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22-6363

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DAWUD C.S. GABRIEL,

Petitioner,

v.

TRANS AM TRUCKING CO.,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals
For the Tenth (10th) Circuit
(Tenth (10th) Cir. Case No. 22-3102)

Petition for Writ of Certiorari

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II. PRESENTED QUESTIONS

1. Whether or not the U.S. Court of Appeals for the Tenth (10th) Circuit far departed 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 Tenth (10th) Circuit 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)?
3. Whether or not the U.S. Court of Appeals for the Tenth (10th) Circuit has decided an important question of federal law that conflicts with relevant decisions of the Court (S.Ct.R.10(c)), 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 the names of all the parties¹.

B. Corporate Disclosure Statement

Petitioner is not a nongovernment corporation.

C. Relevant List of Proceedings

1. On April 5, 2022, Gabriel timely filed a civil action against Trans Am for violations of the Americans with Disabilities Act of 1990 ("ADA") in the U.S. District Court for the District of Kansas ("USDC-Kansas"). See Vol. PL, App. PL, Pgs. 1-195, Vol. PL-1, App. A., Pgs. 1-68, Vol. PL-1, App. B., Pgs. 1-10, Vol. PL-1, App. C, Pgs. 1-25, Vol. PL-1, App. D., Pgs. 1-2, Vol. PL-1, App. E., Pgs. 1-10, Vol. PL-1, App. F., Pgs. 1-2, Vol. PL-1, App. G., Pgs. 1-2, Vol. PL-1, App. H., Pgs. 1-2, Vol. PL-1, App. I., Pgs. 1-3, Vol. PL-1, App. J., Pgs. 1-3, Vol. PL-1, App. K., Pgs. 1-6, Vol. PL-1, App. L., Pgs. 1-2, Vol. PL-1, App. M., Pgs. 1-2.
2. On April 13, 2022, District Court entered an Order [Vol. 1, App. B.], requiring Gabriel to file an amended complaint within thirty (30) days, falsely alleging that the Original Complaint [Vol. PL, Vol. PL1, App. A.-M] allegedly failed to comply with Federal Notice Pleadings Standards of Fed.R.Civ.P.8(a). See Vol. 1, App. B., Pgs. 1-4.
3. On April 16, 2022, Gabriel filed the Amended Complaint. See Vol. APL1, App. APL1, Pgs. 1-200, and VOL. APL2, App. APL2, Pgs. 201-330.
4. On April 24, 2022, Gabriel filed unopposed Fed.R.Civ.P.60(b)(1) Motion [Vol. 1, App I.] to Vacate April 13, 2022, Order [Vol. 1, App. H.,] and Recusal Request affidavit, pursuant to 28 U.S.C. §§ 144 & 455(a). See Vol. 1, App I., Pgs. 1-25.

¹ Trans Am Trucking Co. is not an active party to this matter for reason that this matter was dismissed prior to service being processed.

5. On May 8, 2022, Gabriel filed an unopposed Fed.R.Civ.P.4(m) Motion [Vol. 1, App. J.], requesting District Court to extend the time to November 24, 2022, to perfect service of the summons and a proposed second (2nd) amended complaint on Trans Am. See Vol. 1, App. J., Pgs. 1-16.

III. LIST OF THE PARTIES (Continued)

C. Relevant List of Proceedings (Continued)

6. On May 23, 2022, the Magistrate Court illegally entered an alleged order [Vol. 1, App. K.], that **DISMISSED WITHOUT PREJUDICE** the Amended Complaint [Vol. APL1 & Vol. APL2] and **DENIED** the Fed.R.Civ.P.4(m) Motion [Vol. 1, App. J.]. See Vol. 1, App. K., Pgs. 1-3.
7. On May 30, 2022, Gabriel filed unopposed Fed.R.Civ.P.60(b)(1) Motion [Vol. 1, App. L.] for District Court to set aside the Magistrate Court's May 23, 2022, alleged Order [Vol. 1, App. K.]. See Vol. 1, App. L., Pgs. 1-5.
8. On June 2, 2022, District Court entered a Memorandum and Order [Vol. 1, App. B.], **1) DENYING** Gabriel's April 24, 2022, Fed.R.Civ.P.60(b)(1) Motion and Recusal Request Affidavit [Vol. 1, App. I.], **2) DENYING** Gabriel's May 23, 2022, Fed.R.Civ.P.60(b)(1) Motion [Vol. 1, App. L.] to Set Aside the Magistrate Court's May 23, 2022, Order [Vol. 1, App. K.], **3) DISMISSING WITHOUT PREJUDICE** the Original Complaint [Vol. PL, Vol. PL1, App. A.-M], and **4) DISMISSING WITHOUT PREJUDICE** the Amended Complaint [Vol. APL1 & Vol. APL2]. See Vol. 1, App. B., Pgs. 1-4.
9. On June 2, 2022, Gabriel timely filed a Notice of Appeal. See Vol. 1, App. G. (DE 13).
10. On June 3, 2022, Gabriel timely filed an Amended Notice of Appeal. See Vol. 1, App. G. (DE 15).
11. On June 13, 2022, Gabriel filed the Opening Brief [Vol. 1, App. F.] See Vol. 1, App. F., Pgs. 1-50.
12. On August 25, 2022, the Tenth (10th) Circuit Court of Appeals entered judgment [Vol. 1, App. A.], **AFFIRMING** District Court's Dismissal Order [Vol. 1, App. B.]. See Vol. 1, App. A., Pgs. 1-6.
13. On October 3, 2022, Gabriel moved for an extension the file a 28 U.S.C. § 1254 Petition.
14. On October 12, 2022, the Court changed the deadline for filing the 28 U.S.C. § 1254 Petition on or before January 22, 2022. See Vol. 1, App. N., Pgs. 1-3.
15. Gabriel now petitions for Writ of Certiorari.

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VII. JURISDICTIONAL STATEMENT

Gabriel petitions the Court for Writ of Certiorari, to review August 25, 2022, Judgment [Vol.1, App. A] of the Tenth (10th) Cir. Court of Appeals, **AFFIRMING** District Court's **DISMISSAL WITHOUT PREJUDICE** [Vol. 1 App. B] of this matter. See Vol.1, App. A., Pgs. 1-6, and Vol.1, App. B., Pgs. 1-4. 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. The Constitution of the United States

The U.S. Constitution is the ultimate decree that limits "[e]very person [or entity] who, under color of any statute, ordinance, regulation, custom, or usage, of [the Federal Government] or any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person [or entity] within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities[.]" Baker v. McCollan, 443 US 137, 140, 99 S. Ct. 2689, 61 L. Ed. 2d 433 (1979); Estelle v. Gamble, 429 US 97, 117 n.1, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).

B. First (1st) Amendment

"[T]h[e] activities protected by the First Amendment [are] speech, assembly, **petition for the redress of grievances**, and the exercise of religion. Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984). [P]ersons...have the right to petition the Government for redress of grievances. Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972).

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

1. Due Process

"Procedural due process imposes constraints on governmental decisions which deprive individuals of "liberty" or "property" interests within the meaning of the Due Process Clause of the Fifth [Amendment and the Equal Protection Clause of the] Fourteenth Amendment." Mathews v. Eldridge, 424 US 319, 332, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Goldberg v. Kelly, 397 US 254, 262-63, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). "The fundamental requirement of [D]ue [P]rocess is the opportunity to be heard "at a meaningful time and in a meaningful manner." Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). [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." Day v. McDonough 547 US 198, 205, 126 S. Ct. 1675, 164 L. Ed. 2d 376 (2006); 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).

2. Equal Protection

"[T]he [U.S.] Constitution applies to the State not only when it acts as regulator, but also when it acts as employer." Engquist v. Oregon Dept. of Agriculture, 553 US 591, 128 S. Ct. 2146, 2150, 170 L. Ed. 2d 975 (2008); Romer v. Evans, 517 US 620, 642, 116 S. Ct. 1620, 134 L. Ed. 2d 855 (1996).

3. Article III

"Article III of the [U.S.] Constitution limits the "judicial power" of the United States to the resolution of "cases" and "controversies." Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 US 464, 471 102 S. Ct. 752, 70 L. Ed. 2d 700 (1982); Warth v. Seldin 422 US 490, 498, 95 S. Ct. 2197, 45 L. Ed. 2d 343 (1975).

4. ADA

"The Americans with Disabilities Act of 1990...prohibits an employer from discriminating against an "individual with a disability" who, with "reasonable accommodation," can perform the essential functions of the job." US Airways, Inc. v. Barnett, 535 US 391, 393, 122 S. Ct. 1516, 152 L. Ed. 2d 589 (2002); EEOC v. CR England, Inc., 644 F. 3d 1028, 1037 (10th Cir. 2011).

5. The Civil Rights Act of 1964

"[Petitioner] filed this employment action to recover damages and secure equitable relief under Title VII of the Civil Rights Act of 1964["Aramburu v. The Boeing Co., 112 F. 3d 1398, 1401 (10th Cir.1997); Biester v. Midwest Health Services, Inc., 77 F. 3d 1264, 1265 (10th Cir.1996).

6. Granting of Certiorari

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

a. 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.

7. 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).

8. Change of Venue

A venue change is warranted when a plaintiff is in danger of being deprived of remedy or unfairly treated. Piper Aircraft Co. v. Reyno, 454 US 235, 255, 102 S. Ct. 252, 70 L. Ed. 2d 419 (1981); Van Dusen v. Barrack, 376 US 612, 613, 84 S. Ct. 805, 11 L. Ed. 2d 945 (1964).

9. United States Code

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

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

b. 28 U.S.C. § 636(c)(1)

"Th[e] case concerned the interpretation of [28 U.S.C.] § 636(c), which authorizes magistrate judges to "conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case," with "the consent of the parties." Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); 28 U.S.C. § 636(c)(1).

c. 28 U.S.C. § 1291

"The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections [28 U.S.C. § 1292(c) and (d) and [28 U.S.C. § 1295 of this title]." 28 U.S.C. § 1291; Moya v. Schollenbarger, 465 F. 3d 444, 446 (10th Cir.2006); Mobley v. McCormick, 40 F. 3d 337, 339 (10th Cir.1994); Koch v. City of Del City, 660 F. 3d 1228, 1235 (10th Cir. 2011); SEC v. Merrill Scott & Assocs., Ltd., 600 F.3d 1262, 1270 (10th Cir.2010).

d. 28 U.S.C. § 1915

"[A] motion to proceed in forma pauperis...[asserting to not have the means to pay the filing fee.] Neitzke v. Williams, 490 US 319, 321-24, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989); Adkins v. El DuPont de Nemours & Co., 335 US 331, 342-43, 69 S. Ct. 85, 93 L. Ed. 43 (1948).

(i) **Partial Payment of Filing Fee**

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

e. **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).

f. **42 U.S.C. § 1981a(b)(3)(D)**

"The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded under this section, shall not exceed, for each complaining party... (D) in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$300,000." EEOC v. Wal-Mart Stores, Inc., 187 F.3d 1241, 1249 (10th Cir.1999); Baty v. Willamette Industries, Inc., 172 F.3d 1232, 1245 (10th Cir. 1999).

g. **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).

h. **42 U.S.C. § 2000e-5(f)(1)**

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

i. **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).

j. 42 U.S.C. § 2000e-5(f)(5)

"It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited." 42 U.S.C. § 2000e-5(f)(5).

k. 42 U.S.C. § 12112(a)

ADA prohibits employers from "discriminat[ing] against...qualified individual[s] with a disability" with respects to "hiring, advancement, or discharge . . . and other terms, conditions, and privileges of employment." 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).

10. Federal Rules of Civil Procedure

a. 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).

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

"If a defendant is not served within 90 days after the complaint is filed, [district] court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, [district] court must extend the time for service for an appropriate period." Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994); Fed.R.Civ.P.4(m).

c. 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) Federal Notice Pleadings 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) ADA Pleading Standards

The instance (whether it being at the initial phase of trial or sometime after pleading which must come before or at summary judgment phase) an ADA plaintiff decides to comply with Congress' mandate of proving a physical or mental condition substantially limits one (1) or more major life activities or the operation of a major bodily function, when asserting the alleged condition's effect on the general population, as well as offering personal testimony of such medical conditions' attributes, without altering Federal Notice Pleadings Standards. Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 U.S. 624, 632-61, 118 S.Ct. 2196, 141 L.Ed.2d 540 (1998).

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

"[T]he plaintiff may dismiss an action without [district] court[s] order by filing...**(i)** a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment[.]" Fed.R.Civ.P.41(a)(i).

e. 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); Moya v. Schollenbarger, 465 F. 3d 444, 446 (10th Cir.2006); Mobley v. McCormick, 40 F. 3d 337, 339 (10th Cir.1994); Koch v. City of Del City, 660 F. 3d 1228, 1235 (10th Cir. 2011); SEC v. Merrill Scott & Assocs., Ltd., 600 F.3d 1262, 1270 (10th Cir.2010).

f. Fed.R.Civ.P.60(b)(1)

"Thus, as a general proposition, the "mistake" provision in [Fed.R.Civ.]Rule 60(b)(1) provides for the reconsideration of judgments [or order]...where...the judge has made a substantive mistake of law or fact in the final judgment or order." Cashner v. Freedom Stores, Inc., 98 F. 3d 572, 576 (10th Cir. 1996); Security Mut. Cas. Co. v. Century Cas. Co., 621 F. 2d 1062, 1067 (10th Cir. 1980).

IX. STATEMENTS OF THE CASE¹

A. Pro Se Petitioner

1. Gabriel respectfully informs the Court that he is proceeding pro se while petitioning for Certiorari. 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).

B. Administrative Proceedings

2. During the administrative proceedings of Gabriel v. Trans Am Trucking Co., EEOC Case no. 563-2021-00710 (Kan. City Area Off. 2021), Gabriel proceeded pro se. 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).
3. Pursuant to 42 U.S.C § 2000e-5(e)(1), on August 26, 2021, Gabriel timely filed a Charge of Discrimination ("Charge") with the Government's Equal Employment Opportunity Commission ("EEOC"). 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). See Vol. PL-1, App. A. Pgs. 1-68.
4. The allegations involved therein the Charge associated with the administrative proceedings of Gabriel v. Trans Am Trucking Co., EEOC Case no. 563-2021-00710 (Kan. City Area Off. 2021) [Vol. PL-1, App. A.] are the result of Trans Am Trucking Co.'s blatant violations of ADA when intentionally discriminating against Gabriel, a qualified individual with a disability, suffering from Attention Deficit Hyperactivity Disorder ("Adhd"). Raytheon Co. v. Hernandez, 540 US 44, 46, 124 S. Ct.

¹ Numbers 3-5 & 22 are the basis of jurisdiction for U.S. District Court-Kansas.

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).

See Vol. PL-1, App. A, Pgs. 1-68.

5. Adhd substantially limits Gabriel's Concentration, Interacting with Others, Learning, Reading, and Thinking major life activities, and the major bodily function of the Brain. Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. PL, App. PL, Pgs. 5-190, Vol. PL-1, App. B., Pgs. 1-10, Vol. PL-1, App. C, Pgs. 1-25, Vol. PL-1, App. D., Pgs. 1-2, Vol. PL-1, App. E., Pgs. 1-10, Vol. PL-1, App. F., Pgs. 1-2, Vol. PL-1, App. G., Pgs. 1-2, Vol. PL-1, App. H., Pgs. 1-2, Vol. PL-1, App. I., Pgs. 1-3, Vol. PL-1, App. J., Pgs. 1-3, Vol. PL-1, App. K., Pgs. 1-6, Vol. PL-1, App. L., Pgs. 1-2, Vol. PL-1, App. M., Pgs. 1-2, Vol. APL1, App. APL1, Pgs. 5-188, and Vol. APL2, App. APL2, Pgs. 260-330.
6. Gabriel listed an untold number of allegations in the Charge associated with the administrative proceedings of Gabriel v. Trans Am Trucking Co., EEOC Case no. 563-2021-00710 (Kan. City Area Off. 2021). See Vol. APL1, APL1., Pgs. 194-200, and Vol. APL2, APL2, Pgs. 201-259.
7. Gabriel is not certain of the number of allegations therein the Charge associated with the administrative proceedings of Gabriel v. Trans Am Trucking Co., EEOC Case no. 563-2021-00710 (Kan. City Area Off. 2021) estimates the total number of claims to be well in the tens of thousands². See Vol. APL1, APL1., Pgs. 194-200, and Vol. APL2, APL2, Pgs. 201-259.
8. Trans Am has employed over five hundred (500) individuals for twenty (20) weeks within the previous and current calendar years. *Id.*
9. Because of the number of people Trans Am employed for twenty (20) weeks within the previous and current calendar years, the Congressional limits for damages set by 42 U.S.C § 1981a(b)(3)(D) caps at \$300,000.00 per claim. EEOC v. Wal-Mart Stores, Inc., 187 F. 3d 1241, 1249 (10th Cir.1999); Baty v. Willamette Industries, Inc., 172 F. 3d 1232, 1245 (10th Cir. 1999).
10. If Gabriel were to multiply \$300,000 by 1000³, the claims of this matter after amending would be valued at least \$300,000,000.00⁴. EEOC v. Wal-Mart Stores, Inc., 187 F. 3d 1241, 1249 (10th Cir.1999); Baty v. Willamette Industries, Inc., 172 F. 3d 1232, 1245 (10th Cir. 1999).
11. The Government declined to investigate the allegations therein the Charge associated with the administrative proceedings of Gabriel v. Trans Am Trucking Co., EEOC Case no. 563-2021-00710 (Kan. City Area Off. 2021). Jones v. UPS, Inc., 502 F.

² A number only use as an example to make rough estimation of the value of the claims but does not by any means represent the total number discriminatory allegations asserted in nor "like or related [,]" non-assert allegations of any Charges, nor their value. Gabriel reserves the right to argue the allegations and their monetary values later.

³ A number only use as an example to make rough estimation of the value of the claims but does not by any means represent the total number discriminatory allegations asserted in nor "like or related [,]" non-assert allegations of any Charges, nor their value. Gabriel reserves the right to argue the allegations and their monetary values later.

⁴ A number only use as an example to make rough estimation of the value of the claims but does not by any means represent the total number discriminatory allegations asserted in nor "like or related [,]" non-assert allegations of any Charges, nor their value. Gabriel reserves the right to argue the allegations and their monetary values later.

3d 1176, 1185 (10th Cir. 2007); Wilkerson v. Grinnell Corp., 270 F.3d 1314, 1321 (11th Cir. 2001); Bihler v. Singer Co., 710 F.2d 96, 99 n.7 (3d Cir. 1983).

12. Gabriel had to wait until 180 days (February 23, 2022) had passed since the timely filing of the Charge associated with the administrative proceedings of Gabriel v. Trans Am Trucking Co., EEOC Case no. 563-2021-00710 (Kan. City Area Off. 2021) [Vol. PL-1, App. A.], before filing civil action. EEOC v. WH Braum, Inc., 347 F. 3d 1192, 1200 (10th Cir. 2003); Wilkes v. Wyoming Dept Employment Labor Standards, 314 F. 3d 501, 506 (10th Cir. 2002); Walker v. United Parcel Service, Inc., 240 F. 3d 1268, 1271 (10th Cir. 2001).

**C. Gabriel v. Trans Am Trucking Co.
Case no. 2:22-cv-2098 (Kansas, 2022)**

13. During the matter of Gabriel v. Trans Am Trucking Co., Case no. 2:22-cv-2098 (Kansas, 2022), Gabriel proceeded pro se. 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). See Vol. 1, App. M. Pg. 1 (Docket Report's heading).
14. On March 14, 2022, Gabriel initially filed a civil action against Trans Am for violations of ADA in the U.S. District Court for the District of Kansas ("USDC-Kansas"). Brown v. Unified School Dist. 501, Topeka, 465 F. 3d 1184, 1186 (10th Cir. 2006); Witt v. Roadway Express, 136 F.3d 1424, 1429 (10th Cir. 1998); 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). See Vol. 1, App. M. Pg. 1 (DE 01).
15. During the matter of Gabriel v. Trans Am Trucking Co., Case no. 2:22-cv-2098 (D.Kan. 2022), Gabriel proceeded pro se. 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). See Vol. 1, App. M. Pg. 1 (Docket Report's heading).
16. Upon filing civil action, Gabriel moved for partial in forma pauperis. Olivares v. Marshall, 59 F. 3d 109, 111 (9th Cir. 1995); Clark v. Ocean Brand Tuna, 974 F.2d 48, 50 (6th Cir. 1992); In re Epps, 888 F.2d 964, 967 (2d Cir. 1989); Bryan v. Johnson, 821 F.2d 455, 458 (7th Cir. 1987); In re Williamson, 786 F.2d 1336, 1339-41 (8th Cir. 1986); Bullock v. Suomela, 710 F.2d 102, 103 (3d Cir. 1983); Collier v. Tatum, 722 F.2d 653, 655 (11th Cir. 1983); Smith v. Martinez, 706 F.2d 572, 574 (5th Cir. 1983); Evans v. Croom, 650 F.2d 521, 522-25 (4th Cir. 1981); In re Stump, 449 F.2d 1297, 1298 (1st Cir. 1971). See Vol. 1, App. M. Pg. 1 (DE 03).
17. On March 14, 2022, District Court illegally referred the disposal of the *Partial* in Formal Pauperis to a magistrate judge, without the consent of Gabriel. 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); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. 1, App. M. Pg. 1 (DE 03).

18. On March 24, 2022, while allegedly ordering that Gabriel's prepaid installment of the filing fee be returned, the Magistrate Court allegedly **ORDERED** Gabriel to proceed in forma pauperis, relief Gabriel did not request nor desired. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. 1, App. M. Pgs.1-2 (DE 05 & DE 06).
19. On March 25, 2022, Gabriel moved for **VOLUNTARY DISMISSAL WITHOUT PREJUDICE**. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. 1, App. M. Pgs.2 (DE 08).
20. On March 25, 2022, the matter of Gabriel v. Trans Am Trucking Co. Case no. 2:22-cv-2098 (D.Kan.2022) was closed. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. 1, App. M. Pgs. 2.

D. Current Matter

21. During the matter of Gabriel v. Trans Am Trucking Co., Case no. 2:22-cv-2126 (Kansas.2022), Gabriel proceeded pro se. 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). See Vol.1, App. M. Pg. 1 (Docket Report's heading).
22. On April 5, 2022, Gabriel refiled civil action against Trans Am for violations of ADA in the U.S. District Court for the District of Kansas ("USDC-Kansas") with a 334-page complaint [Vol. PL, Vol. PL1, App. A.-M.]. Brown v. Unified School Dist. 501, Topeka, 465 F. 3d 1184, 1186 (10th Cir. 2006); Witt v. Roadway Express, 136 F.3d 1424, 1429 (10th Cir.1998); 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). See Vol. PL, App. PL. Pgs. 1-195, Vol. PL-1, App. A., Pgs. 1-68, Vol. PL-1, App. B., Pgs. 1-10, Vol. PL-1, App. C. Pgs. 1-25, Vol. PL-1, App. D., Pgs. 1-2, Vol. PL-1, App. E., Pgs. 1-10, Vol. PL-1, App. F., Pgs. 1-2, Vol. PL-1, App. G., Pgs. 1-2, Vol. PL-1, App. H., Pgs. 1-2, Vol. PL-

1, App. I., Pgs. 1-3, Vol. PL-1, App. J., Pgs. 1-3, Vol. PL-1, App. K., Pgs. 1-6, Vol. PL-1, App. L., Pgs. 1-2, Vol. PL-1, App. M., Pgs. 1-2.

23. In the Original Complaint [Vol. PL, Vol. PL1, App. A.-M.], Gabriel cited the authorities of Johnson v. Sedgwick County Sheriff's Department, Case No. 11-3204 (10th Cir. 2012) and Doebele v. Sprint/United Mgmt. Co., 342 F. 3d 1117, 1129 (10th Cir. 2003), as reasons for offering evidence of substantial limitations of major life activities and the operation of a major bodily function, attributed to Adhd. See Vol. PL, App. PL, Pgs. 3-4.
24. When filing civil action, pursuant to 42 U.S.C § 2000e-5(f)(1), Gabriel attached the Charge associated with the administrative proceedings of Gabriel v. Trans Am Trucking Co., EEOC Case no. 563-2021-00710 (Kan. City Area Off. 2021) [Vol. PL-1, App. A.]. See Vol. PL1, App. A., Pgs. 1-68.
25. On April 13, 2022, District Court entered an Order [Vol. 1, App. H.], stating that the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] "consists [of]...irrelevant allegations pertaining to [Gabriel]'s childhood." 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. 1, App. H., Pg. 1.
26. The Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] complied with Federal Notice Pleadings Standards of Fed.R.Civ.P.8(a), being that the claim asserted was "clear, concise and direct." 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. PL, App. PL, Pgs. 191-192.

27. On April 16, 2022, Gabriel filed the Amended Complaint⁵ [Vol. APL1 & Vol. APL2], **not to allegedly comply** with District Court's Order [Vol. 1, App. H.], **but to correct the stated numbering of a section that he referred to within the claim**. See Vol. APL1, App. APL1, Pgs. 1-200, and Vol. APL2, App. APL2, Pgs. 201-330.
28. The Amended Complaint [Vol. APL1 & Vol. APL2] complied with Federal Notice Pleadings Standards of Fed.R.Civ.P.8(a), being that the claim asserted was "clear, concise and direct." 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. APL1, App. APL1, Pgs. 189-190.
29. The Amended Complaint [Vol. APL1 & Vol. APL2] contained the Charge associated with the administrative proceedings of Gabriel v. Trans Am Trucking Co., EEOC Case no. 563-2021-00710 (Kan. City Area Off. 2021). See Vol. APL1, App. APL1, Pgs. 194-200, and Vol. APL2, App. APL2, Pgs. 201-259.
30. On April 24, 2022, Gabriel filed unopposed Fed.R.Civ.P.60(b)(1) Motion [Vol.1, App. I] to Vacate April 13, 2022, Order [Vol. 1, App. H.] and Recusal Request affidavit, pursuant to 28 U.S.C. §§ 144 & 455(a). 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol.1, App. I, Pgs. 1-25.
31. In April 24, 2022, Fed.R.Civ.P.60(b)(1) Motion [Vol. 1, App. I], Gabriel cited applicable legal standards and argued that childhood allegations included in the Original Complaint [Vol. PL, Vol. PL1, App. A.-M.], were relevant, as it relates to Adhd's substantial limitations. 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,

⁵ At the time of filing, the Amended Complaint [Vol. APL1 & Vol. APL2] became the operative pleading and the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] became moot.

⁶ In the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.], Gabriel mistakenly referred to sections "2(B), (C), & (D)," in the Statement of Claim section, instead of sections "3(B), (C), & (D)". See Vol. APL1, App. Vol. APL1, Pg. 191. Gabriel corrected such error in the Amended Complaint Vol. APL1 & Vol. APL2]. See Vol. PL, App. PL, Pg. 191, and Vol. APL1, App. APL1, Pg. 189.

- 25 L. Ed. 2d 287 (1970); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. 1, App. I, Pgs. 3-5, 6, & 7.
32. In April 24, 2022, Fed.R.Civ.P.60(b)(1) Motion [Vol. 1, App. I.], Gabriel cited applicable legal standards related to Recusal, pursuant to 28 U.S.C. §§ 144 & 455(a), and stated reasonable grounds for District Court to recuse in an 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); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988). See Vol. 1, App. I, Pgs. 5, 6, 10, & 11.
33. On May 8, 2022, Gabriel filed an unopposed Fed.R.Civ.P.4(m) Motion [Vol. 1, App. J.], requesting District Court to extend the time to November 24, 2022, to perfect service of the summons and a proposed second (2nd) amended complaint on Trans Am. Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994). See Vol. 1, App. J., Pgs. 1-16.
34. On May 23, 2022, Magistrate Court allegedly entered an order [Vol. 1, App. K.], that unconstitutionally **DENIED WITHOUT PREJUDICE**⁷ Gabriel's May 8, 2022, unopposed Fed.R.Civ.P.4(m) Motion [Vol. 1, App. J.], and unconstitutionally **DISMISSED WITHOUT PREJUDICE** the Amended Complaint [Vol. APL1 & Vol. APL2]. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. 1, App. K., Pgs. 1-3.
35. Gabriel is now and was the only active party in this matter at the time the Magistrate Court allegedly entered the May 23, 2022, Order [Vol. 1, App. K.]. Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. 1, App. G., Pgs. 1-3.

⁷ The magistrate judge (who illegally acted without the consent) falsely alleged that the Fed.R.Civ.P.4(m) Motion [Vol. 1, App. J.] could not be granted for the alleged reason of there not being an operative complaint filed at the time.

36. Gabriel never consented to the use of a non-Article III judge. Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. 1, App. G., Pgs. 1-3.
37. The Amended Complaint [Vol. APL1 & Vol. APL2] was operative at the time of the Magistrate Court's Order [Vol. 1, App. K.]. See Vol. 1, App. G., Pgs. 1-3.
38. On May 30, 2022, Gabriel filed unopposed Fed.R.Civ.P.60(b)(1) Motion [Vol. 1, App. L.] for District Court to set aside the Magistrate Court's May 23, 2022, Order [Vol. 1, App. K.]. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. 1, App. L., Pgs. 1-5.
39. In May 30, 2022, Fed.R.Civ.P.60(b)(1) Motion [Vol. 1, App. L.], Gabriel cited applicable legal standards related to the consent of the parties to utilize a magistrate judge, pursuant to 28 U.S.C. 636(c)(1), and stated reasonable grounds for District Court to set aside the Magistrate Court's May 23, 2022, Order [Vol. 1, App. K.]. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. 1, App. L., Pgs. 1-5.

40. On June 2, 2022, District Court unconstitutionally entered a Memorandum and Order [Vol. 1, App. B.], 1) that **DENIED** the April 24, 2022, Fed.R.Civ.P.60(b)(1) Motion and Recusal Request Affidavit [Vol. 1, App. I.], 2) **DENIED** the May 23, 2022, Fed.R.Civ.P.60(b)(1) Motion [Vol. 1, App. L.] to **Set Aside** the alleged Magistrate Court's May 23, 2022. Order [Vol. 1, App. K.], 3) **DISMISSED WITHOUT PREJUDICE** the mooted Original Complaint [Vol. PL & Vol. PL1, App. A.-M.], 4) **DISMISSED WITHOUT PREJUDICE** the Amended Complaint [Vol. APL1 & Vol. APL2], that was allegedly **DISMISSED WITHOUT PREJUDICE** on May 23, 2022 [Vol. 1, App. K.], and 5) **ORDERED** Gabriel to file another pleading within fourteen (14) days that allegedly⁸ complied with Fed.R.Civ.P.8(a). 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Litek v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988). See Vol. 1, App. B., Pgs. 1-3.
41. In the Background of the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court stated different allegations of the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] than what was stated in April 13, 2022, Order [Vol. 1, App. H.]. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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,

⁸ District Court falsely alleged that the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] and the Amended Complaint [Vol. APL1 & Vol. APL2] allegedly failed to comply to Fed.R.Civ.P.8(a).

- 1959, 167 L. Ed. 2d 929 (2007); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); See Vol. 1, App. B., Pg. 1.
42. On April 13, 2022, Order [Vol. 1, App. B.], District Court falsely alleged that the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] allegedly failed to comply with Fed.R.Civ.P.8(a) for the alleged reasons of "irrelevant allegations pertaining to [Gabriel]'s childhood" were included. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. 1, App. B., Pgs. 1-2.
43. On June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court falsely stated that "[b]ecause of that fact [(a 195-page complaint, together with over 100 pages of attachments)]...[District Court] granted [Gabriel] thirty days to file a complaint that complied with Rule 8(a)." 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. 1, App. B., Pg. 1.
44. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court falsely stated that Gabriel "filed a motion...to amend his complaint. (Doc. 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); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104

- S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994);). See Vol. 1, App. B., Pg. 2.
45. On May 8, 2022, Gabriel filed a Fed.R.Civ.P.4(m) Motion [Vol. 1, App. J.], to extend the time to perfect service, for reason to retain counsel to add an untold amount of claims to a proposed second amended complaint. See Vol. 1, App. J, Pgs. 1-16.
46. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court falsely stated that “[t]he magistrate judge denied that motion [09] without prejudice on May 23, 2022. (Doc. 10).[.]” 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. 1, App. B., Pg. 2.
47. In April 24, 2022, Fed.R.Civ.P.60(b)(1) Motion [Vol.1, App. I], Gabriel cited applicable authorities of US v. Pearson, 203 F. 3d 1243, 1277 (10th Cir. 2000) and Liteky v. US, 510 US 540, 548-555, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994), that stated, “[W]hat matters is not the reality of bias or prejudice but its appearance.” See Vol.1, App. I, Pgs. 6.
48. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court cited the authority of “United States v. Walker, 838 F. App’x 333, 337 (10th Cir. 2020)[.]” that requires recusal “when a judge has “a personal bias or prejudice” against a party[.]” “when presiding over the case would create an appearance of bias[.]” “an appearance of bias is required when “sufficient factual grounds exist to cause an objective observer reasonably to question the judge’s impartiality[.]” and “this standard is an objective one, “[t]he inquiry is limited to outward manifestations and reasonable inferences drawn therefrom,” falsely suggesting that Gabriel did not cite proper authorities. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988). See Vol. 1, App. B., Pg. 2.
49. In April 24, 2022, Fed.R.Civ.P.60(b)(1) Motion [Vol. 1, App. I.], Gabriel cited an applicable authority of US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976), that required the recusal of a district judge for Integrity and Sincerity issues. See Vol. 1, App. I., Pgs. 6.
 50. In April 24, 2022, Fed.R.Civ.P.60(b)(1) Motion [Vol. 1, App. I.], Gabriel cited an applicable authority of US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976), that required recusal of a district judge "to avoid stress, trouble, and complications in the upcoming trial." See Vol. 1, App. I., Pgs. 6.
 51. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court did not address the legal standard of US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988). See Vol. 1, App. B., Pgs. 1-3.
 52. Instead, District Court, in the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], falsely alleged that "[Gabriel] fails to show any basis for recusal[.]" 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol. 1, App. B., Pg. 2.
 53. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court falsely alleges that it "harbors no personal bias or prejudice against Plaintiff, and no objective basis for recusal has been shown." 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US

847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol. 1, App. B., Pg. 3.

54. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court falsely alleges that “[the] original complaint [Vol. PL & Vol. PL1, App. A.-M.] and [the] amended complaint [Vol. APL1 & Vol. APL2] do not come close to meeting th[e] requirement [of Fed.R.Civ.P.8(a)].” 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. 1, App. B., Pg. 3.
55. District Court went on to state in the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], that [the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] and the Amended Complaint [Vol. APL1 & Vol. APL2] allegedly contained so much extraneous material and so few allegations relevant to any claim against Trans Am Trucking Company that [District Court] cannot discern from the complaint [Vol. PL & Vol. PL1, App. A.-M.] or amended complaint [Vol. APL1 & Vol. APL2] if [Gabriel] might have a viable claim.” 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. 1, App. B., Pg. 3.
56. In the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] and the Amended Complaint [Vol. APL1 & Vol. APL2], Gabriel asserted the lone claim thus far under sections Four (4) of both pleadings, under the header entitled “Statement of Claim.” See Vol. PL, App. PL Pgs. 191-192, and Vol. APL1, App. APL1, Pgs. 189-190, respectfully.

57. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court falsely alleges such “circumstances” of the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] and Amended complaint [Vol. APL1 & Vol. APL2] allegedly containing extraneous material and few allegations relevant to any claim. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. 1, App. B., Pg. 3.
58. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court falsely alleges that Gabriel suggested that his due process right was violated by application of Fed.R.Civ.P.8(a), instead of District Court’s failure to recuse. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol. 1, App. B., Pg. 3.
59. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court falsely alleges that Gabriel suggested at some time that his due process right was violated by “the magistrate judge’s recommendation that [Gabriel] not be granted an extension of time to complete service until he files a complaint that complies with Rule 8(a),” and not for the Magistrate Judge illegally acting 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); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484

(1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir. 1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994). See Vol. 1, App. B., Pg. 3.

60. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court makes a statement, falsely implying that, again, the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] and Amended Complaint [Vol. APL1 & Vol. APL2] did not comply with Fed.R.Civ.P.8(a), by stating, “[r]equiring [Gabriel] to file a complaint that contains a short and plain statement of his claim does not deny him a right to be heard,” instead of stating that District Court’s failure to recuse does deny Gabriel the right to be heard at a meaning time and in a meaningful manner. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol. 1, App. B., Pgs. 3-4.
61. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court makes a statement, falsely implying that, again, the Original Complaint [Vol. PL & Vol. PL1, App. A.-M.] and Amended Complaint [Vol. APL1 & Vol. APL2] did not comply with Fed.R.Civ.P.8(a), by stating, “[o]n the contrary, the requirement [of Fed.R.Civ.P.8(a)] furthers the right to a meaningful hearing of his claim,” and attempting to dissuade Gabriel from appealing and asserting that District Court lacks impartiality. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol. 1, App. B., Pgs. 4.

62. In June 2, 2022, Memorandum and Order [Vol. 1, App. B.], District Court falsely alleged that “[Gabriel]’s objection that he did not consent to have a magistrate judge enter an order on his motion for extension of time to complete service and amend his complaint” was “unavailing[.]” and “when so designated by a district judge, has authority without the parties’ consent to rule on certain pretrial matters, including the non-dispositive motion ruled on by the magistrate judge in this instance. 28 U.S.C. § 636(b)(1)(A).” Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol. 1, App. B, Pg. 4.

63. District Court failed to show where it designated a magistrate judge to act during trial court proceedings. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994); See Vol. 1, App. B, Pgs. 1-4.
64. District Court, in the June 2, 2022, Memorandum and Order [Vol. 1, App. B], disregarded the authorities of Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 191 L. Ed. 2d 911, 575 US 665 (2015) and Roell v. Withrow, 538 U.S. 580, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994). See Vol. 1, App. B, Pgs. 1-4, and Vol. 1, App. L., Pgs. 3-4.

65. In the June 2, 2022, Memorandum and Order [Vol. 1, App. B], District Court falsely alleges that “the magistrate judge’s order...it is not clearly erroneous or contrary to law.” Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994). See Vol. 1, App. B, Pg. 4.
66. The June 2, 2022, Memorandum and Order [Vol. 1, App. B.], like April 13, 2022, Order [Vol. 1, App. H.] and the alleged Magistrate Order [Vol. 1, App. K.] were discriminative order, targeting the major life activities and operation of a major bodily function Gabriel sufficiently pled were substantially limited by Adhd. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994). See Vol. PL, App. PL. Pgs. 5-190, Vol. PL-1, App. B., Pgs. 1-10, Vol. PL-1, App. C. Pgs. 1-25, Vol. PL-1, App. D., Pgs. 1-2, Vol. PL-1, App. E., Pgs. 1-10, Vol. PL-1, App. F., Pgs. 1-2, Vol. PL-1, App. G., Pgs. 1-2, Vol. PL-1, App. H., Pgs. 1-2, Vol. PL-1, App. I., Pgs. 1-3, Vol. PL-

1, App. J., Pgs. 1-3, Vol. PL-1, App. K., Pgs. 1-6, Vol. PL-1, App. L., Pgs. 1-2, Vol. PL-1, App. M., Pgs. 1-2, Vol. APL1, App., APL1, Pgs., 5-188, Vol. APL2, App., APL2, Pgs., 260-330.

67. On June 2, 2022, Gabriel filed a § 1291 Notice of Appeal [Vol.1, App G.] Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994); Moya v. Schollenbarger, 465 F. 3d 444, 446 (10th Cir.2006); Mobley v. McCormick, 40 F. 3d 337, 339 (10th Cir.1994); Koch v. City of Del City, 660 F. 3d 1228, 1235 (10th Cir. 2011); SEC v. Merrill Scott & Assocs., Ltd., 600 F.3d 1262, 1270 (10th Cir.2010); Fed.R.Civ.P.41(b). See Vol.1, App G., Pg. 2 (DE #13).
68. On June 3, 2022, Gabriel filed an Amended § 1291 Notice of Appeal [Vol.1, App G.] Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994); Moya v. Schollenbarger, 465 F. 3d 444,

446 (10th Cir.2006); Mobley v. McCormick, 40 F. 3d 337, 339 (10th Cir.1994); Koch v. City of Del City, 660 F. 3d 1228, 1235 (10th Cir. 2011); SEC v. Merrill Scott & Assocs., Ltd., 600 F.3d 1262, 1270 (10th Cir.2010); Fed.R.Civ.P.41(b). See Vol.1, App G., Pg. 2 (DE #15).

69. On June 7, 2022, after realizing Gabriel had filed a § 1291 Notice of Appeal [Vol.1, App G.] and Amended § 1291 Notice of Appeal [Vol.1, App G.] District Court entered an Order [Vol.1, App C.], directing the Clerk-Kansas to enter judgment [Vol.1, App D.]. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994); Moya v. Schollenbarger, 465 F. 3d 444, 446 (10th Cir.2006); Mobley v. McCormick, 40 F. 3d 337, 339 (10th Cir.1994); Koch v. City of Del City, 660 F. 3d 1228, 1235 (10th Cir. 2011); SEC v. Merrill Scott & Assocs., Ltd., 600 F.3d 1262, 1270 (10th Cir.2010); Fed.R.Civ.P.41(b). See Vol.1, App C., Pg. 1.
70. On June 7, 2022, the Clerk-Kansas allegedly entered judgment [Vol.1, App D.]. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell

v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F.3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994); Moya v. Schollenbarger, 465 F.3d 444, 446 (10th Cir.2006); Mobley v. McCormick, 40 F.3d 337, 339 (10th Cir.1994); Koch v. City of Del City, 660 F.3d 1228, 1235 (10th Cir. 2011); SEC v. Merrill Scott & Assocs., Ltd., 600 F.3d 1262, 1270 (10th Cir.2010); Fed.R.Civ.P.41(b). See Vol. I, App D., Pg. 1.

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

71. During the matter of Gabriel v. Trans Am Trucking Co., Case no. 22-3102 (10th Cir.2022), Gabriel proceeded pro se. 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).
72. On June 13, 2022, Gabriel filed an opening brief. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F.3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F.3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994). See Vol. I, App. F., Pgs. 1-50.
73. On August 25, 2022, the Tenth (10th) Circuit Court of Appeals unconstitutionally entered judgment [Vol. I, App. A], that **AFFIRMED** District Court's illegal decision [Vol. I, App. B], and violating Gabriel's First (1st), Fifth (5th), & Fourteenth (14th) Amendments' Rights. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994). See Vol. 1, App. A., Pgs. 1-6.

74. The Tenth (10th) Circuit Court of Appeals' unconstitutional judgment [Vol. 1, App. A] is a discriminatory decree, meant to target the major life activities and operation of a major bodily function Gabriel sufficiently pled were substantially limited by Adhd. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994). See Vol. 1, App. A., Pgs. 1-6, Vol. PL, App. PL, Pgs. 5-190, Vol. PL-1, App. B., Pgs. 1-10, Vol. PL-1, App. C, Pgs. 1-25, Vol. PL-1, App. D., Pgs. 1-2, Vol. PL-1, App. E., Pgs. 1-10, Vol. PL-1, App. F., Pgs. 1-2, Vol. PL-1, App. G., Pgs. 1-2, Vol. PL-1, App. H., Pgs. 1-2, Vol. PL-1, App. I., Pgs. 1-3, Vol. PL-1, App. J., Pgs. 1-3, Vol. PL-1, App. K., Pgs. 1-6, Vol. PL-1, App. L., Pgs. 1-2, Vol. PL-1, App. M., Pgs. 1-2, Vol. APL1, App., APL1, Pgs., 5-188, Vol. APL2, App., APL2, Pgs., 260-330.

X. ARGUMENTS

A. Tenth (10th) Cir. Court of Appeals' Proceeding Far Departed from the Accepted And Usual Course of Judicial Proceedings

1. No Dissenting Opinion

August 24, 2022, Judgment [Vol.1, App. A.] of the Tenth (10th) Circuit Court of Appeal was not entered per curiam. Therefore, Gabriel was entitled to a dissenting opinion of the honorable circuit judge that did not concur with the unpublished, alleged majority's opinion. Since Gabriel was not issued a dissenting opinion, Gabriel was unconstitutionally deprived of Due Process' attempt for him to understand the law. 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, 33 L. 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. 1-6.

2. Judgment Did Not Derive From Evidence on the Record

a. Rule 8/Inconsistency

The record shows in the Opening Brief, Gabriel asserted that ADA Pleading Standards do not alter the Federal Notice Pleadings Standards. 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). See Vol. 1, App. F. Pgs. 35-36. Also, Gabriel highlighted District Court's inconsistencies between April 13, 2022, Order [Vol.1, App. H] and June 2, 2022, Order [Vol. 1, App. B]. See Vol 1, App. F., Pgs. 34-36.

The Tenth (10th) Circuit Court of Appeal failed to mention any of the authorities Gabriel cited referencing ADA Pleading Standards nor any other authorities related to ADA (which Due Process requires), the same judicial body responsible for creating and interpreting authority for the respective judicial circuit to abide by. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). Yet, the Tenth (10th) Circuit Court of Appeal can repeat the discriminatory ruling of a District Court (that lacks impartiality) by stating the Amended Complaint [Vol. APL1 & Vol. APL2] allegedly contained,

"[S]o much extraneous material and so few allegations relevant to any claim against Trans Am Trucking Company that the court [could] not discern from the complaint or the amended complaint if [Gabriel] might have a viable claim." 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, 33 L. 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. 3, and Vol 1, App. B., Pg. 3.

The Tenth (10th) Circuit Court of Appeal stated the above and that "Gabriel's repeated assertion that the district court's dismissal was an abuse of discretion does not make it so" (a discriminative statement), is indicative of the Tenth (10th) Circuit Court of Appeal's failure to derive its judgment [Vol I. App. A.] from the evidence on the 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). Because the Tenth (10th) Circuit Court of Appeal's far departure from the accepted and usual course of judicial proceedings, when issuing a discriminative and unconstitutional judgment [Vol I. App. A.] on August 25, 2022, Gabriel rightfully pleads for relief by Certiorari. 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); Brown v. Allen, 344 US 443, 447, 73 S. Ct. 397, 97 L. Ed. 469 (1953); Morissette v. United States, 342 US 246, 247, 72 S. Ct. 240, 96 L. Ed. 288 (1952).

b. Illegal Magistrate Action

The record shows in the Opening Brief, that Gabriel asserted his right to consent to utilize a magistrate judge and did so by arguing the Court's authorities Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003), which interprets Congress' intent under 28 U.S.C. § 636(c)(1) of "expressed consent." Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. I, App. F., Pg. 20.

The Tenth (10th) Circuit Court of Appeal failed to mention any of the authorities Gabriel cited (which Due Process requires), but discriminatively referenced an authority and "noting that [28 U.S.C.]§ 636(b)(1)(A) "do[es] not require consent from a party[.]" 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). See Vol. I, App. A., Pg. 4.

However, 28 U.S.C. § 636(b)(1)(A) states that "a [district court] judge may designate a magistrate [judge] to hear and determine any pretrial matter pending before the [district] court[.]" Assuming, arguendo, that 28 U.S.C. § 636(c)(1) does not allegedly supersede 28 U.S.C. § 636(b)(1)(A), the record does not reflect that District Court ever **ORDERED** nor **REFERRED** any pretrial matters to a magistrate judge during the trial court proceedings, making the magistrate's action illegal and unconstitutional. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F.3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F.3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994). See Vol. 1. App. G., Pgs. 1-3.

Therefore, Gabriel argues that the Tenth (10th) Circuit Court of Appeal failed to derive its judgment [Vol 1. App. A.] from the record, evidence that would have caused Gabriel to prevail on appeal and for the matter to be remanded back to District Court with instructions on how to proceed in the future. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). Since Gabriel has not prevailed on appeal, Gabriel seeks justice from the Court in the form of Certiorari. 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); Brown v. Allen, 344 US 443, 447, 73 S. Ct. 397, 97 L. Ed. 469 (1953); Morissette v. United States, 342 US 246, 247, 72 S. Ct. 240, 96 L. Ed. 288 (1952).

c. Recusal

August 24, 2022, Judgment [Vol.1, App. A.] of the Tenth (10th) Circuit Court of Appeals discriminately states, "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion[.]" after stating that,

"Gabriel asserts that the district-court judge is envious of "the substantial monetary judgment [he] may receive" for his claim and should thus not be permitted to preside over this case. Opening Br. at 28. As evidence of this bias, Gabriel points out that the district-court judge dismissed his complaints and denied his motions." 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, 33 L. 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. 4-5.

The Tenth (10th) Circuit Court of Appeal, like District Court, was discriminately attempting to "dissuade" Gabriel from believing "the substantial monetary judgment" is allegedly not evidence to cause "a reasonable, objective person to reasonably question" District Court's impartiality, when exhibiting such "appearance" of the lack of impartiality. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988). See Vol.1, App. A., Pgs. 4-5, Vol.1, App. B., Pgs. 2-3.

Also, Gabriel regrets asserting in his Opening Brief [Vol. I, App. F.,] that District Court has Integrity and Sincerity issues, which forced Gabriel to cite the authority of US v. Ritter, 540 F. 2d 459 (10th Cir. 1976). US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol. I, App. F., Pg. 40. However, the Tenth (10th) Circuit Court of Appeal discriminately failed to mention and interpret its own opinion in US v. Ritter, 540 F. 2d 459 (10th Cir. 1976) related to Integrity and Sincerity issues (which Due Process requires), and unconstitutionally held that District Court did not have an obligation to recuse. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol. I, App. A., Pgs. 4-5.

Because of the Tenth (10th) Circuit Court of Appeals' discriminatory misinterpretations, Gabriel requests an exercise of the Court's supervisory authority of Certiorari, to release him from intentionally arbitrary alleged holdings [Vol. I, App. A.]. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); Brown v. Allen, 344 US 443, 447, 73 S. Ct. 397, 97 L. Ed. 469 (1953); Morissette v. United States, 342 US 246, 247, 72 S. Ct. 240, 96 L. Ed. 288 (1952). See Vol. I, App. A., Pgs. 1-6.

3. Discriminative Decree

Gabriel has argued this issue in Section 10(A)(1) through (2) *supra*.

4. Tenth (10th) Circuit Panel Lacked Impartiality

Aside from the value of the allegations asserted in the Charge associated with the administrative proceedings of Gabriel v. Trans Am Trucking Co., EFOC Case no. 563-2021-00710 (Kan. City Area Off. 2021) [Vol. APL1, App. APL1., Pgs. 194-200, and Vol. APL2, App. APL2, Pgs. 201-259], Gabriel has argued this issue in Section 10(A)(1) through (2) *supra*.

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

1. Rule 8/Inconsistency

Gabriel has argued this issue in Section 10(A)(2)(a) *supra*.

2. Illegal Magistrate Action

Gabriel has argued this issue in Section 10(A)(2)(b) *supra*.

3. Recusal

Gabriel has argued this issue in Section 10(A)(2)(c) *supra*.

4. Discriminative Decree

Gabriel has argued this issue in Section 9(C) *supra*.

5. Non-Jurisdictional Issue

In Day v. McDonough 547 US 198, 126 S. Ct. 1675, 164 L. Ed. 2d 376 (2006), the Court reminded lower courts of their obligation to remain neutral as it relates to non-jurisdictional issues. Day v. McDonough 547 US 198, 205, 126 S. Ct. 1675, 164 L. Ed. 2d 376 (2006); 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). This was not the case as relates to trial proceedings. District Court did not only step out of place when allegedly raising an alleged non-jurisdictional issue, but District Court was respectfully, incorrect in its assessment of the sole claim Gabriel pled, and District Court's error (and lack of impartiality) is indicative of its change of direction. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol. 1, App. B., Pgs. 1 & 3, and Vol. 1, App. H., Pg. 1.

Upon appeal, Gabriel brought the standing issue of District Court's lack of consistency. See Vol 1. App. F., Pgs. 34-36. Because the Tenth (10th) Circuit Court of Appeal respectfully erred by not addressing the standing issue, the Tenth (10th) Circuit Court of Appeal is sanctioning District Court's unconstitutional "meddling," that violates the First (1st), Fifth (5th), & Fourteenth (14th) Amendments. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe

Railway, 168 F.3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol 1. App. A., Pgs. 1-6., and Vol 1. App. F., Pgs. 34-36.

6. Clerk's Alleged Judgment

The record shows that District Court ordered the Clerk-Kansas to enter judgment, and the record shows that the Clerk-Kansas allegedly complied with District Court's unconstitutional demand. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994). Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol 1. App. C., Pg. 1, Vol 1. App. D., Pg. 1.

However, the record does not show the Tenth (10th) Circuit Court of Appeal ever admonished the improprieties in the August 25, 2022, decree [Vol 1. App. A.]; therefore; sanctioning District Court's unconstitutional behavior. Mathews v. Eldridge, 424 US 319, 332-34, 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); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 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); 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); 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); 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); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); Wellness Intern. Network, Ltd. v.

Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003); Espinoza v. US, 52 F. 3d 838, 840 (10th Cir.1995); Despain v. Salt Lake Area Metro Gang Unit, 13 F.3d 1436, 1437 (10th Cir. 1994); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); US v. Ritter, 540 F. 2d 459, 464 (10th Cir. 1976). See Vol I. App. A., Pgs. 1-6.

There is not a case riper for disposal by Certiorari than the matter now before the Court. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); Brown v. Allen, 344 US 443, 447, 73 S. Ct. 397, 97 L. Ed. 469 (1953); Morissette v. United States, 342 US 246, 247, 72 S. Ct. 240, 96 L. Ed. 288 (1952).

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

**1. Morrissey v. Brewer & Goldberg v. Kelly
As It Relates to the Lower Court's
Alleged Findings**

Gabriel has argued in Section 10(A)(2) *supra* that the Tenth (10th) Circuit Court of Appeals judgment [Vol I. App. A.] was not based on the evidence on the record; therefore, have decided an important question of federal law that conflicts with relevant decisions of the Court in Morrissey v. Brewer, 408 US 471, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972) and Goldberg v. Kelly, 97 US 254, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

**a. Morrissey v. Brewer & Goldberg v. Kelly
As it Relates to a Dissenting Opinion**

In Morrissey v. Brewer, 408 US 471, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972) and Goldberg v. Kelly, 97 US 254, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970), the Court emphasized the importance of entering the opinion from the evidence on the record. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). In this matter before the Court, the Tenth (10th) Circuit Court of Appeal failed to enter a dissenting opinion from judgment [Vol I. App. A.] that was not rendered per curiam; therefore, have decided an important question of federal law that conflicts with relevant decisions of the Court in Morrissey v. Brewer, 408 US 471, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972) and Goldberg v. Kelly, 97 US 254, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). 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). By failing to issue Gabriel a dissenting opinion, Gabriel was unconstitutionally neglected of Due Process' fundamental intent, its attempt at giving him an

understanding of the law. 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).

2. Bragdon v. Abbott

In Bragdon v. Abbott, 524 US 624, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998), the Court articulated the need to declare Congress' mandate under ADA, of proving a physical or mental condition substantially limits one (1) or more major life activities or the operation of a major bodily function, when asserting the alleged condition's effect on the general population as well as offering personal testimony of such medical conditions' attributes. Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998).

In Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228 (10th Cir. 1999), the Tenth (10th) Circuit Court of Appeals interpreted this Court's beliefs, while interpreting Congress' intentions of ADA Pleading Standards in Bragdon v. Abbott, 524 US 624, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998), declaring that the instance (whether it being at the initial phase of trial or sometime after pleading which must come before or at summary judgment phase) a plaintiff decides to legally comply with ADA Pleading Standards. Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998).

The Tenth (10th) Circuit Court of Appeals has gone on Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228 (10th Cir. 1999), to attest that this Court has not altered Federal Notice Pleadings Standards of giving the defendant fair notice of the claim(s) and the grounds upon which they stand, in the event the plaintiff decides not to procrastinate while letting it be known of substantial limitation while pleading. Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); 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).

Gabriel exercised his First (1st) & Fourteenth (14th) Amendments Petition Rights and decided not to withhold relevant and sufficient information related to ADA's mandate related to substantial limitations, to conserve judicial resources as well as to ensure his Speedy Title VII Civil Trial right. 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, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972); Mathews v. Eldridge, 424 US 319, 332-34, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Goldberg v. Kelly, 397 US 254, 262-63, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965); 42 U.S.C. § 2000e-5(f)(5); Poindexter v. Atchison, Topeka & Santa Fe Railway, 168 F. 3d 1228, 1232-34 n.2 (10th Cir. 1999); Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998); 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). See Vol. PL, App. PL, Pgs. 5-190, Vol. PL-1, App. B., Pgs. 1-10, Vol. PL-1, App. C. Pgs. 1-25, Vol. PL-1, App. D., Pgs. 1-2, Vol. PL-1, App. E., Pgs. 1-10, Vol. PL-1, App. F., Pgs. 1-2, Vol. PL-1, App. G., Pgs. 1-2, Vol. PL-1, App. H., Pgs. 1-2, Vol. PL-1, App. I., Pgs. 1-3, Vol. PL-1, App. J., Pgs. 1-3, Vol. PL-1, App. K., Pgs. 1-

6, Vol. PL-1, App. L., Pgs. 1-2, Vol. PL-1, App. M., Pgs. 1-2, Vol. APL1, App. APL1, Pgs. 5-188, and VOL. APL2, App. APL2, Pgs. 260-330.

However, Gabriel's exuberance and initiative has been met with stiff, yet arbitrary and capricious resistance, both in trial court and upon appeal. See Vol 1. App. A., Pgs. 1-6, Vol 1. App. B., Pgs. 1-4, and Vol 1. App. H., Pgs. 1-2. With deep regret, Gabriel respectfully informs the Court that the latter resistance he has construed as deciding an important question of federal law that conflicts with a relevant decision of the Court in Bragdon v. Abbott, 524 US 624, 632-661, 118 S.Ct. 196, 141 L.Ed.2d 540 (1998). Gabriel hopes this notification sufficiently inclines the Court to grant Certiorari. 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, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Litky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); Brown v. Allen, 344 US 443, 447, 73 S. Ct. 397, 97 L. Ed. 469 (1953); Morissette v. United States, 342 US 246, 247, 72 S. Ct. 240, 96 L. Ed. 288 (1952).

3. Wellness Intern. Network, Ltd. v. Sharif
&
Roell v. Withrow

In both Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 191 L. Ed. 2d 911, 575 US 665 (2015) and Roell v. Withrow, 538 U.S. 580, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003), the Court's inquiry centered around the topic of "expressed consent." Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). Because of the Court's focus, Gabriel construed the interpretation, when executing Due Process' intent, as requiring expressed consent of the parties before any actions of a non-Article III judge during trial court proceedings. Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003).

For this reason, Gabriel raised the issue of express consent in U.S. District Court of Kansas but was falsely and ill-manneredly advised by District Court that he had no such Fifth (5th) & Fourteenth (14th) Amendments' Rights. Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. 1, App. B. Pgs. 5-6, and Vol. 1, App. L, Pgs. 3-4. The standing issue, Gabriel grieved to the Tenth (10th) Circuit Court of Appeals, but his plea was unheard even after Congress gave the appellate court jurisdiction (under 28 U.S.C. § 1291) to hear Gabriel's complaint of misinterpretation. See Vol. 1, App. A. Pgs. 4, and Vol. 1, App. F., Pg. 20. Therefore, the Tenth (10th) Circuit Court of Appeals' "closed ears" have given rise to Gabriel's assertion of deciding an important question of federal law that conflicts with relevant decisions of the Court in Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 191 L. Ed. 2d 911, 575 US 665 (2015) and Roell v. Withrow, 538 U.S. 580, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003).

Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003). See Vol. 1, App. A, Pgs. 4, and Vol. 1, App. F., Pg. 20.

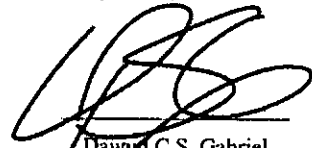
Gabriel's wish is that the Court will grant him the rare privilege of Certiorari. Mathews v. Eldridge, 424 US 319, 332, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Goldberg v. Kelly, 397 US 254, 262-63, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970); Liteky v. U.S., 510 US 540, 567, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994); Liljeberg v. Health Services Acquisition Corp., 486 US 847, 860, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); Brown v. Allen, 344 US 443, 447, 73 S. Ct. 397, 97 L. Ed. 469 (1953); Morissette v. United States, 342 US 246, 247, 72 S. Ct. 240, 96 L. Ed. 288 (1952); Wellness Intern. Network, Ltd. v. Sharif, 135 S. Ct. 1932, 1948, 191 L. Ed. 2d 911, 575 US 665 (2015); Roell v. Withrow, 538 U.S. 580, 582, 123 S.Ct. 1696, 155 L.Ed.2d 775 (2003).

XI. CONCLUSION

For the foregoing reasons, Gabriel requests the Court to grant his petition for Writ of Certiorari. Because of the existence of prejudice between the Tenth (10th) Circuit Court of Appeals and U.S. District Court-Kansas, Gabriel also requests relief in the form of a venue change, in the event the Court grants the rare privilege of Certiorari. Piper Aircraft Co. v. Reyno, 454 US 235, 255, 102 S. Ct. 252, 70 L. Ed. 2d 419 (1981); Van Dusen v. Barrack, 376 US 612, 613, 84 S. Ct. 805, 11 L. Ed. 2d 945 (1964).

December 15, 2022

Respectfully Submitted,



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