Vol. 4, App. O., Pg. 2.

21. Within the Original Company [DE 01], Gabriel did not offer evidence on how Attention Deficit Hyperactivity Disorder ("Adhd") substantially limited a major life activity, because of time constraints related to the Congress' mandated deadline to file civil action. See DE 01, Pgs. 1-198.
22. The final draft of the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] is 2,905 pages (without the attached exhibits), included 820 charges/claims<sup>9</sup> of ADA Disability Discrimination – Disparate Treatment (42 U.S.C. § 12112(a) & (d)(2)), Failure-to-Accommodate (42 U.S.C. § 12112(b)(5)), Hostile Work Environment (42 U.S.C. § 12112(a)), Reprisal (42 U.S.C. §§ 12203(a) & (b), and 12112(a), (b)(5), and (d)(2)(A)), and Retaliatory Hostile Work Environment (42 U.S.C. §§ 12203(a) & (b), and 12112(a), (b)(5), and (d)(2)(A)) (most of which he wrote the charges/claims in prima facie elements of ADA Disability Discrimination, exceeding the pleading requirements<sup>10</sup>). Hilburn v. Murata Electronics North America, Inc., 181 F. 3d 1220, 1226 (11th Cir. 1999); Morisky v. Broward County, 80 F.3d 445, 447 (11th Cir. 1996); Holly v. Clairson Industries, LLC, 492 F. 3d 1247, 1255 (11th Cir. 2007); Earl v. Mervyns, Inc., 207 F. 3d 1361, 1365 (11th Cir. 2000); Miller v. Kenworth of Dothan, Inc., 277 F. 3d 1269, 1275 (11th Cir. 2002); Mendoza v. Borden, Inc., 195 F. 3d 1238, 1245 (11th Cir. 1999); Holly v. Clairson Industries, LLC, 492 F. 3d 1247, 1255-62 (11th Cir. 2007); Hilburn v. Murata Electronics North America, Inc., 181 F. 3d 1220, 1226 (11th Cir. 1999); Morisky v. Broward County, 80 F.3d 445, 447 (11th Cir. 1996); Standard v. ABEL Services, Inc., 161 F. 3d 1318, 1328 (11th Cir. 1998); Stewart v. Happy Herman's Cheshire Bridge, Inc., 117 F. 3d 1278, 1287 (11th Cir.1997); Kelly v. Dun & Bradstreet, Inc., Case No. 15-1188 (11th Cir. 2016); Clark v. South Broward Hospital District, Case No. No. 13-14848 (11th Cir. 2015). See Vol. "PL," App. "PL," Pgs. 1-200, Vol. "PL-1," App. "PL-1," Pgs. 201-253, Vol. "PL1," App. "PL1," Pgs. 1-200, Vol. "PL1-1," App. "PL1-1," Pgs. 201-250, Vol. "PL2," App. "PL2," Pgs. 1-200, Vol. "PL2-1," App. "PL2-1," Pgs. 201-251, Vol. "PL3," App. "PL3," Pgs. 1-200, Vol. "PL3-1," App. "PL3-1," Pgs. 201-252, Vol. "PL4," App. "PL4," Pgs. 1-200, Vol. "PL4-1," App. "PL4-1," Pgs. 201-251, Vol. "PL5," App. "PL5," Pgs. 1-200, Vol. "PL5-1," App. "PL5-1," Pgs. 201-251, Vol. "PL6," App. "PL6," Pgs. 1-200, Vol. "PL6-1," App. "PL6-1," Pgs. 201-254, Vol. "PL7," App. "PL7," Pgs. 1-

<sup>9</sup> Valued at \$82 million. Such figure does not include back pay nor frontal pay. Id.

<sup>10</sup> Surtain v. Hamlin Terrace Foundation, 789 F. 3d 1239, 1246 (11th Cir. 2015); Swierkiewicz v. Sorema NA, 534 US 506, 515, 122 S. Ct. 992, 152 L. Ed. 2d 1 (2002).

200, Vol. "PL7-1," App. "PL7-1," Pgs. 201-252, Vol. "PL8," App. "PL8," Pgs. 1-200, Vol. "PL8-1," App. "PL8-1," Pgs. 201-253, Vol. "PL9," App. "PL9," Pgs. 1-200, Vol. "PL9-1," App. "PL9-1," Pgs. 201-253, Vol. "PL10," App. "PL10," Pgs. 1-200, Vol. "PL10-1," App. "PL10-1," Pgs. 201-253, Vol. "PL11," App. "PL11," Pgs. 1-200, Vol. "PL11-1," App. "PL11-1," Pgs. 201-253.

23. In the Amended Complaint [Vol. "PL" through Vol. "PL11-1"], Gabriel offered evidence on how Attention Deficit Hyperactivity Disorder ("Adhd") substantially limited a major life activity.
24. The relatively large pleading (the Amended Complaint [Vol. "PL" through Vol. "PL11-1"]), Gabriel organized in discrete, numbered stacks to assist the Clerk of District Court - F.L.S.D. To proper filing of (the Amended Complaint [Vol. "PL" through Vol. "PL11-1"], Gabriel gave specific instructions (also meaning not to file the instructive guide sheets). See Vol. "PL," App. "PL," Pgs. 1-2<sup>11</sup>, Vol. "PL1," App. "PL1," Pg. 1, Vol. "PL2," App. "PL2," Pg. 1, Vol. "PL3," App. "PL3," Pg. 1, Vol. "PL4," App. "PL4," Pg. 1, Vol. "PL5," App. "PL5," Pg. 1, Vol. "PL6," App. "PL6," Pgs. 1-2, Vol. "PL7," App. "PL7," Pg. 1, Vol. "PL8," App. "PL8," Pg. 1, Vol. "PL9," App. "PL9," Pg. 1, Vol. "PL10," App. "PL10," Pg. 1, Vol. "PL11," App. "PL11," Pg. 1.
25. Gabriel ensured that all pages of the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] were included in the shipping boxes (separately from organizing the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] into "Amended Civil Complaint Stacks"), as well as copies that he made to process service on Windy Hill<sup>12</sup>.
26. Gabriel specifically organized the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] into the 250-page stack except for the final stack. See Vol. "PL," App. "PL," Pgs. 1-2<sup>13</sup>, Vol. "PL1," App. "PL1," Pg. 1, Vol. "PL2," App. "PL2," Pg. 1, Vol. "PL3," App. "PL3," Pg. 1, Vol. "PL4," App. "PL4," Pg. 1, Vol. "PL5," App. "PL5," Pg. 1, Vol. "PL6,"

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<sup>11</sup> Because Gabriel shipped the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] to the Clerk of District Court in two large U.S. Postal Service Flat Rate box, he was considerate enough to include two set of instruction for filing the large pleading, in case the pleadings were not delivered on the same day. See Vol. "PL," App. "PL," Pg. 1 and Vol. "PL6," App. "PL6," Pg. 1.

<sup>12</sup> Meaning that the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] was checked at least twice prior to shipping.

<sup>13</sup> Because Gabriel shipped the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] to the Clerk of District Court - F.L.S.D in two large U.S. Postal Service Flat Rate box, he was considerate enough to include two set of instruction for filing the large pleading, in case the pleadings were not delivered on the same day. See Vol. "PL," App. "PL," Pg. 1 and Vol. "PL6," App. "PL6," Pg. 1.

App. "PL6," Pgs. 1-2, Vol. "PL7," App. "PL7," Pg. 1, Vol. "PL8," App. "PL8," Pg. 1, Vol. "PL9," App. "PL9," Pg. 1, Vol. "PL10," App. "PL10," Pg. 1, Vol. "PL11," App. "PL11," Pg. 1.

27. On July 2, 2021, Gabriel shipped the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] to the Clerk of District Court - F.L.S.D., at F.L.S.D.'s West Palm Beach, Florida location. See Vol. "PL11-1," App. "PL11-1," Pgs. 230-231.
28. On July 6, 2021, Gabriel received an email from the Clerk of District Court - F.L.S.D. stating that Amended Complaint [Vol. "PL" through Vol. "PL11-1"] had been filed. See Vol. 4, App. A., Pg. 3 (DE 17).
29. The Clerk of District Court - F.L.S.D. failed to imprint the correct date of filing<sup>14</sup> on the Amended Complaint [Vol. "PL" through Vol. "PL11-1"]. 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); Fed.R.Civ.P.3, and Fed.R.Civ.P.5(d)(2)(A), & (d)(4). See Vol. "PL," App. "PL," Pgs. 1-200, Vol. "PL-1," App. "PL-1," Pgs. 201-253, Vol. "PL1," App. "PL1," Pgs. 1-200, Vol. "PL1-1," App. "PL1-1," Pgs. 201-250, Vol. "PL2," App. "PL2," Pgs. 1-200, Vol. "PL2-1," App. "PL2-1," Pgs. 201-251, Vol. "PL3," App. "PL3," Pgs. 1-200, Vol. "PL3-1," App. "PL3-1," Pgs. 201-252, Vol. "PL4," App. "PL4," Pgs. 1-200, Vol. "PL4-1," App. "PL4-1," Pgs. 201-251, Vol. "PL5," App. "PL5," Pgs. 1-200, Vol. "PL5-1," App. "PL5-1," Pgs. 201-251, Vol. "PL6," App. "PL6," Pgs. 1-200, Vol. "PL6-1," App. "PL6-1," Pgs. 201-254, Vol. "PL7," App. "PL7," Pgs. 1-200, Vol. "PL7-1," App. "PL7-1," Pgs. 201-252, Vol. "PL8," App. "PL8," Pgs. 1-200, Vol. "PL8-1," App. "PL8-1," Pgs. 201-253, Vol. "PL9," App. "PL9," Pgs. 1-200, Vol. "PL9-1," App. "PL9-1," Pgs. 201-253, Vol. "PL10," App. "PL10," Pgs. 1-200, Vol. "PL10-1," App. "PL10-1," Pgs. 201-253, Vol. "PL11," App. "PL11," Pgs. 1-200, Vol. "PL11-1," App. "PL11-1," Pgs. 201-253.

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<sup>14</sup> Date of filing that is stated on the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] is July 7, 2021.

30. The Clerk of District Court - F.L.S.D. carelessly filed<sup>15</sup> the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] intentionally. Gabriel lists the numerous improprieties<sup>16</sup> as follows:
- a. The Clerk of District Court - F.L.S.D. filed the correspondence that Gabriel composed to assist in the orderly filing of a 2905-page pleading plus exhibits, and placed it in the one (1) of two (2) boxes shipped. See Vol. "PL," App. "PL," Pgs. 1-2.
  - b. The Clerk of District Court - F.L.S.D. filed the correspondence in the same stack as Stack Marker #1 (docketing it as DE 17) to confuse Gabriel with the section numbers. See Vol. "PL," App. "PL," Pgs. 1-2.
  - c. The Clerk of District Court - F.L.S.D. filed Stack Marker #1. See Vol. "PL," App. "PL," Pg. 3.
  - d. The Clerk of District Court - F.L.S.D. filed Stack Marker #2. See Vol. "PL1," App. "PL1," Pg. 1.
  - e. The Clerk of District Court - F.L.S.D. docketed the paper stack that included Stack Marker #2 as "DE 17-1", to confuse Gabriel with the section numbers. See Vol. "PL1," App. "PL1," Pg. 1.
  - f. The Clerk of District Court - F.L.S.D. omitted the MS<sup>17</sup> paginated page 258. See Vol. "PL1," App. "PL1," Pgs. 8-9<sup>18</sup>.
  - g. The Clerk of District Court - F.L.S.D. omitted the MS paginated page 259. See Vol. "PL1," App. "PL1," Pgs. 8-9<sup>19</sup>.
  - h. The Clerk of District Court - F.L.S.D. filed the Stack Marker #3. See Vol. "PL2," App. "PL2," Pg. 1.

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<sup>15</sup> It is very plausible that F.L.S.D.'s Judicial Bench and/or District Court directed the Clerk of District Court - F.L.S.D. to file the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] in the careless manner that it was filed. 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); 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).

<sup>16</sup> Windy Hill never made any mention of the improprieties. See Vol. 4. App. A., Pgs. 1-5.

<sup>17</sup> Microsoft.

<sup>18</sup> Take notice to the missing MS paginated pages 258 & 259, between District Court's pagination of pages 8 & 9. 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); Fed.R.Civ.P.3, and Fed.R.Civ.P.5(d)(2)(A), & (d)(4).

<sup>19</sup> Take notice to the missing MS paginated pages 258 & 259, between District Court's pagination of pages 8 & 9. 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); Fed.R.Civ.P.3, and Fed.R.Civ.P.5(d)(2)(A), & (d)(4).

- i. The Clerk of District Court - F.L.S.D. docketed the paper stack that included Stack Marker #3 as "DE 17-2", to confuse Gabriel with the section numbers. See Vol. "PL2," App. "PL2," Pg. 1.
- j. The Clerk of District Court - F.L.S.D. filed the Stack Marker #4. See Vol. "PL3," App. "PL3," Pg. 1.
- k. The Clerk of District Court - F.L.S.D. docketed the paper stack that included Stack Marker #4 as "DE 17-3", to confuse Gabriel with the section numbers. See "PL3," App. "PL3," Pg. 1.
- l. The Clerk of District Court - F.L.S.D. filed the Stack Marker #5. See Vol. "PL4," App. "PL4," Pg. 1.
- m. The Clerk of District Court - F.L.S.D. docketed the paper stack that included Stack Marker #5 as "DE 17-4", to confuse Gabriel with the section numbers. See Vol. "PL3," App. "PL3," Pg. 1.
- n. The Clerk of District Court - F.L.S.D. omitted the MS paginated page of 1238. See Vol. "PL4-1," App. "PL4-1," Pgs. 239-240<sup>20</sup>.
- o. The Clerk of District Court - F.L.S.D. filed the Stack Marker #6. See Vol. "PL5," App. "PL5," Pg. 1.
- p. The Clerk of District Court - F.L.S.D. docketed the paper stack that included Stack Marker #6 as "DE 17-5", to confuse Gabriel with the section numbers. See Vol. "PL5," App. "PL5," Pg. 1.
- q. The Clerk of District Court - F.L.S.D. filed the second correspondence that Gabriel composed to assist in the orderly filing of a 2905-page pleading plus exhibits, and placed it in the second (2nd) box that was shipped. See Vol. "PL6," App. "PL6," Pgs. 1-2.
- r. The Clerk of District Court - F.L.S.D. filed the second correspondence in the same stack as Stack Marker #7 (docketing it as DE 17-6) to confuse Gabriel with the section numbers. See Vol. "PL6," App. "PL6," Pgs. 1-2.
- s. The Clerk of District Court - F.L.S.D. filed the Stack Marker #7. See Vol. "PL6," App. "PL6," Pg. 3.
- t. The Clerk of District Court - F.L.S.D. duplicated and filed MS paginated page 1718. See Vol. "PL6-1," App. "PL6-1," Pg. 221-222.

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<sup>20</sup> Take notice to the missing MS paginated page 1238, between District Court's pagination of pages 239 & 240. 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); Fed.R.Civ.P.3, and Fed.R.Civ.P.5(d)(2)(A), & (d)(4).

- u. The Clerk of District Court - F.L.S.D. filed the Stack Marker #8. See Vol. "PL7," App. "PL7," Pg. 1.
- v. The Clerk of District Court - F.L.S.D. docketed the paper stack that included Stack Marker #8 as "DE 17-7", to confuse Gabriel with the section numbers. See Vol. "PL7," App. "PL7," Pg. 1.
- w. The Clerk of District Court - F.L.S.D. added and filed a blank page. See Vol. "PL7," App. "PL7," Pg. 122.
- x. The Clerk of District Court - F.L.S.D. filed the Stack Marker #9. See Vol. "PL8," App. "PL8," Pg. 1.
- y. The Clerk of District Court - F.L.S.D. docketed the paper stack that included Stack Marker #9 as "DE 17-8", to confuse Gabriel with the section numbers. See Vol. "PL8," App. "PL8," Pg. 1.
- z. The Clerk of District Court - F.L.S.D. omitted the MS paginated page of 2069. See Vol. "PL8," App. "PL8," Pgs. 69-70<sup>21</sup>.
- aa. The Clerk of District Court - F.L.S.D. added and filed a blank page. See Vol. "PL8," App. "PL8," Pg. 78.
- bb. The Clerk of District Court - F.L.S.D. added and filed a blank page. See Vol. "PL8," App. "PL8," Pg. 79.
- cc. The Clerk of District Court - F.L.S.D. filed the Stack Marker #10. See Vol. "PL9," App. "PL9," Pg. 1.
- dd. The Clerk of District Court - F.L.S.D. docketed the paper stack that included Stack Marker #10 as "DE 17-9", to confuse Gabriel with the section numbers. See Vol. "PL9," App. "PL9," Pg. 1.
- ee. The Clerk of District Court - F.L.S.D. added and filed a blank page. See Vol. "PL9," App. "PL9," Pg. 87.
- ff. The Clerk of District Court - F.L.S.D. duplicated and filed MS paginated page 2470. See Vol. "PL9-1," App. "PL9-1," Pg. 222-223.
- gg. The Clerk of District Court - F.L.S.D. filed the Stack Marker #11. See Vol. "PL10," App. "PL10," Pg. 1.
- hh. The Clerk of District Court - F.L.S.D. docketed the paper stack that included Stack Marker #11 as "DE 17-10", to confuse Gabriel with the section numbers. See Vol. "PL10," App. "PL10," Pg. 1.

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<sup>21</sup> Take notice to the missing MS paginated page 2069, between District Court's pagination of pages 69 & 70. 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); Fed.R.Civ.P.3, and Fed.R.Civ.P.5(d)(2)(A), & (d)(4).

- ii. The Clerk of District Court - F.L.S.D. omitted the MS paginated page 2644. See Vol. "PL10," App. "PL10," Pgs. 144-145<sup>22</sup>.
- jj. The Clerk of District Court - F.L.S.D. added and filed a blank page. See Vol. "PL10," App. "PL10," Pg. 192.
- kk. The Clerk of District Court - F.L.S.D. added and filed a blank page. See Vol. "PL10-1," App. "PL10-1," Pg. 237.
- ll. The Clerk of District Court - F.L.S.D. added and filed a blank page. See Vol. "PL10-1," App. "PL10-1," Pg. 238.
- mm. The Clerk of District Court - F.L.S.D. filed the Stack Marker #12. See Vol. "PL11," App. "PL11," Pg. 1.
- nn. The Clerk of District Court - F.L.S.D. docketed the paper stack that included Stack Marker #12 as "DE 17-11", to confuse Gabriel with the section numbers. See Vol. "PL11," App. "PL11," Pg. 1.
- oo. The Clerk of District Court - F.L.S.D. filed the Amended Complaint [Vol. "PL" through Vol. "PL11-1")] by separating it eleven (11) times, and filing all sections (except for the first) as supplemental attachments/filings. See Vol. "PL1," App. "PL1," Pgs. 1-200, Vol. "PL1-1," App. "PL1-1," Pgs. 201-250, Vol. "PL2," App. "PL2," Pgs. 1-200, Vol. "PL2-1," App. "PL2-1," Pgs. 201-251, Vol. "PL3," App. "PL3," Pgs. 1-200, Vol. "PL3-1," App. "PL3-1," Pgs. 201-252, Vol. "PL4," App. "PL4," Pgs. 1-200, Vol. "PL4-1," App. "PL4-1," Pgs. 201-251, Vol. "PL5," App. "PL5," Pgs. 1-200, Vol. "PL5-1," App. "PL5-1," Pgs. 201-251, Vol. "PL6," App. "PL6," Pgs. 1-200, Vol. "PL6-1," App. "PL6-1," Pgs. 201-254, Vol. "PL7," App. "PL7," Pgs. 1-200, Vol. "PL7-1," App. "PL7-1," Pgs. 201-252, Vol. "PL8," App. "PL8," Pgs. 1-200, Vol. "PL8-1," App. "PL8-1," Pgs. 201-253, Vol. "PL9," App. "PL9," Pgs. 1-200, Vol. "PL9-1," App. "PL9-1," Pgs. 201-253, Vol. "PL10," App. "PL10," Pgs. 1-200, Vol. "PL10-1," App. "PL10-1," Pgs. 201-253, Vol. "PL11," App. "PL11," Pgs. 1-200, Vol. "PL11-1," App. "PL11-1," Pgs. 201-253.

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<sup>22</sup> Take notice of the missing MS paginated page 2644, between District Court's pagination of pages 144 & 145. 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); Fed.R.Civ.P.3, and Fed.R.Civ.P.5(d)(2)(A), & (d)(4).

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); Fed.R.Civ.P.3, and Fed.R.Civ.P.5(d)(2)(A), & (d)(4).

31. Pursuant to Fed.R.Civ.P.4(h)(1)(B), on July 6, 2021, Gabriel initiated actions of having service processed on Windy Hill's President and Registered Agent, Jackie Shortt. See Vol. 4, App. K., Pgs. 1-27.
32. On July 8, 2022, service of the summons [Vol. 4, App. I.] and Amended Complaint [Vol. "PL" through Vol. "PL11-1"] was processed. See Vol. 4, App. K., Pgs. 1-27.
33. On July 12, 2022, service of the summons [Vol. 4, App. I.] and Amended Complaint [Vol. "PL" through Vol. "PL11-1"] was legally<sup>23</sup> perfected [pursuant to Fed.R.Civ.P.4(h)(1)(B)]. See Vol. 4, App. K., Pgs. 1-27.
34. The Clerk of District Court - F.L.S.D. failed to imprint the proper date of filing<sup>24</sup> on the Fed.R.Civ.P.4(l)(1) Affidavit. 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); Fed.R.Civ.P.3, and Fed.R.Civ.P.5(d)(2)(A), & (d)(4). See Vol. 4, App. K., Pgs. 1-27.
35. Between July 12, 2021, and July 29, 2021, Gabriel began composing a proposed Second (2nd) Amended Complaint for two reasons.
36. The first reason Gabriel decided to compose a proposed Second (2nd) Amended Complaint was for the reason of ensuring all of his charges/claims<sup>25</sup> were pled in prima facie elements of ADA Disability Discrimination (i.e., Disparate Treatment, Hostile Work Environment, Reprisal, Retaliatory Hostile Work Environment), which he did.
37. Secondly, Gabriel decided to compose a proposed Second (2nd) Amended Complaint for the reason to further elaborate in the Pretext Section of the proposed pleading, which he did.

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<sup>23</sup> For the record, Gabriel hereby asserts that service of the summons [Vol. 4, App. I.] and Amended Complaint [Vol. "PL" through Vol. "PL11-1"] was legally effectuated.

<sup>24</sup> The incorrect date of July 13, 2021, instead of July 12, 2021.

<sup>25</sup> Though Gabriel admits that all of the charges/claims of the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] were not pled in prima facie elements of ADA Disability Discrimination, it is not meant to be construed that such charges/claims did not allegedly comply with federal pleading standards.

38. On July 27, 2021, Gabriel completed the proposed Second (2nd) Amended Complaint and a Fed.R.Civ.P.15(a)(1)(A) Motion and shipped the legal papers to U.S. District Court - F.L.S.D.'s Fort Lauderdale, Florida location. See Vol. 5, App. H., Pgs. 1-2, and Vol. 5, App. J., Pgs. 1-8.
39. Gabriel decided to ship his legal documents [Vol. 5, App. H. & Vol. 5, App. J.] to U.S. District Court - F.L.S.D.'s Fort Lauderdale, Florida location for reason that he had a July 29, 2021, deadline, set by Fed.R.Civ.P.15(a)(1)(A), to request leave to amend a pleading.
40. On July 29, 2021, Mr. Halberstam filed a Notice of Appearance on behalf of Windy Hill. See Vol. 5, App. A., Pgs. 1-2.
41. According to Mr. Halberstam's employee profile at Jackson Lewis P.C., "during the [Florida International University]'s Moot Court Competition, [Mr. Halberstam] was awarded the "Runner-Up Best Orator" award [while attending law school] by United States District Judges Cecilia Altonaga and K. Michael Moore, [now] Eleventh Circuit Court of Appeals Judge Adalberto Jordan, and [now, Eleventh Circuit Court of Appeals Judge] Barbara Lagoa." 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). Vol. 5, App. B., Pg. 2.
42. According to Mr. Halberstam's employee profile at Jackson Lewis P.C. and the Federal Judicial Center, both Madam Chief District Judge Altonaga and Mr. Halberstam are alumni of Florida International University. 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). See Vol. 5, App. B., Pg. 1, and Vol. 5, App. D., Pg. 1.
43. According to the Federal Judicial Center both the Honorable U.S. Circuit Judge Barbara Lagoa ("Madam Judge Lagoa"), Judge Moore, and Judge Cannon were employed at the U.S. Attorney's Office - F.L.S.D. at some point in time. 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). See Vol. 5, App. C., Pg. 1, Vol. 5, App. E., Pg. 1, and Vol. 5, App. G., Pg. 1.

44. Because of the appearance of impropriety, every judge on the F.L.S.D.'s Judicial Bench that Gabriel appeared before<sup>26</sup> had a legal obligation to recuse because Madam Chief Judge Altonage and Judge Moore were their superiors (including Judge Cannon). 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).
45. On July 29, 2021, Windy Hill (via Attorney Stephanie Spritz ("Ms. Spritz")) filed an alleged<sup>27</sup> Fed.R.Civ.P.12(b)(2), (5), & (6), & (f)(2) Motion to Dismiss, falsely alleging the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] failed to state a claim, as well as a Motion to Strike. Windy Hill also falsely alleged improper service and waiving District Court's personal jurisdiction. Pardazi v. Cullman Medical Center, 896 F. 2d 1313, 1317 (11th Cir. 1990); United States v. Gluklick, 801 F.2d 834, 837 (6th Cir.1986); Harris Corp. v. National Iranian Radio & Tele., 691 F.2d 1344, 1352 (11th Cir.1982). See Vol. 5, App. I., Pgs. 1-11.
46. Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated by District Court allowing Ms. Spritz to file an invalid motion [Vol. 5, App. I.] in a matter in which Ms. Spritz did not file a Notice of Appearance<sup>28</sup>. 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); S.D. Fla.L.R.11.1(d)(4). See Vol. 5, App. I., Pg. 11.
47. District Court allowed Ms. Spritz to file the invalid motion [Vol. 5, App. I.] to disguise F.L.S.D.'s Judicial Bench's extrajudicial ties to Mr. Halberstam. 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).
48. On July 30, 2021, the Clerk of District Court - F.L.S.D. improper docketed the filing of Gabriel's Fed.R.Civ.P.15(a)(1)(A) Motion [Vol. 5, App. J.] as being filed on July 30, 2021, instead of the proper date of July 29, 2021 (the deadline). 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). See Vol. 5, App. J., Pgs. 1-8.

<sup>26</sup> As it relates to Mr. Halberstam representing Windy Hill in a proceedings.

<sup>27</sup> Gabriel asserts that Windy Hill's alleged filing is invalid.

<sup>28</sup> The record reflects that Ms. Spritz never filed a Notice of Appearance. S.D. Fla.L.R.11.1(d)(4).

49. Though Gabriel mailed the 3,087+ page proposed Second (2nd) Amended Complaint along with the Fed.R.Civ.P.15(a)(1)(A) Motion [Vol. 5, App. J.], the Clerk of District Court - F.L.S.D. failed to ever file and docketed the proposed pleading. 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); Fed.R.Civ.P.3; Fed.R.Civ.P.5(d)(2)(A) & (d)(4).
50. The Clerk of District Court - F.L.S.D. altered<sup>29</sup> the filed package labels<sup>30</sup>. 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); Fed.R.Civ.P.3; Fed.R.Civ.P.5(d)(2)(A) & (d)(4). See Vol. 5, App. H., Pgs. 1-2, and Vol. 5, App. J., Pgs. 1-8.
51. District Court had a legal obligation under 28 U.S.C. §§ 144 & 455 to recuse from this matter because her impartiality could 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).
52. Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated by District Court's failure to recuse. 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).
53. Fearing that Gabriel would successfully argue that 1) Windy Hill's alleged filing [Vol. 5, App. I.] was invalid, and 2) that Windy Hill had waived District Court's personal jurisdiction (in turn, moving for judgment by default

<sup>29</sup> The Clerk switched two (2) labels for two (2) large U.S. Postal Service Priority Flat Rate boxes, for one (1) label of an U.S. Postal Service Priority Flat Rate padded envelope. This is indicative of the pervasive bias and prejudice Gabriel received during trial court proceedings. 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).

<sup>30</sup> It is very plausible that F.L.S.D.'s Judicial Bench and/or District Court directed the Clerk of District Court - F.L.S.D. to not file the proposed Second (2nd) Amended Complaint and to alter the filed package labels. 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); 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).

(Fed.R.Civ.P.55(b)) on \$82 million in valued charges/claims, on August 6, 2021, SUA SPONTE entered an unconstitutional order, that 1) unconstitutionally struck the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] from the record (falsely alleging it to be frivolous and containing shotgun pleadings), 2) unconstitutionally **DENIED** Windy Hill's Fed.R.Civ.P.12(b)(2), (5), & (6), & (f)(2) Motion to Dismiss as moot, 3) unconstitutionally ordered Gabriel to file another pleading, while limiting the pages to such proposed pleading to no more than twenty-five (25) pages, 4) unconstitutionally set an August 31, 2021, deadline for filing the proposed pleading, 5) unconstitutionally instructed that the matter would be dismissed (pursuant to Fed.R.Civ.P.41(b)) if the proposed pleading did not comply Fed.R.Civ.P.8, and 6) unconstitutionally **DENIED** Gabriel's Fed.R.Civ.P.15(a)(1)(A) Motion [Vol. 5, App. J.], (falsely alleging that the proposed Second (2nd) Amended Complaint failed to comply with federal pleading standards. 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); Erickson v. Pardus, 551 U.S. 89, 127 S.Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); Bell Atlantic Corp. v. Twombly, 550 US 544, 127 S. Ct. 1955, 1959, 167 L. Ed. 2d 929 (2007); Acosta v. Artuz, 221 F. 3d 117, 122 (2nd Cir. 2000); United States v. Burke, 504 US 229, 246, 112 S. Ct. 1867, 119 L. Ed. 2d 34 (1992); Cofield v. ALA. Public Service Com'n, 936 F. 2d 512, 518 (11th Cir.1991); Procup v. Strickland, 792 F. 2d 1069, 1072-76 (11th Cir. 1986). See Vol. 1, App. B., Pgs. 1-3.

54. District Court, in the unconstitutional August 6, 2021, Order [Vol. 1, App. B.], violated Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights, because the order did not reflect the evidence that was on the record. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 397 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 1, App. B., Pgs. 1-3.
55. District Court, in the unconstitutional August 6, 2021, Order [Vol. 1, App. B.], District Court falsely alleged that the charges/claims of the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] were allegedly patently frivolous and improperly labeled the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] as a "shotgun pleading." Erickson v. Pardus, 551 U.S. 89, 127 S.Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); Bell Atlantic Corp. v. Twombly, 550 US 544, 127 S. Ct. 1955, 1959, 167 L. Ed. 2d 929 (2007); Surtain v. Hamlin Terrace Foundation,

789 F. 3d 1239, 1246 (11th Cir. 2015); Swierkiewicz v. Sorema NA, 534 US 506, 515, 122 S. Ct. 992, 152 L. Ed. 2d 1 (2002). See Vol. 1, App. B., Pgs. 1-3.

56. District Court, in the unconstitutional August 6, 2021, Order [Vol. 1, App. B.], District Court falsely alleged that the charges/claims of the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] allegedly did not comply with Fed.R.Civ.P.10(b). Erickson v. Pardus, 551 U.S. 89, 127 S.Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); Bell Atlantic Corp. v. Twombly, 550 US 544, 127 S. Ct. 1955, 1959, 167 L. Ed. 2d 929 (2007); Surtain v. Hamlin Terrace Foundation, 789 F. 3d 1239, 1246 (11th Cir. 2015); Swierkiewicz v. Sorema NA, 534 US 506, 515, 122 S. Ct. 992, 152 L. Ed. 2d 1 (2002). See Vol. 1, App. B., Pgs. 1-3.
57. District Court, in the unconstitutional August 6, 2021, Order [Vol. 1, App. B.], violated Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights, because the order did not reflect the evidence that was on the record. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970).
58. Before entering the unconstitutional August 6, 2021, Order [Vol. 1, App. B.], District Court failed to give Gabriel notice of its intent to dismiss the Amended Complaint [Vol. "PL" through Vol. "PL11-1"], nor an opportunity to respond. Tazoe v. AIRBUS SAS, 631 F. 3d 1321, 1336 (11th Cir. 2011); American United Life Ins. Co. v. Martinez, 480 F. 3d 1043, 1069 (11th Cir. 2007). See Vol. 1, App. B., Pgs. 1-3.
59. District Court, in the unconstitutional August 6, 2021, Order [Vol. 1, App. B.], arbitrarily ordered filing restrictions, that were unwarranted<sup>31</sup> (violating Gabriel's First (1st), Fifth (5th), & Fourteenth (14th) Amendments' Petition and Due Process 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); Cofield v. ALA. Public Service Com'n, 936 F. 2d 512, 518 (11th Cir.1991); Procup v. Strickland, 792 F. 2d 1069, 1072-76 (11th Cir. 1986). See Vol. 1, App. B., Pgs. 1-3.
60. District Court, in the unconstitutional August 6, 2021, Order [Vol. 1, App. B.], failed to allow Gabriel an opportunity to respond to Windy Hill's alleged motion [Vol. 5, App. I.]. See Vol. 1, App. B., Pgs. 1-3.

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<sup>31</sup> The record does not reflect that Gabriel is an abusive or vexatious litigant.

61. District Court, in the unconstitutional August 6, 2021, Order [Vol. 1, App. B.], illegally ordered Gabriel to file another pleading when the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] was clearly sufficed to withstand a Fed.R.Civ.P.12(b)(6) Motion. Erickson v. Pardus, 551 U.S. 89, 127 S.Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); Bell Atlantic Corp. v. Twombly, 550 US 544, 127 S. Ct. 1955, 1959, 167 L. Ed. 2d 929 (2007); Surtain v. Hamlin Terrace Foundation, 789 F. 3d 1239, 1246 (11th Cir. 2015); Swierkiewicz v. Sorema NA, 534 US 506, 515, 122 S. Ct. 992, 152 L. Ed. 2d 1 (2002). See Vol. 1, App. B., Pgs. 1-3.
62. District Court, in the unconstitutional August 6, 2021, Order [Vol. 1, App. B.], illegally **DENIED** the Fed.R.Civ.P.15(a)(1)(A) Motion [Vol. 5, App. J.], falsely alleging that the proposed Second (2nd) Amended Complaint did not comply with federal pleading standards when the Clerk of District Court - F.L.S.D. never filed the proposed Second (2nd) Amended Complaint; therefore, was not on the record. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 1, App. B., Pgs. 1-3.
63. District Court, in the unconstitutional August 6, 2021, Order [Vol. 1, App. B.], violated Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights, because it was not entered by an impartial decisionmaker. 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). See Vol. 1, App. B., Pgs. 1-3.
64. District Court's unconstitutional August 6, 2021, Order [Vol. 1, App. B.] was entered for the illegal purpose of limiting the charges/claims that Gabriel could seek relief for, all while targeting the substantial limitations that Gabriel properly pled. Not only was District Court's August 6, 2021, Order [Vol. 1, App. B.] unconstitutional, but it was also discriminative. 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); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 1, App. B., Pgs. 1-3, Vol. "PL," App. "PL," Pgs. 40-218, and Vol. "PL11-1," App. "PL11-1," Pgs. 154-206.

65. On August 13, 2021, Gabriel filed an unopposed Fed.R.Civ.P.60(b)(4) Motion, moving for District Court's unconstitutional August 6, 2021, Order [Vol. 1, App. B.] to be set aside/vacated for constitutional reasons. See Vol. 5, App. K., Pgs. 1-14.
66. On August 15, 2021<sup>32</sup>, District Court entered a minute/paperless order that **DENIED** Gabriel's Fed.R.Civ.P.60(b)(4) Motion [Vol. 5, App. K.], insisting on the arbitrary filing restriction (of filing a pleading in twenty-five (25) pages or less) that it unconstitutional put in place [Vol. 1, App. B.] on August 6, 2021. Also, District Court failed to state the reasons it denied Gabriel's request. 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); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 4, App. A., Pg. 4 (DE 28).
67. Before entering the August 13, 2021, Order [Vol. 4, App. A., Pg. 4 (DE 28)], Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated by District Court's failure to recuse when its impartiality could 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).
68. Again, District Court, in the unconstitutional August 13, 2021, Order [Vol. 4, App. A., Pg. 4 (DE 28)], violated Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights because it was not entered by an impartial decisionmaker. 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). See Vol. 4, App. A., Pg. 4 (DE 28).
69. And again, District Court's unconstitutional August 13, 2021, Order [Vol. 4, App. A., Pg. 4 (DE 28)] was entered for the illegal purpose of limiting the charges/claims that Gabriel could seek relief for, all while targeting the substantial limitations that Gabriel properly pled. Not only was District Court's August 13, 2021, Order [Vol. 4,

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<sup>32</sup> On a Sunday, when U.S. District Court - F.L.S.D. is closed. See Vol. 1, App. M., Pg. 1. 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).

App. A., Pg. 4 (DE 28)] unconstitutional, but it was also discriminative. 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); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 4, App. A., Pg. 4 (DE 28), Vol. "PL," App. "PL," Pgs. 40-218, and Vol. "PL11-1," App. "PL11-1," Pgs. 154-206.

70. On August 23, 2021, Gabriel filed a Notice of Appeal, appealing District Court's unconstitutional August 13, 2021, Order [Vol. 4, App. A., Pg. 4 (DE 28)]. See Vol. 4, App. A., Pg.4 (DE 29).
71. On August 23, 2021, Gabriel moved to proceed on appeal in forma pauperis. See Vol. 4, App. A., Pg.4 (DE 30).
72. On August 23, 2021, District Court **GRANTED** Gabriel's request to proceed on appeal in forma pauperis. See Vol. 4, App. A., Pg.4 (DE 34).
73. On December 9, 2021, the Clerk of District Court – F.L.S.D. allegedly<sup>33</sup> certified the complete record on appeal. See Vol. 4, App. A., Pg.4 (DE 39).

#### **D. Appellate Proceedings**

74. During the proceedings in the Eleventh (11th) Cir. Court of Appeals, Gabriel experienced numerous incidences of prejudicial treatment because of the number of charges/claims asserted therein the Amended Complaint [Vol. "PL" through Vol. "PL11-1"] and the honorable circuit judges extrajudicial ties to Mr. Halberstam (Windy Hill's attorney. "Right out of the gate," Gabriel was shown "the writing on the wall."
75. On August 25, 2021, Gabriel filed an unopposed<sup>34</sup> Fed.R.App.P.27(a)(1) Motion, requesting that District Court's August 13, 2021, unconstitutional Order [Vol. 4, App. A., Pg. 4 (DE 28)] be vacated. See Vol. 2, App. B., Pgs. 1-25.
76. On September 1, 2021, Gabriel's Fifth (5th) & Fourteenth ([14th) Amendments' Due Process rights were violated when the Eleventh (11th) Cir. Court of Appeals (the Honorable U.S. Circuit Judges Elizabeth L. Branch

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<sup>33</sup> The appellate docket report has no record that that the actual record on appeal was ever filed. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 2, App. A., Pgs. 1-8.

<sup>34</sup> At the time of such filing, no attorney for Windy Hill had filed a Notice of Appearance in the Eleventh (11th) Cir. Court of Appeals See Vol. 2, App. A., Pg. 3.

("Madam Judge Branch"), Robert J. Luck ("Judge Luck"), and Barbara Lagoa ("Madam Judge Lagoa")) entered an Order that **DENIED**<sup>35</sup> Gabriel's unopposed August 25, 2021, Fed.R.App.P.27(a)(1) Motion [Vol. 2, App. B.], without stating a reason for such denial. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 2, App. C., Pg. 1.

77. Before entering the September 1, 2021, Order [Vol. 2, App. C.], Madam Judge Lagoa had a constitutional obligation to recuse<sup>36</sup> from this matter because her impartiality could reasonably be questioned, because of her extrajudicial ties to Mr. Halberstam and the fact that she was employed by the U.S. Attorney's Office - F.L.S.D., along with Judges Cannon and Moore. 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). See Vol. 5, App. B., Pg. 1, Vol. 5, App. C., Pg. 1, Vol. 5, App. D., Pg. 1, Vol. 5, App. E., Pg. 1, and Vol. 5, App. G., Pg. 1.

78. Madam Judge Lagoa's failure to recuse violated Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights to an impartial decisionmaker. 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).

79. The fact that Madam Judge Lagoa is a colleague of every honorable circuit judge in the Eleventh (11th) Circuit Court of Appeals is grounds for recusal of every honorable circuit judge that acted during any appellate proceeding in which Gabriel was an appellant. 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).

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<sup>35</sup> All of the instances in which the Eleventh (11th) Cir. Court of Appeals denied Gabriel's motions, without stating reasons, will not be exhausted within this petition, in an effort to comply with the Court's meaning of "concise." See Vol. 2, App. A., Pgs. 1-8.

<sup>36</sup> All of the instances in which the honorable circuit judges of the Eleventh (11th) Cir. Court of Appeals respectfully failed to fulfill their legal obligation of recusing will not be exhausted within this petition, in an effort to comply with the Court's meaning of "concise." See Vol. 2, App. A., Pgs. 1-8.

80. During the appellate proceedings within the Eleventh (11th) Cir. Court of Appeals, Gabriel was registered as an electronic filing, which the Appellate Clerk failed to docket. 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). See Vol. 2, App. A., Pgs. 1-8.
81. On September 22, 2021, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated when the Eleventh (11th) Cir. Court of Appeals Court of Appeals allowed Mr. Halberstam and Ms. Spritz to file<sup>37</sup> Notices of Appearance after allegedly<sup>38</sup> waiving District Court's personal jurisdiction (falsely alleging Insufficient Service of the Summons [Vol. 4, App. I.] and Amended Complaint [Vol. "PL" through Vol. "PL11-1"]). 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); Pardazi v. Cullman Medical Center, 896 F. 2d 1313, 1317 (11th Cir. 1990); United States v. Gluklick, 801 F.2d 834, 837 (6th Cir.1986); Harris Corp. v. National Iranian Radio & Tele., 691 F.2d 1344, 1352 (11th Cir.1982). See Vol. 4, App. K., Pgs. 1-27, See Vol. 5, App. I., Pgs. 1-11, Vol. 2, App. A., Pg. 3.
82. On October 15, 2021, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated when the Eleventh (11th) Circuit Court of Appeals entered an Order that **DENIED** Gabriel's October 12, 2021, Leave Motion to Exceed Page/Word Limitations (related to filing an initial/opening brief), without stating a reason for such denial. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 2, App. D., Pgs. 1-5, and Vol. 2, App. E., Pg. 1.
83. On October 15, 2021, Gabriel filed an initial/opening brief. See Vol. 2, App. F., Pgs. 1-63.

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<sup>37</sup> All of the instances in which the Eleventh (11th) Cir. Court of Appeals allowed Windy Hill's attorneys to file legal paper during the appellate proceedings will not be exhausted within this petition, in an effort to comply with the Court's meaning of "concise." See Vol. 2, App. A., Pgs. 1-8.

<sup>38</sup> Assuming, arguendo, that Windy Hill's July 29, 2021, Fed.R.Civ.P.12(b)(2), (5), & (6), & (f)(2) Motion to Dismiss [Vol. 4, App. I] is allegedly constitutional, after it was entered by Ms. Spritz, who failed to file a Notice of Appearance during District Court proceedings.

84. Therein the initial/opening brief [Vol. 2, App. F.], Gabriel argued extrajudicial ties of the F.L.S.D.'s Judicial Bench to Mr. Halberstam. See Vol. 2, App. F., Pgs. 40-43.
85. It is believed that Gabriel's extrajudicial ties' argument prompted Ms. Spritz to file illegal<sup>39</sup> motions, 1) motioning for an extension to file the answering brief and 2) to withdraw as counsel for Windy Hill. See Vol. 2, App. A., Pg. 4, and Vol. 2, App. G., Pgs. 1-5.
86. On November 8, 2021, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated when the Eleventh (11th) Cir. Court of Appeals Court of Appeals allowed Ms. Spritz to motion for an extension<sup>40</sup> to file the answering brief, after Windy Hill allegedly<sup>41</sup> waived District Court's personal jurisdiction (falsely alleging Insufficient Service of the Summons [Vol. 4, App. I.] and Amended Complaint [Vol. "PL" through Vol. "PL11-1"]). 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); Pardazi v. Cullman Medical Center, 896 F. 2d 1313, 1317 (11th Cir. 1990); United States v. Gluklick, 801 F.2d 834, 837 (6th Cir.1986); Harris Corp. v. National Iranian Radio & Tele., 691 F.2d 1344, 1352 (11th Cir.1982). See Vol. 4, App. K., Pgs. 1-27, Vol. 5, App. I., Pgs. 1-11, Vol. 2, App. A., Pg. 3, and Vol. 2, App. A., Pg. 4.
87. On November 10, 2021, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated when the Eleventh (11th) Cir. Court of Appeals Court of Appeals **GRANTED** Ms. Spritz' motion for an extension to file the answering brief, after allegedly<sup>42</sup> waiving District Court's personal jurisdiction (falsely alleging Insufficient Service of the Summons [Vol. 4, App. I.] and Amended Complaint [Vol. "PL" through Vol. "PL11-1"]). Mathews v. Eldridge, 424 US 319, 332, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher,

<sup>39</sup> Remember that Windy Hill allegedly waived District Court's personal jurisdiction.

<sup>40</sup> For the record, Gabriel opposed this request. See Vol. 2, App. A., Pg. 4.

<sup>41</sup> Assuming, arguendo, that Windy Hill's July 29, 2021, Fed.R.Civ.P.12(b)(2), (5), & (6), & (f)(2) Motion to Dismiss [Vol. 4, App. I] is allegedly constitutional, after it was entered by Ms. Spritz, who failed to file a Notice of Appearance during District Court proceedings.

<sup>42</sup> Assuming, arguendo, that Windy Hill's July 29, 2021, Fed.R.Civ.P.12(b)(2), (5), & (6), & (f)(2) Motion to Dismiss [Vol. 4, App. I] is allegedly constitutional, after it was entered by Ms. Spritz, who failed to file a Notice of Appearance during District Court proceedings.

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); Pardazi v. Cullman Medical Center, 896 F. 2d 1313, 1317 (11th Cir. 1990); United States v. Gluklick, 801 F.2d 834, 837 (6th Cir.1986); Harris Corp. v. National Iranian Radio & Tele., 691 F.2d 1344, 1352 (11th Cir.1982). See Vol. 4, App. K., Pgs. 1-27, Vol. 5, App. I., Pgs. 1-11, Vol. 2, App. A., Pg. 3, and Vol. 2. App. A., Pg. 4.

88. On November 16, 2021, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated when the Eleventh (11th) Cir. Court of Appeals Court of Appeals allowed Ms. Spritz to motion to withdraw as counsel for Windy Hill, after allegedly<sup>43</sup> waiving District Court's personal jurisdiction (falsely alleging Insufficient Service of the Summons [Vol. 4, App. I.] and Amended Complaint [Vol. "PL" through Vol. "PL11-1"]). 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); Pardazi v. Cullman Medical Center, 896 F. 2d 1313, 1317 (11th Cir. 1990); United States v. Gluklick, 801 F.2d 834, 837 (6th Cir.1986); Harris Corp. v. National Iranian Radio & Tele., 691 F.2d 1344, 1352 (11th Cir.1982). See Vol. 4, App. K., Pgs. 1-27, See Vol. 5, App. I., Pgs. 1-11, Vol. 2, App. A., Pg. 3, Vol. 2. App. G., Pgs. 1-5, and Vol. 2. App. A., Pg. 4.

89. On November 17, 2021, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated when the Eleventh (11th) Cir. Court of Appeals Court of Appeals **GRANTED**<sup>44</sup> Ms. Spritz' motion to withdraw as counsel for Windy Hill, after allegedly<sup>45</sup> waiving District Court's personal jurisdiction (falsely alleging Insufficient Service of the Summons [Vol. 4, App. I.] and Amended Complaint [Vol. "PL" through Vol. "PL11-1"]). Mathews v. Eldridge, 424 US 319, 332, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher,

<sup>43</sup> Assuming, arguendo, that Windy Hill's July 29, 2021, Fed.R.Civ.P.12(b)(2), (5), & (6), & (f)(2) Motion to Dismiss [Vol. 4, App. I] is allegedly constitutional, after it was entered by Ms. Spritz, who failed to file a Notice of Appearance during District Court proceedings.

<sup>44</sup> All of the instances in which the Eleventh (11th) Cir. Court of Appeals granted Windy Hill's motions will not be exhausted within this petition, in an effort to comply with the Court's meaning of "concise." See Vol. 2, App. A., Pgs. 1-8.

<sup>45</sup> Assuming, arguendo, that Windy Hill's July 29, 2021, Fed.R.Civ.P.12(b)(2), (5), & (6), & (f)(2) Motion to Dismiss [Vol. 4, App. I] is allegedly constitutional, after it was entered by Ms. Spritz, who failed to file a Notice of Appearance during District Court proceedings.

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); Pardazi v. Cullman Medical Center, 896 F.2d 1313, 1317 (11th Cir. 1990); United States v. Gluklick, 801 F.2d 834, 837 (6th Cir.1986); Harris Corp. v. National Iranian Radio & Tele., 691 F.2d 1344, 1352 (11th Cir.1982). See Vol. 4, App. K., Pgs. 1-27, See Vol. 5, App. I., Pgs. 1-11, Vol. 2, App. A., Pg. 3, Vol. 2. App. G., Pgs. 1-5, and Vol. 2. App. A., Pg. 4.

90. On December 7, 2021, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated when the Eleventh (11th) Cir. Court of Appeals allowed Windy Hill to file an answering brief, after allegedly<sup>46</sup> waiving District Court's personal jurisdiction (falsely alleging Insufficient Service of the Summons [Vol. 4, App. I.] and Amended Complaint [Vol. "PL" through Vol. "PL11-1"]). 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); Pardazi v. Cullman Medical Center, 896 F. 2d 1313, 1317 (11th Cir. 1990); United States v. Gluklick, 801 F.2d 834, 837 (6th Cir.1986); Harris Corp. v. National Iranian Radio & Tele., 691 F.2d 1344, 1352 (11th Cir.1982). See Vol. 4, App. K., Pgs. 1-27, See Vol. 5, App. I., Pgs. 1-11, Vol. 2, App. A., Pg. 3, Vol. 2. App. G., Pgs. 1-5, and Vol. 2, App. H, Pgs. 1-43.
91. On December 13, 2021, Gabriel motioned the Court for Clarification<sup>47</sup>, after the Appellate Clerk **GRANTED** Gabriel an extension to file a reply brief. See Vol. 2. App. I., Pgs. 1-6.
92. On December 30, 2021, Gabriel filed a Fed.R.App.P.10(e)(2) Motion to supplement the alleged record, to include the missing pages of the Amended Complaint [Vol. "PL" through Vol. "PL11-1"], the U.S. Postal Service package labels [Vol. 5, App. H.] that were switched, June 29, 2021, Status Update Motion [Vol. 4, App. J.], and the U.S. Postal Service tracking information for the July 30, 2021, Fed.R.Civ.P.15(a)(1)(A) Motion [Vol. 5, App. J.,] and proposed Second (2nd) Amended Complaint. See Vol. 2, App. J., Pgs. 1-5.

<sup>46</sup> Assuming, arguendo, that Windy Hill's July 29, 2021, Fed.R.Civ.P.12(b)(2), (5), & (6), & (f)(2) Motion to Dismiss [Vol. 4, App. I] is allegedly constitutional, after it was entered by Ms. Spritz, who failed to file a Notice of Appearance during District Court proceedings.

<sup>47</sup> Gabriel leery and not very trusting (with good reason) of the Appellate Clerk's order that granted him an extension to file a reply brief, from his misunderstanding of Eleventh (11th) Cir. Court of Appeals' Local Rules related to extension request.

93. On January 5, 2022, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated by the Appellate Clerk entering a Notice of Deficiency<sup>48</sup>, falsely alleging that Gabriel had failed to attach his proposed Reply Brief to his electronically filed January 4, 2022, Motion for Leave-Extends Page/Word Limitation. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 2, App. A., Pg. 5.
94. On January 5, 2022, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated allegedly by the Eleventh (11th) Cir. Court of Appeals (the Honorable U.S. Circuit Judge Julie E. Carnes ("Madam Judge Carnes")), editing January 5, 2022, Docket Entry<sup>49</sup> to reflect that Gabriel (again) had not attached a proposed Reply Brief to his January 5, 2022, Corrected Motion for Leave-Extends Page/Word Limitation. 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); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 2, App. A., Pg. 5, Vol. 2, App. L., Pgs. 1-11, and Vol. 3, App. A., Pgs. 1-162.
95. Between December 13, 2021, and January 5, 2022, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated by the Eleventh (11th) Cir. Court of Appeals' failure<sup>50</sup> to dispose of Gabriel's Motion for Clarification [Vol. 2, App. I], until Gabriel's initial attempt to electronically file a proposed reply brief [Vol. 3, App. A.], attached to a Corrected Motion of Leave - Exceed Page/Word Limitations Vol. 2, App. L.]. 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); 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). See Vol. 2, App. K., Pg. 1.

<sup>48</sup> The Appellate Clerk attempted to dissuade Gabriel from filing a Leave Motion (where Gabriel asserted good cause for filing an oversized brief) and a proposed Reply Brief (where Gabriel had effectively replied to Windy Hill's contentions, as well as requested a number of respectful circuit judges to recuse).

<sup>49</sup> In the docket entry in question reflects, "[Edited 01/07/2022 by JC][.]"

<sup>50</sup> The Eleventh (11th) Cir. Court of Appeals granted the motion at a time that Gabriel no longer needed clarification.

99. On January 24, 2022, Gabriel motioned for the January 11, 2022, Order [Vol. 3, App. D] to be vacated for constitutional reasons, and motioned for the December 30, 2021, Fed.R.App.P.10(e)(2) Motion [Vol. 2, App. J.] to be reconsidered. See Vol. 3, App. F., Pgs. 1-24.
100. On February 14, 2022, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated by the Eleventh (11th) Cir. Court of Appeals entering an Order that **DENIED** Gabriel's January 5, 2022, unopposed Corrected Motion for Leave-Extends Page/Word Limitation [Vol. 2, App. L.], without stating a reason for such denial. 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); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 2, App. A., Pg. 6.
101. On March 21, 2022, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were violated by the Eleventh (11th) Cir. Court of Appeals, entering an Order that **DENIED** Gabriel's February 22, 2022, Motion to Vacate the February 14, 2022, Order [Vol. 2, App. A., Pg. 6], as it relates to Denying Gabriel's Corrected Motion for Leave - Extends Page and Word Limitations, and Reconsideration of Gabriel's January 27, 2022, Recusal Request (without stating a reason for such denial). 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); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 3, App. H., Pg. 1.
102. Between January 24, 2022, and April 11, 2022, Gabriel filed numerous motions for the Eleventh (11th) Cir. Court of Appeals to vacate orders, and reconsider motions and recusal requests, which the Eleventh (11th) Circuit Court of Appeals denied without stating reasons for doing so. Again, Gabriel's requests were **DENIED** without the Eleventh (11th) Cir. Court of Appeals stating a reason for doing so. 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); Morrissey v.

Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 2, App. A., Pgs. 5-7.

103. On June 24, 2022, Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights were the Eleventh (11th) Cir. Court of Appeals improperly entered judgment, affirming District Court's order [Vol. 1, App. B.], a decision that was not based on the evidence on the alleged record. 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); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 1, App. A., Pgs. 1-7.
104. In addition, one (1) of the respectful US circuit judges rendered judgment [Vol. 1, App. A.] was Madam Judge Lagoa (who has extrajudicial ties to Mr. Halberstam, Windy Hill's attorney). 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). See Vol. 1, App. A., Pg. 1.
105. The Eleventh (11th) Circuit Court of Appeals' judgment was improperly entered to target the substantial limitations that Gabriel properly pled in the Amended Complaint [Vol. "PL" through Vol. PL11-1]. Since the record was never filed during the appellate proceedings, it is very plausible that the honorable circuit judges of the Eleventh (11th) Circuit Court of Appeals were in contact with the honorable district judges of F.L.S.D, as well as Mr. Halberstam. Vol. PL," App. "PL," Pgs. 40-218, and Vol. "PL11-1," App. "PL11-1," Pgs. 154-206.
106. To dissuade Gabriel from exercising his Fifth (5th) & Fourteenth (14th) Amendments' Due Process rights to filing a § 1254 Petition (while targeting the substantial limitations that Gabriel properly pled in the Amended Complaint [Vol. "PL" through Vol. PL11-1]), the Appellate Clerk docketed on three (3) occasions that the judgment was in favor of the "Appellant[.]"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); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593,

331 Ed. 2d. 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S.Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. 2, App. A., Pg. 7.

**X. ARGUMENTS (Reasons for Granting Certiorari)**

**A. Eleventh (11th) 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**

As it relates to Presented Question #1, Gabriel has argued this issue in Section 9(D) *supra*.

**B. Eleventh (11th) Cir. Court of Appeals Sanctioned District Court's Far Departure From the Accepted And Usual Course of Judicial Proceedings, As to Call For an Exercise of the Court's Supervisory Power**

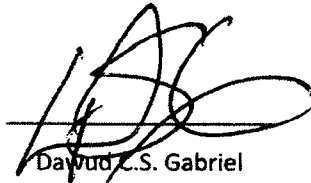
As it relates to Presented Question #2, Gabriel has argued this issue in Section 9 (C) & (D) *supra*.

**XI. CONCLUSION**

For the foregoing reasons, Gabriel requests that his petition for Writ of Certiorari be granted.

October 24, 2022

Respectfully Submitted,



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