

No. 22-154

In the
Supreme Court of the United States

IN RE CHRISTY POON-ATKINS,

Petitioner.

On Petition for an Extraordinary Writ of Mandamus
to the United States Court of Appeals for the Fifth Circuit

**PETITION FOR AN
EXTRAORDINARY WRIT OF MANDAMUS**

CHRISTY POON-ATKINS, P.E.

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QUESTION PRESENTED

Should evidence of clerical errors, the Defendants' submission of false and altered documents, and mishandled evidence result in the issuance of a Writ of Mandamus by this Court ordering the District Court to rectify its errors and provide the specific relief requested (*infra*, Pet.13)?

PARTIES TO THE PROCEEDINGS

Petitioner

- Christy Poon-Atkins, P.E.

Respondents

- Sammy M. Sappington
- Wal-Mart Stores East, L.P.

Party to Whom Mandamus is Directed

- Judge Kristi H. Johnson,
United States District Judge,
Southern District of Mississippi
Northern Division

LIST OF PROCEEDINGS

United States Court of Appeals for the Fifth Circuit
No. 21-60467

Christy Poon-Atkins, *Plaintiff-Appellant*, v.
Sammy M. Sappington; Wal-Mart Stores East, L.P.,
Defendants-Appellees

Date of Final Opinion: January 10, 2022

United States District Court Southern District of
Mississippi Northern Division

Civil Action No. 3:19-CV-269-KHJ-LGI

Christy Poon-Atkins, *Plaintiff*, v.
Sammy M. Sappington; Wal-Mart Stores East, L.P.,
Defendants

Date of Final Judgment: May 17, 2021

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES TO THE PROCEEDINGS	ii
LIST OF PROCEEDINGS	iii
TABLE OF AUTHORITIES.....	x
OPINIONS BELOW	1
STATEMENT OF JURISDICTION	6
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	7
A. Text of Relevant Constitutional, Statutory Provisions	7
B. Overview of How These Provisions Apply	9
RULE 20 STATEMENT	13
A. Parties to Whom the Mandamus Should Be Issued	13
B. Specific Relief Requested	13
C. Why Relief Sought is Not Available in Any Other Court	16
STATEMENT OF THE CASE	17
A. Background Facts.....	17
B. District Court Judgment Analysis	18
C. Fifth Circuit Court Opinion	19

TABLE OF CONTENTS – Continued

	Page
REASONS FOR GRANTING THE PETITION	20
I. INFRINGED CONSTITUTIONAL RIGHTS AND HUMAN RIGHTS: CITY OF BRANDON POLICE REPORT	23
II. HARMLESS ERROR: PLAINTIFF'S ADMISSIONS RESPONSES RAISED TO DISTRICT COURT.....	33
CONCLUSION.....	37

TABLE OF CONTENTS – Continued

Page

APPENDIX TABLE OF CONTENTS**CIRCUIT COURT
OPINIONS AND ORDERS**

Order Denying Opposed Motion to Extend the Time to File a Rehearing (February 2, 2022)	1a
Judgment of the United States Court of Appeals for the Fifth Circuit (January 10, 2022)	2a
Opinion of the United States Court of Appeals for the Fifth Circuit (January 10, 2022)	3a

**DISTRICT COURT
OPINIONS AND ORDERS**

Final Judgment Dismissing Case (May 17, 2021)	8a
Order Granting Summary Judgment in Favor of Defendants (May 17, 2021)	9a
Order Denying Plaintiff's Motion to Compel Discovery Production of Things and Such Admissions (March 26, 2021)	17a
Order Denying Plaintiff's Motion for Sanctions and Defendant's Motion for Attorney's Fees (March 26, 2021).....	21a
Order Denying Motion for Extending Time for Discovery (March 25, 2021)	25a
Order on Plaintiff's Motion for Court-Appointed Expert Witness With Compensation Under the Fifth Amendment (February 25, 2021).....	27a
Order on Plaintiff's Request for Virtual Conference (February 25, 2021).....	29a

TABLE OF CONTENTS – Continued

	Page
Order on Notice of Service of Request for Deposition (February 25, 2021)	31a
Agreed Order of Dismissal With Prejudice as to Plaintiff's Lost Wages Claim (January 12, 2021)	33a
Order to Reassign Cases (January 5, 2021)	35a
Order Granting Defendants' Motion for Attorney Expenses (December 22, 2020)	36a
Order of Dismissal With Prejudice as to Plaintiff's Loss Wages Claim (December 21, 2020)	39a
Order Reassigning Civil Cases (December 14, 2020).....	41a
Text Order Granting Defendants' Motion to Compel (December 4, 2020)	42a
Text Order Granting Defendants' Motion to Compel as confessed (August 13, 2020)	43a
Text Order Granting in part and Denying in Part Motion to Modify Case Management Order (June 29, 2020)	44a
Text Order Granting Defendants' Motion for Protective Order (June 29, 2020).....	45a

TABLE OF CONTENTS – Continued

	Page
Text Order Granting Motion to Restrict Access to Documents (June 11, 2020)	46a
Text Order Granting for Good Cause (March 5, 2020).....	47a
Text Order to Show Cause (January 29, 2020)	48a
Order Allowing Withdrawal of Counsel of Record, Extension of Deadlines and Extension of Time to Respond to Discovery (December 10, 2019)	49a
Text Order Granting Motion to Extend Expert Deadlines (November 19, 2019)	52a
Agreed Text Order of Dismissal Without Prejudice (August 21, 2019)	53a
Text Order Granting Extension of Time to Answer (June 13, 2019)	54a
Text Order Granting Extension of Time to Answer (June 11, 2019)	55a

OTHER DOCUMENTS

Appellant's Reply Brief (October 7, 2021)	56a
Appellant's Brief (September 14, 2021)	70a
Notice of Supplementing Discovery Disclosure (September 1, 2021)	103a

TABLE OF CONTENTS – Continued

	Page
Plaintiff's Opposition to Defendants' Motion to Compel Medical and Other Authorizations with Claims of Not Receiving Discovery Requests (August 20, 2020).....	131a
Civil Docket for Case #: 3:19-cv-00269-KHJ-LGI (April 19, 2019)	156a

TABLE OF AUTHORITIES

	Page
CASES	
<i>ACF Industries, Inc. v. EEOC</i> , 439 U.S. 1081 (1979)	35, 36
<i>American Cyanamid v. Capuano</i> , 381 F.3d 6 (1st Cir. 2004)	34
<i>Cariglia v. Hertz Equip. Rental Corp.</i> , 363 F.3d 77 (1st Cir. 2004)	31
<i>Chafin v. Chafin</i> , 568 U.S., No. 11-1347 (2013).....	13
<i>Goldberg v. Kelly</i> , 397 U.S. 254 (1970)	22
<i>Goodyear Tire & Rubber Co. v. Haeger</i> , 137 S.Ct. 1178 (2017).....	27
<i>Hale v. Ostrow</i> , 166 S.W.3d 713 (Tenn. 2005)	10
<i>Kennedy v. City of Spring City</i> , 780 S.W.2d 164 (Tenn. 1989)	22, 23
<i>Lee Cnty. Dep’t of Transp. v. The Island Water Ass’n, Inc.</i> , 218 So.3d 974 (Fla. 2d DCA 2017)	10
<i>Marbury v. Madison</i> , 5 U.S. (1 Cranch) 137 (1803)	37
<i>McAuliffe v. New Bedford</i> , 155 Mass. 216, 29 N.E. 517 (Mass. 1892)	13
<i>Nevill v. City of Tullahoma</i> , 756 S.W.2d 226 (Tenn. 1988)	22, 23
<i>Patel v. Tex. Tech Univ.</i> , 941 F.3d 743 (5th Cir. 2019)	19

TABLE OF AUTHORITIES – Continued

	Page
<i>Payne Realty v. First Sec. Bank,</i> 844 P.2d 90 (Mont. 1992).....	10
<i>Posas v. Horton,</i> 228 P.3d 457 (2010).....	32
<i>Ruth Garratt v. Brian Dailey, a Minor, by George S. Dailey, his Guardian ad Litem,</i> 279 P.2d 1091 (Wash. 1955)	25, 27
<i>Sierra Club, Inc. v. Sandy Creek Energy Assocs., L.P.</i> , 627 F.3d 134 (5th Cir. 2010)	19
<i>Taylor v. Bayview Loan Servicing, LLC,</i> 74 So.3d 1115 (Fla. 2d DCA 2011).....	10
<i>U.S. v. Gilbertson,</i> 435 F.3d 790 (2006).....	34

CONSTITUTIONAL PROVISIONS

U.S. Const. amend. V.....	9, 11
U.S. Const. amend. XIII	11
U.S. Const. amend. IX	26
U.S. Const. amend. XIV § 1	7, 9
U.S. Const. amend. XV	37
U.S. Const. Art. III.....	13, 37

STATUTES

28 U.S.C. § 1651(a)	6
28 U.S.C. § 1746.....	12
28 U.S.C. § 2403.....	28
28 U.S.C. § 2403(b)	6

TABLE OF AUTHORITIES – Continued

	Page
28 U.S.C. Chapter 115.....	12
42 U.S.C. § 1981.....	7, 11
42 U.S.C. § 1982.....	8, 11
42 U.S.C. § 1983.....	8, 9, 12, 14
42 U.S.C. § 1988.....	11
42 U.S.C. § 11601 et seq.....	13
49 U.S.C. § 32703(2)	34
49 U.S.C. § 32709(b)	34
Civil Rights Act of 1866.....	11
MS Code § 63-3-11	20
MS Code § 63-3-411	18
MS Code § 63-3-417	29
MS Code § 63-3-501	20
MS Code § 63-3-505	20
MS Code § 63-3-516	20, 21
MS Code § 63-3-1201	20, 30
Tenn. Code Ann. § 55-8-108(e).....	22

JUDICIAL RULES

Fed. R. Civ. P. 5.1.....	15, 28
Fed. R. Civ. P. 11.....	27
Fed. R. Civ. P. 24.....	15
Fed. R. Civ. P. 26(g)(3).....	16
Fed. R. Civ. P. 36.....	33

TABLE OF AUTHORITIES – Continued

	Page
Fed. R. Civ. P. 50.....	14, 15, 16
Fed. R. Civ. P. 55.....	14
Fed. R. Civ. P. 56.....	10, 18, 34
Fed. R. Civ. P. 57.....	15
Fed. R. Civ. P. 58.....	14
Fed. R. Civ. P. 60.....	14, 18, 21
Fed. R. Civ. P. 61.....	12, 34
Fed. R. Evid. 406.....	17
Miss. R. Evid. 403	34

OTHER AUTHORITIES

Articles of Confederation.....	11, 21, 22, 26, 27
Ex. Ord. 12778, 56 Fed. Reg. 55195 (Oct. 23, 1991), Justice Reform	10
Ex. Ord. 13985, 86 Fed. Reg. 7009 (Jan. 20, 2021), Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.....	23
Magna Carta.....	21, 22



OPINIONS BELOW

1. U.S. Court of Appeals for the Fifth Circuit, [9768345-3] ORDER: *Christy Poon-Atkins v. Sammy M. Sappington; Wal-Mart Stores East, L.P.*, Fifth Circuit Opposed Appellant's Motion to extend time to file a rehearing [9768345-2] and Opposed motion to file rehearing out of time DENIED, unreported; [21-60467]; 02/02/2022. (App.1a)
2. U.S. Court of Appeals for the Fifth Circuit, JUDGMENT: *Christy Poon-Atkins v. Sammy M. Sappington; Wal-Mart Stores East, L.P.*, entered and filed, unreported. [21-60467]; 01/10/2022. (App.2a)
3. U.S. Court of Appeals for the Fifth Circuit, UNPUBLISHED OPINION: Fifth Circuit AFFIRMED, unreported. [21-60467]; 01/10/2022. (App.3a)
4. U.S. District Court of Southern Mississippi, [Doc. 179] FINAL JUDGMENT: District Court for Defendants, unreported.; 3:19-cv-00269-KHJ-LGI; 05/17/2021. (App.8a)
5. U.S. District Court of Southern Mississippi, [Doc. 178] ORDER: Defendants' Motion for Summary Judgment GRANTED and Plaintiff's Motions: Cross-Motion for Summary Judgment [Doc. 97] DISMISSED, Limine [Doc. 141] DISMISSED, Limine [Doc. 142] DISMISSED, and Summary Judgment [Doc. 155] GRANTED; 3:19-cv-00269-KHJ-LGI, unreported; 05/17/2021. (App.9a)
6. U.S. District Court of Southern Mississippi, [Doc. 176] ORDER: Plaintiff's Motion to Compel Discovery Production of Things and Such and Admis-

sions [Doc. 140], DENIED, unreported.; 3:19-cv-00269-KHJ- LGI; 03/26/2021. (App.17a)

7. U.S. District Court of Southern Mississippi, [Doc. 175] ORDER: Plaintiff's Motion for Sanctions [Doc. 136], DENIED, unreported; 3:19-cv-00269-KHJ- LGI; 03/26/2021. (App.21a)

8. U.S. District Court of Southern Mississippi, [Doc. 174] ORDER: Plaintiff's Motion for Extension of Time to Complete Discovery, DENIED, unreported. [Doc. 138]; 3:19-cv-00269-KHJ-LGI; 03/25/2021. (App. 25a)

9. U.S. District Court of Southern Mississippi, [Doc. 171] ORDER: Plaintiff's Motion for Court-Appointed Expert Witness with Compensation Under the Fifth Amendment, MOOT, unreported. [Doc. 154]; 3:19-cv-00269-KHJ-LGI; 02/25/2021. (App.27a)

10. U.S. District Court of Southern Mississippi, [Doc. 170] ORDER: Plaintiff's Request for Virtual Conference [Doc. 127]; MOOT, unreported; 3:19-cv-00269-KHJ-LGI; 02/25/2021. (App.29a)

11. U.S. District Court of Southern Mississippi, [Doc. 169] ORDER: Plaintiff's Motion to take 01/14/2021 Deposition of Sammy Sappington [Doc. 120 & 125]; MOOT, unreported; 3:19-cv-00269-KHJ-LGI; 02/25/2021. (App.31a)

12. U.S. District Court of Southern Mississippi, [Doc. 134] ORDER: Defendants' Motion for Dismissal with Prejudice as to Plaintiff's Lost Wages Claim SIGNED by District Judge Henry T. Wingate; unreported; 3:19-cv-00269-KHJ-LGI; 01/12/2021. (App.33a)

13. U.S. District Court of Southern Mississippi, [Doc. 126] ORDER: Reassigning case, Magistrate Judge

LaKeysha Greer Isaac to replace Magistrate Judge Linda R. Anderson, SIGNED by Chief District Judge Daniel P. Jordan, III, unreported; 3:19-cv-00269-KHJ-LRA; 12/14/2020. (App.35a)

14. U.S. District Court of Southern Mississippi, [Doc.122] ORDER: Defendants' Motion for Attorney's fees GRANTED and Plaintiff's Motion for Sanctions; DENIED unreported; 3:19-cv-00269-KHJ-LRA; 12/10/2019. (App.36a)

15. U.S. District Court of Southern Mississippi, [Doc. 121] ORDER: District Court granting Defendants' Motion for Dismissal with Prejudice as to Plaintiff's Loss Wages Claim; SIGNED, unreported; 3:19-cv-00269-KHJ-LRA; 12/10/2019. (App.39a)

16. U.S. District Court of Southern Mississippi, [Doc. 118] ORDER: Reassigning case, District Judge Kristi H. Johnson to replace District Judge Henry T. Wingate, signed by Chief District Judge Daniel P. Jordan, III, unreported; 3:19-cv-00269-HTW-LRA; 12/14/2020. (App.41a)

17. U.S. District Court of Southern Mississippi, 12/04/2020 TEXT ONLY ORDER: Defendants' Motion to Compel, GRANTED, unreported; 3:19-cv-00269-HTW-LRA; 12/04/2020. (App.42a)

18. U.S. District Court of Southern Mississippi, 08/13/2020 TEXT ONLY ORDER: Defendants' Motion to Compel, GRANTED, unreported; 3:19-cv-00269-HTW-LRA; 08/13/2020. (App.43a)

19. U.S. District Court of Southern Mississippi, 06/29/2020 TEXT ONLY ORDER: Defendants' Motion to Modify Case Management Order, GRANTED, un-

ported; 3:19-cv-00269-HTW-LRA; 06/29/2020. (App. 44a)

20. U.S. District Court of Southern Mississippi, 06/29/2020 TEXT ONLY ORDER: Motion for Protective Order, GRANTED, unreported; 3:19-cv-00269-HTW-LRA; 06/29/2020. (App.45a)

21. U.S. District Court of Southern Mississippi, 06/11/2020 TEXT ONLY ORDER: Defendants' Motion to Restrict Access to Documents, GRANTED, unreported; 3:19-cv-00269-HTW-LRA; 06/11/2020. (App.46a)

22. U.S. District Court of Southern Mississippi, 03/05/2020 TEXT ONLY ORDER: Plaintiff's Pro Se show for good cause, GRANTED, unreported; 3:19-cv-00269-HTW-LRA; 03/05/2020. (App.47a)

23. U.S. District Court of Southern Mississippi, 01/29/2020 TEXT ONLY ORDER: Plaintiff's Pro Se show for good cause, unreported; 3:19-cv-00269-HTW-LRA; 01/29/2020. (App.48a)

24. U.S. District Court of Southern Mississippi, [Doc. 39] ORDER: Plaintiff's Attorney Motion to Withdraw, GRANTED, unreported; 3:19-cv-00269-HTW-LRA; 12/10/2019. (App.49a)

25. U.S. District Court of Southern Mississippi, 11/19/2019 TEXT ONLY ORDER: Defendants expert deadline extension, GRANTED, unreported; 3:19-cv-00269-HTW-LRA; 11/19/2019. (App.52a)

26. U.S. District Court of Southern Mississippi, [Doc. 14] ORDER OF DISMISSAL WITHOUT PRE-JUDICE: Defendant Garrison motion; ORDERED AND ADJUDGED, unreported; 3:19-cv-00269-HTW-LRA; 08/21/2019. (App.53a)

27. U.S. District Court of Southern Mississippi, 06/13/2019 TEXT ONLY ORDER: Time extension to Defendants, GRANTED, unreported; 3:19-cv-00269-HTW-LRA; 06/13/2019. (App.54a)
28. U.S. District Court of Southern Mississippi, 06/11/2019 TEXT ONLY ORDER: Time extension to Defendants, GRANTED, unreported; 3:19-cv-00269-HTW-LRA; 06/11/2019. (App.55a)
29. Appellant's Reply Brief (October 7, 2021). (App.56a)
30. Appellant's Brief (September 14, 2021). (App.70a)
31. Notice of Supplementing Discovery Disclosure (September 1, 2021). (App.103a)
32. Plaintiff's Opposition to Defendants' Motion to Compel Medical and Other Authorizations with Claims of Not Receiving Discovery Requests (August 20, 2020). (App.131a)
33. Civil Docket for Case #: 3:19-cv-00269-KHJ-LGI (April 19, 2019). (App.156a)



STATEMENT OF JURISDICTION

The Court of Appeals entered judgment on January 10, 2022. App.2a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1651(a). *De jure judices, de facto juratores, respondent*, the judges answer regarding the law, the jury on the facts, prompting that relief from a judgment or order be granted to the Plaintiff.

Pursuant to 28 U.S.C. § 2403(b), the district court did not certify to the Attorney General of the United States the fact that Constitutional questions were presented to the district court. *Breve judiciale non cadit pro defectu formae*. The district court record shows this instance of failure to properly adhere to performance of ministerial duties.

The Fifth Circuit denied the Plaintiff's Motion for Extension of Time to File Petition for Rehearing or Leave to File out of Time on February 2, 2022.

The Supreme Court denied the Plaintiff's Writ of Certiorari on October 3, 2022.

The Supreme Court denied the Plaintiff's Petition for Rehearing on December 5, 2022.



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A. Text of Relevant Constitutional, Statutory Provisions

U.S. Const. amend. XIV § 1

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S.C. § 1981

Equal rights under the law

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) Make and enforce contracts defined

For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) Protection against impairment

The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

(R.S. §1977; Pub. L. 102-166, title I, §101, Nov. 21, 1991, 105 Stat. 1071)

42 U.S.C. § 1982

Property rights of citizens

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property. (R.S. §1978)

42 U.S.C. §1983

Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's

judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

B. Overview of How These Provisions Apply

This case involves the Plaintiff's continuous pleas for an opportunity to a fair and just process to correct the detrimental acts which undermined and circumvented the civil process. The errors associated with the public service duties involved in facilitating social and judicial performance infringed upon the Plaintiff's Constitutional, Civil, and Human Rights, further damaging HER free exercise of HER Constitutional protected interests, under Amendment XIV. Furthermore, 42 U.S.C. § 1983 does not exclude nor excuse any person from upholding the full intent of the laws to protect and promote the general welfare in the best interest of all.

As the Plaintiff made attempts to reestablish some portion of fairness and justice within the judicial process with HER motions for unbiased court-appointed experts under Amendment V, as proceeding for redress under 42 U.S.C. § 1983, relief from discovery abuse, and time for defendants to produce discovery. The injuries to the Plaintiff are within the zone of Constitutionally protected interests, which should have been resolved at the lowest level. However, the Defendants managed successful discovery abuse which continued throughout with no relief for the Plaintiff. Furthermore, significant mishandling of material evidence, including evidence from records developed under 28 U.S.C. Part V

Chapter 115, infringed on the Plaintiff's right to due process, as Constitutionally inscribed. Such a deprivation of rights, as through use of statute or common law, which encroaches upon civil liberties absolutely must be evaluated at the level of strict scrutiny, for which Executive Order 12778 for Civil Justice Reform also sought to remedy. As in *Hale v. Ostrow*, 166 S.W.3d 713 (Tenn. 2005), the Tennessee Supreme Court found that genuine issues of material fact did indeed exist, after justly viewing the facts in the light most favorable to the plaintiff; reversing the decisions of both the trial court and the Court of Appeals granting summary judgment to the defendants. Whereas in *Hale v. Ostrow*, viewing the evidence in the light most favorable to the plaintiff confirmed the existence of genuine issues of material fact. *See Fed. R. Civ. P. Rule 56(c)*. The procedure should never be substituted for trial if a material factual controversy exists. *See Payne Realty v. First Sec. Bank*, 844 P.2d 90 (Mont. 1992). In consistent approach, in the Fla. Dist. Ct. App., the decision acknowledged that when there is a genuine issue of material fact, or even the slightest inference or doubt that a material factual issue exists, that doubt must be construed against the moving party and the motion denied. *Id. quoting Taylor v. Bayview Loan Servicing, LLC*, 74 So.3d 1115, 1117 (Fla. 2d DCA 2011); *Lee Cnty. Dep't of Transp. v. The Island Water Ass'n, Inc.*, 218 So.3d 974 (Fla. 2d DCA 2017), on summary judgment.

In any case where there remains a dispute of material facts, such facts must be presented to a jury. *See Fed. R. of Civ. P. Rule 56.(c)(1)*.

However, in this case, neither the District Court nor the Fifth Circuit Court include any analysis of

viewing evidence in the light most favorable to the Plaintiff, as there remains a question of strict scrutiny, for the Plaintiff continues to move for justice and fairness in the judicial process. Both the District Court and the Fifth Circuit analyses only view the Defendants' statements most favorable to the Defendants. The mentioned Constitutional and statutory provisions provided some of statutory basis for the Plaintiff's claim and arguments, throughout the lower courts' proceedings and presented herein. The Plaintiff repeatedly clarified HER standing as a descendant of the original inhabitants, per the Articles of Confederation Articles II and IV as referenced in Federalist Paper 41, of this land and must freely exercise Constitutionally protected interests as included in: Amendments V and XIV. The Civil Rights Act of 1866, 42 U.S.C. Chapter 21 reaffirms that the Plaintiff's must have access to rights, privileges, or immunities secured by the Constitution, as specifically written in Title 42 of the United States Code (U.S.C.) and prompted by President Lincoln's Emancipation Proclamation of 1863. The Constitution Amendment XIII explains the role of Congress to ensure enforcement of the proclamation, as also captured in the United States Code Title 42. The aforementioned poses critical risks by which the requirements in 42 U.S.C. § 1988 explicitly outline proceedings in vindication of civil rights for jurisdiction in civil and criminal matters conferred on the district courts by the provisions of the United States Code (U.S.C.) titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, as must be properly exercised and enforced through 42 U.S.C. § 1981, Equal rights under the law, 42 U.S.C. § 1982, Property Rights of Citizens, and 42

U.S.C. § 1983, Civil Action for Deprivation of Rights, for example of sections under Title 42 U.S.C. Chapter 21. The Plaintiff stated concerns with such deprivations to the courts and requested relief. Additionally, the basis for the Defendants' Motion for Summary Judgment includes a writing that should not be a basis for final judgment, as concerns for misleading a decision, per 28 U.S.C. § 1746 exists, with infringement of the Plaintiff's *Id.* at 7, 21, 28 Human Rights Articles: 1, 2, 3, 8, 21.2, 22, 25, 27, 28, 29, and 30, indicated in earlier filings, associated with service action through misleading writings among others in 28 U.S.C. Chapter 115. Additionally, the Plaintiff presented the district court a response about errors during the discovery process surrounding the Defendants' Request for Admissions in HER Responses [Doc. 95], [Doc. 96], [Doc. 97], where access the Defendants' file share link also destroyed several discovery files from the Plaintiff's directory. The Plaintiff further indicated Fed. R. Civ. P. 61. Harmless Error, as the rule states "... At every stage of the proceeding, the court must disregard all errors and defects ...". Here, the district court allowed the discovery process to continue and granted the Defendants' Mot. to Compel and later found that the Defs.[] already had multiple documents compelled. The district court's final judgment and the Fifth Circuit's opinion overlook the critical facts about discovery errors [Doc. 95], [Doc. 96], [Doc. 97], which continues to deny proper review of complete facts of the case through due process. *Bis idem exigi bona fides non patitur, et in satisfactionibus non permittitur amplius fieri quam semel factum est.* The matter on Discovery admissions must not be used to justify the district court's final decision, as satisfaction has once been rendered several months prior to the

district court fact finding effort and available for review. In *McAuliffe v. New Bedford*, 155 Mass. 216; 29 N.E. 517 (Mass. 1892), the petition was dismissed because it was found that the judge was well warranted in the finding that the mayor did all that justice required. However, here, in this case such a determination that all that justice required can not be found, as all that justice requires are still outstanding.

In *Chafin v. Chafin*, 568 U.S., No. 11-1347, (2013), the Supreme Court of the United States delivered the opinion for a unanimous Court, which also provided clarification of judicial limitations outlined in the Constitution Article III. The unanimous Court opinion expanded upon 42 U.S.C. § 11601 et seq. and was supported by concurring opinions.



RULE 20 STATEMENT

A. Parties to Whom the Mandamus Should Be Issued

Judge Kristi H. Johnson, United States District Judge, Southern District of Mississippi Northern Division.

B. Specific Relief Requested

Here, the Plaintiff petitions this Court to withdraw the mandate and after command the district court to, *in toto*, reopen proceedings and to justifiably grant the specified lawful relief, with commands 1 thru command 7, to the Petitioner-Plaintiff.

1. A clerical error concealed the Defendants' documented admission to speeding and reports altered to include false information, which invalidated the documents included as support for a final district court judgment. *De fide et officio judicis non recipitur question, sed de scientia sive sit error juris sive facti. Nec curia deficeret in Justitia exhibenda.* Per Fed. R. Civ. P. 60(b), the Court must direct the district court to grant relief to the Plaintiff per Fed. R. Civ. P. 58, with Default Judgment for the Plaintiff, per Fed. R. Civ. P. 55(c).
2. The existence of material evidence concealed by a district court clerical error must not prejudice and preclude justice. *De jure judices, de facto juratores, respondent. Nec curia deficeret in Justitia exhibenda.* The perception of validating misappropriated discretion severely damages the Plaintiff's Constitutional rights through omitting relevant facts. The mishandled evidence was not made available to the Appellate Court prior to the Appellate Court decision. The Court must direct the district court to grant a judgment, as a matter of law, to the Plaintiff, per Fed. R. Civ. P. 50.
3. The district court final judgment included extraneous influence of the clerk's mistakes; oversights and omissions, which concealed the Plaintiff's material evidence of facts presented. *Dispensatio est vulnus, quod vulnerare jus commune.* The court must avoid deprivation of the Plaintiff's Constitutional and Civil rights, per 42 U.S.C. Chap 21¹ § 1983 and by strict scrutiny, subjecting the Plaintiff to the long-standing history of inequity and subjugation, which proves that

¹ See 42 U.S.C. § 1983—Civil action for deprivation of rights, *supra.* at 8.

no reasonable alternative, but corrections, exists in equity. The Court must order the district court to issue a more complete opinion with entering default judgment for the Plaintiff, not precluding declaratory judgment, per Fed. R. Civ. P. 57.

4. The district court did not properly certify the Plaintiff's Constitutional question. *Decptis, non decipientibus, jura subveniunt.* Here good faith to ensure intervention of the Attorney General of the United States may have preserved the Plaintiff from further extensive damage due to infringement on the Plaintiff's Constitutional, and Civil Rights, as breaches. *Bona fides exigit ut quod convenit fiat.* The Court must order the district court to properly perform ministerial duties, in record, per Fed. R. Civ. P. 5.1. Due to the district court's failure to adhere to intervention of right requirements per Fed. R. Civ. P. 24, the district court record is deficient and flawed the Appellate Court decision.

5. The district court improperly denied the Plaintiff an opportunity for a trial with a jury's review of the facts and material evidence of the case, which also willfully stains every subsequently linked opinion and judgment. *De jure judices, defacto juratores, respondent.* The perception of validating misappropriated discretion severely damages the Plaintiff's Constitutional and Civil rights through relevant facts omitted by government officials and positioned to promote continued injustice in other cases. The Court must direct the district court to grant judgment, as a matter of law to the Plaintiff, per Fed. R. Civ. P. 50.

6. The district court's fact finding negligently overlooked the previous review and resolution of Discovery Admissions on August 24, 2020 [Doc. 95, 96, 97], swaying the district court final judgment. *Culpa lato*

dolo aequiparatur. The Court must order the district court final judgment to acknowledge previously settled Discovery matters, as void for support to decide against the Plaintiff with a favorable judgment to the Plaintiff, as a matter of law, per Fed. R. Civ. P. 50.

7. The practice of misconduct that excites prejudice, confusion, and misleading representation must not be allowed in the judicial process, as here has severely delayed justice to the Plaintiff. *Mora reprobatur in lege*. A more than forty-year-old concern about Discovery abuse and misallocated discretion must not be perceived as acceptable against the Plaintiff. The Court must order the district court to sanction the defendants, per Fed. R. Civ. P. 26(g)(3) for discovery abuse damages and undue fines imposed upon the Plaintiff.

C. Why Relief Sought is Not Available in Any Other Court

The district court denied Petitioner's motions to compel discovery. (App.17a) As noted above, the strict court's fact finding negligently overlooked the previous review and resolution of Discovery Admissions on August 24, 2020 [Doc. 95, 96, 97], Petitioner raised discovery abuses in briefings to the appellate court. (App.58a, 76a), but the appellate court did not grant relief. Therefore, Petitioner turns to this Court having exhausted all options with inferior courts.



STATEMENT OF THE CASE

A. Background Facts

On April 22, 2016, the Plaintiff was the driver of a 4-door 2008 Infiniti G35 motor vehicle that entered the Ambiance Subdivision driveway, as the Plaintiff routinely entered. The Plaintiff entered the Ambiance Subdivision driveway every day for more than three years prior to April 22, 2016. In accordance with the Federal Rules of Evidence, Rule 406, the Plaintiff highlights HER habit and routine practice to open the Ambiance Subdivision entrance gate for more than three years before the crash. The Plaintiff further notes HER primary residency at the Ambiance Subdivision, domiciled at 304 Tracey Cove, Brandon, Mississippi (MS) 39042, at the time of the subject collision.

The Defendant was a driver of a 2014 Toyota Camry motor vehicle, owned, operated, and maintained by the Defendants. On the April 22, 2016, the Defendants' vehicle was initially travelling northbound on Highway 471. The Defendant Sappington's January 14, 2021, deposition revealed that the Defendant was travelling along the Highway 471 route while on work related travel to the area. While traveling north then the Defendants' vehicle abruptly and sharply turned east and struck the Plaintiff's vehicle in the Ambiance Subdivision driveway on April 22, 2016. The Defendant's vehicle continued to accelerate and proceeded to forcefully push the Plaintiff's vehicle 16ft, as the Plaintiff applied brakes, into the Ambiance Subdivision driveway reorienting the Plaintiff's vehicle from facing eastbound to facing southbound.

The Plaintiff produced multiple photos of the crash scene, a copy of HER report, and the Defendants' the CMI Company Car Accident Report [Doc. 183], per MS Code § 63-3-411 (2016), in HER Response [Doc. 161] about the crash, to the Defendants' opposition. Both the Plaintiff's report and the Defendants' report indicate the Defendants' vehicle speeding through the construction work zone along Highway 471. However, the photos and crash reports, as material facts of evidence, included in [Doc. 161] were removed from the Plaintiff's filing with the District Court Clerk's mistake, for which the Plaintiff's requested relief from a judgment or order, per Rule 60.

B. District Court Judgment Analysis

The District Court's position leads into an analysis of the case prefacing the setting being at the intersection of Grants Ferry Road, Highway 471, and the entrance of Ambiance subdivision in Brandon, Mississippi, while citing the Plaintiff's claims of negligence and emotional distress. After mentioning a location near the subject crash and the Plaintiff's claim, the District Court's position moves to stating that the Plaintiff was at fault with no further details on how the court arrived at their conclusion being against the Plaintiff, all within 1½ pages with the remaining 5½ pages focused on Discovery to arrive at Summary Judgment for the Defendants.

The District Court's summary judgment discussion begins with a statement on facts "... here is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law ... under Rule 56" One basis for this determination is "A fact is 'material' if, under the applicable substantive law, its resolution could affect the outcome of the action."

Patel v. Tex. Tech Univ., 941 F.3d 743, 747 (5th Cir. 2019) (quoting *Sierra Club, Inc. v. Sandy Creek Energy Assocs., L.P.*, 627 F.3d 134, 138 (5th Cir. 2010)). “An issue is ‘genuine’ if ‘the evidence is such that a reasonable [factfinder] could return a verdict for the nonmoving party.’” The District Court’s analysis indicates that the Plaintiff cannot prove a negligence claim and continues to build upon Discovery issues before concluding with granting the Defendant’s Motion for Summary Judgment [Doc. 85] and dismissing with prejudice the Plaintiff’s Cross-Motion for Summary Judgment [Doc. 97].

C. Fifth Circuit Court Opinion

The United States Court of Appeals for the Fifth Circuit opinion began in similar fashion as the District Court, by first identifying the intersection of Grants Ferry Road, Highway 471, and the entrance of Ambiance subdivision in Brandon, Mississippi as a location near the location of the subject crash. Defendant Sappington indicated as an employee of Wal-Mart that struck the Plaintiff’s vehicle, with negligence and emotional distress indicated as the Plaintiff’s claim. The Fifth Circuit’s opinion cited in *de novo*, while also drawing inferences, as an element for *res ipsa loquitur*.

The Fifth Circuit, in contrary to the District Court position, does not firmly conclude that that there are no genuine issues as to any material fact by acknowledging the questionability of the existence of material facts. The Fifth Circuit opinion on summary judgment appropriateness indicates ““if” there is anything in the record that show there is no genuine issue as to any material fact”; which in this statement, questions the District Court’s finding that there are “no” material facts.

The Fifth Circuit opinion also mentions discovery issues before supporting the District Court's summary judgment for the Defendants.



REASONS FOR GRANTING THE PETITION

Plaintiff reasserts and re-alleges each fact and allegation here within this Writ of Mandamus. The subject collision was the sole proximate cause by Defendants' negligent acts which caused harmful or offensive contact with the Plaintiff. On April 22, 2016, Defendant Sappington violated the following statutes of the Mississippi Code Annotated: § 63-3-11, § 63-3-501, § 63-3-505, § 63-3-516, and § 63-3-1201 among others. Plaintiff further implicates the Defendants with violation of all applicable statutes of the State of Mississippi and the "Rules of the Road". Whereas the Defendants' duty of care owed to the Plaintiff is further stated in MS Code § 63-3-516 (2016) directly identifying the Defendants' offense as unreasonable and unacceptable, as the Mississippi statute is intended to protect roadway workers and users from harm to life, limb, or property, as the Plaintiff was a roadway user harmed by the Defendants' reckless act. Defendants owed a duty to Plaintiff to abide by the laws as outlined in the specific statutes listed herein. More specifically according to Mississippi statute § 63-3-516. "Speed limits within highway work zones; penalties for violations", the possibility of causing harm, because of the Defendants' reckless conduct, under the conditions of an active construction work zone, was clear to the ordinarily reasonable and prudent eye.

The Mississippi statute § 63-3-516 goes further to clarify that

... (1) It is unlawful for any person to operate a motor vehicle within a highway work zone at a speed in excess of the maximum speed limit specifically established for the zone whenever workers are present and whenever the zone is indicated by appropriately placed signs displaying the reduced maximum speed limit. . . .

The Fifth Circuit opinion states that the Plaintiff “... could not prove the essential elements . . .”. However, on the contrary, it was the errors of the district court clerk that concealed the material evidence produced by the Plaintiff in HER Response to Defendants’ motion [Doc. 161] entered on February 5, 2021, as the evidence was not properly maintained with the Plaintiff’s complete filing, thereby causing an alteration to the Plaintiff’s filing, and further intervening the Plaintiff’s right to a fair trial. The district court clerk’s mistakes, oversights, and omissions were never corrected as per Federal Rule of Civil Procedure, Rule 60(a) “Corrections Based on Clerical Mistakes; Oversights and Omissions.”

The very essence of condoning pervasive intrusion on protected interests, human rights, civil rights, and those entitlements waged for Constitutional contractual consideration within both the effective sections of the Articles of Confederation and the Constitution would be confirmed Constitution[al] breaches, which also has basis within the Magna Carta for all progenies. Any implementation of any process, rule, or other procedure contrary to foundational considerations bargained-for would constitute breaches severally proven and sub-

stantiated throughout societal performance outcomes with blatant depictions of oppressive disparities plagued throughout underserved and disadvantaged communities throughout document history, as evidence that Black Indigenous communities have repeatedly made good faith efforts in present day and throughout previous centuries to peaceful coexist. When it comes to a decision on property entitlement, in *Goldberg v. Kelly*, 397 U.S. 254 (1970), the Supreme Court of the United States' position confirmed a person's right to protected property interest in a benefit if he or she has a "legitimate expectation of receiving that benefit." Here, the Plaintiff is a descendant of the earliest original inhabitants, as acknowledged by the Magna Carta and the Articles of Confederation, in which the later formed Constitution reaffirmed the Magna Carta and Articles of Confederation requirements through all Constitution[al] protections.

The Plaintiff has raised multiple concerns with the public services involved in this case for notice to both the District Court and the Fifth Circuit. In the following Tennessee Supreme Court decision, the court acknowledged the detriment that public service actions may sometimes cause to the public entities for which legislative provisions are intended to protect from harms through fulfillment of duties, as prescribed in law. In the Court's decision on review of *Kennedy v. City of Spring City*, 780 S.W.2d 164 (Tenn. 1989) (Drowota, J., dissenting), and *Nevill v. City of Tullahoma*, *608 756 S.W.2d 226 (Tenn. 1988) (Drowota, J., dissenting), the court reached the conclusion consistent with their holdings in *Nevill* and *Kennedy* with interpreting the statute, Tenn. Code Ann. § 55-8-108(e) (1988), the court found acknowledged concern with too narrowly focusing

by limiting negligent police “conduct” to the physical operation of the officer’s own vehicle and by excluding all other conduct, including the police officer’s decision to initiate or continue the high-speed chase would not be consistent with the oath of service, in the best interest as preserving the sanctity of condoning social norms. The rule the court adopted was the public policy established by the legislature, as it comported with the clear language of the statute and was consistent with the better-reasoned rule adopted by a growing majority of the states. Accordingly, the Court of Appeals’ judgment was reversed, and the case remanded to the trial court. To the extent that the decisions in *Nevill* and *Kennedy* conflict with the Court’s ruling was overruled. The implementation of the rule of law relies on respect to the original intent, as included the thirteenth century provisions. *Contemporanea exposition est optima et fortissimo in lege.* The Plaintiff is of multiple spectrums included in the equity E.O. 13985 definition, that acknowledges systemic racism with persistent poverty and inequality, with the first descending from early Black Indigenous Tribal Civilizations, commonly referred to as Black. The E.O. 13985 affirms that advancing equity, civil rights, racial justice, and equal opportunity as the responsibility of the whole of the U.S. Government, as Constitutionally outlined.

I. INFRINGED CONSTITUTIONAL RIGHTS AND HUMAN RIGHTS: CITY OF BRANDON POLICE REPORT

The Plaintiff’s Constitutional rights were infringed throughout every level of the judicial process, for which must not ever be abridged nor denied to any protected individual. The Plaintiff repeatedly presented concerns that questioned the heart of issues that infringed upon the Plaintiff’s protected interests. As

liberty interests are not confined to being defined as physical in nature only. The extent of Constitutional interests must also acknowledge that metaphysical are too within the realm of the Plaintiff's protected liberty interests, as HER good name and reputation must not suffer irreputable harm due to volitional reckless failures; to preserve the Plaintiff's rightful opportunity to procedural due process.

As a matter of strict scrutiny for which unbiased implementation must be evident throughout governmental affairs for societal operational norms, it is absent within the case record that there has been clear consideration of due process concerns before publicly accusing the Plaintiff of something that is humiliating, stigmatizing, or damaging to the reputation. The Plaintiff expressed and requested throughout HER filings for the United States Federal District Court to protect the Plaintiff's opportunity for due process, which would include evaluation of all material evidence that the Plaintiff produced in support of HER valid claim against the Defendants. However, the Plaintiff's evidence was overtly suppressed and never even mentioned in any of the judicial orders, decisions, or opinions. The Defendants' Motion for Summary Judgment was granted without any presence of nor production of evidence to support THEIR position. The evidence that resides within the case records includes proof that the Defendants had the subjective desire or knowledge of the substantial certainty that volitional reckless operation of their vehicle could cause harmful or offensive contact with the person of another, inclusive of any object in extension of the person. Furthermore, in this case such volitional reckless operation of the Defendants' vehicle did, in fact,

result in harmful or offensive contact, as there was intentional infliction of harmful bodily contact upon the Plaintiff. As in *Ruth Garratt v. Brian Dailey, a Minor, by George S. Dailey, his Guardian ad Litem*, 279 P.2d 1091 (Wash. 1955), a five-year-old, Dailey, moved a chair from where Garratt was in the process of sitting but instead fell to the ground and breaking her hip. As a result of suffering a broken hip due to the incident, Plaintiff Ruth Garratt filed a suit against Garratt, alleging a tortious battery. The Plaintiff appealed to the State of Washington Supreme Court after her claim being dismissed by the trial court. The Washington Supreme Court held that it is within the extent of possibility for a five-year-old to be held liable for a tortious battery if they possess the required intent and remanded the lower court to follow established standards of substantial certainty. As a matter of lawful determination, the substantial certainty doctrine is the assumption of intent even if the Defendant did not intend the result.

The Plaintiff's production of multiple photos of the active construction work zone, with curves, lane shifts, barrels, and warning signs, through which Defendant Sappington was speeding, as the sole and proximate cause of the crash on or about April 22, 2016, which indeed produced harmful or offensive contact to the Plaintiff and resulting in the Plaintiff having bodily injury that subsequently resulted in intentional infliction of emotional distress. The Defendants' intentional infliction of emotional distress was due to their voluntary reckless disregard that severe emotional distress could be inflicted upon the Plaintiff, as adversely impacting the Plaintiff's engagement and interaction with HER family, as the Plaintiff is the only person

that exercises HER Tenth Amendment power, as SHE is the only individual with complete knowledge of HER physical, mental, and spiritual needs and capacity with knowledge of abilities and inabilities for HER liberating fulfillment of HER determined life fulfilling engagements and interactions, in which the Defendants reckless acts completely deprived the Plaintiff of the personal interactions that ended after the injury. On or about April 22, 2016, the Defendants' voluntary recklessness also resulted in their damaging trespass to personal property, as the Defendants' harmful interference with the Plaintiff's ritual routine to lift HER small children for embraces, as SHE and HER children looked forward to the lifted embrace, as the Plaintiff's ritual embrace with HER children. The Black's Law Dictionary definition of personal property includes all intangible things that are not classified as real property, as the Plaintiff's intangible property is also a component of HER Constitutionally protected Liberty, as *sui generis* in expression of HER right to protected liberty and intangible property. The Plaintiff's Tenth Amendment right for HER power, as enumeration with Amendment IX, is for HER to determine and express, as clarified through Article IV of the Articles of Confederation which point to Federalist Paper 41 for Constitutional comprehension, as must be adhered to in accordance with the Civil Rights Act. The Plaintiff repeatedly expressed and pleaded for the judicial system to respect HER rightful access to justly facilitated due process. The Plaintiff repeatedly expressed HER liberty as not only physical in nature but also metaphysically intangible and that all must be fully respected, as contributory to HER enjoyment of life. The Plaintiff further confirmed HER rightful demand of a fair and just process, as afforded through

Constitutional liberty further clarified in the Articles of Confederation per Federalist Paper 41. The Plaintiff is of Indigenous descent of original civilizations of this land, and as expressed in Article IV of the Articles of Confederation, “the free inhabitants of each of these States, . . . shall be entitled to all privileges and immunities of free citizens in the several States . . .”, where Article II expresses reference to powers not delegated to the United States, also stated in Tenth Amendment of the Constitution with full unaltered consideration and in absence of any breach.

Although, nearly sixty-seven years ago, in *Ruth Garratt v. Brian Dailey, a Minor, by George S. Dailey, his Guardian ad Litem*, 279 P.2d 1091 (Wash. 1955), common law recognized that such a careful regard must exist for judicial matters to not infringe upon a person’s right to be afforded an opportunity to a fair and just judicial process.

The Plaintiff in this case has only been positioned to suffer from (1) misconduct, (2) fraudulent misrepresentation, (3) unilateral fact-finding that includes only the Defendants’ statements with no material production of evidence to support the Defendants’ statements. Furthermore, the suppression of the Plaintiff’s statements with the Plaintiff’s production of material evidence to support every claim that the Plaintiff asserted in HER claim does not demonstrate consistency with Civil Rights Act 42 U.S.C. Chapter 21. In *Goodyear Tire & Rubber Co. v. Haeger*, 137 S.Ct. 1178 (2017), Goodyear’s first dishonest discovery response prompted action by the lower court, and later led to several opinions concerning discovery misconduct as well as misrepresentation in pleadings, motions, and other papers per Fed. R. Civ. P. 11. Here, in this case

the Plaintiff / Petitioner was the party fined, although the misconduct, misrepresentation, mistakes, oversights, and omissions were results of the defense counsel's and district court's actions.

The Plaintiff continues to seek respect for HER right to be afforded justice for the Defendants' volitional recklessness, that THEY have repeatedly admitted to THEIR guilt in this matter, as evidence in THEIR crash report [Doc. 184] and January 14, 2021, deposition. The Plaintiff has produced evidence that must not continue to be overlooked, as HER production of evidence was suppressed in both the district court and in the appellate court. It is not only damaging to the Plaintiff to be subjected to continual misconduct during judiciary proceedings but also damaging in terms of setting precedent for supporting misconduct in other judiciary proceedings, where common law is used to navigate matters of similar nature.

The disparities against the Plaintiff are further demonstrated in the Plaintiff's filings to the district court for HER Constitutional question, in accordance with the Federal Rules of Civil Procedure, Rule 5.1. Constitutional Challenge to a Statute. Although the Plaintiff's Constitution[al] question required the district court to serve a notice to the Attorney General of the United States, as required by 28 U.S.C. § 2403, the district court did not serve a notice to the Attorney General of the United States. Here, the Plaintiff was once again overlooked with disregard to HER rightful inheritance of Constitutional freedoms and access to just, unbiased, and unabridged Constitutional rights. The district court erred in overlooking the Plaintiff and continuing to proceed with judicial matters of strict scrutiny. *Causae dotis, vitae, libertatis, fisci sunt*

inter favorabilia in lege. The Plaintiff's life, property, and liberty protected interests were severely infringed upon by all direct and indirect parties to this case, which initiated as violation of HER human rights within the Human Rights Act because of the actions by the City of Brandon Police Department in their public duty public service. The Public Duty Doctrine establishes the general principle that a governmental agency owes public service duties to the public at large unless the actions of the governmental agency creates a special duty to the injured party, where any affirmative response to any of the following questions would also constitute the existence of such special duty:

1. Did government officials create the risk that caused the plaintiff's injuries?
2. Did government officials increase the risk of injury to the plaintiff?
3. Did government officials aggravate an existing injury of the plaintiff?
4. Did government officials have custody of or in some other way control the plaintiff?
5. Did government officials have a legal duty to this person by ordinance, custom, policy, contract, statute, or other law?

Here in this case, the Plaintiff was further injured as the police report aggravated the Plaintiff's injury and increased the risk of continued injury as there were opportunities to resolve the issues at the lower levels with proper performance of ministerial duties.

The incorrect information inserted into the City of Brandon Police Department report was modified, as prohibited by MS Code § 63-3-417 (2016), to conceal

the Defendants' speeding and volitional reckless operation of Their 2014 Toyota Camry through an active work zone, which required a duty of care for safe vehicle operations. Instead, the Defendants intentionally proceeded to speed without proper outlook through a roadway with active construction configuration, that required a duty for safe vehicle operations on or about April 22, 2016, for which the Defendants' volitional recklessness was the sole and proximate cause of the subject April 22, 2016, crash. *See* MS Code § 63-3-1201 (2016),

The Plaintiff again highlights the fact that the Defendant, Sappington, confirmed to contributing to developing the on-site City of Brandon Police Department Information Exchange Report, which is the Defendants' on-site admission to speeding along Hwy 471 at a speed greater than the posted speed limit, through an active construction work zone. *Commodum ex injuria sua non gabere debet*. During the January 14, 2021, deposition of Defendant, Sappington, confirmed the Defendants participation in developing the on-site report, as a copy of the on-site City of Brandon Police Department Information Exchange Report was produced as evidence by the Plaintiff. *Confessus in judicio pro judicato habetur et quodammodo sua sententia damnatur*.

January 14, 2021, Def. Sammy Sappington deposition: p. 76 line 12–p. 77 line 1:

Q. Is that what you're explaining? Okay. Okay. All right. So the officer—after you managed to get out of the vehicle—out of the dusty environment inside—were you still speaking to the officer outside of the vehicle?

A. Yes.

Q. Okay. And how long were you speaking with the officer outside of the vehicle?

A. As I recall, it was—I had to provide driver's license, insurance card, filled out the report. I signed a waiver with the ambulance company that I did not need to go to the hospital or seek any medical treatment at the time. Then they proceeded with moving the—I think by the time the wrecker got there they were proceeding with managing traffic and moving the vehicle off the road.

Q. So you filled out a report with the officer. The officer began managing the traffic. And did you say that you were also on the phone with your corporate?

A. I made a phone call that went to voicemail.

January 14, 2021 deposition: p. 78 line 20—p. 79 line 3:

Q. Was there any fluid from your vehicle at the impact that leaked from your vehicle?

A. I recall one leak. I did not examine it. I assume it was antifreeze, but there was one leak from the vehicle.

Q. Okay. There's one leak from the vehicle, and you have new tires, and you did not apply the brakes, and travelling northbound; is that correct?

A. That's correct.

The Plaintiff cites, *Cariglia v. Hertz Equip. Rental Corp.*, 363 F.3d 77, 82 (1st Cir. 2004), where it was

determined in the United States Court of Appeals for the First Circuit that there was no need to address whether, the Appellees animus further infected the decision-making process by manipulating information regarding four items mentioned in the subject security report. Just as "*Id.*" highlight manipulated information must not be regarded as acceptable for judiciary decision-making. There is significant societal harm in establishing common law that permits discretionary preference as official action for ministerial duties.

As found on appeal from the district court decision to the Supreme Court of Nevada in *Posas v. Horton*, 228 P.3d 457 (2010), the Supreme Court of Nevada fact finding and analysis included an issue with the jury instruction for the Sudden-Emergency Doctrine, as the court recognized the tendency for the instructions to mislead or confuse the jury, and that the error was prejudicial. Additionally, the evidence of Horton's testimony admitting to her failure to maintain a duty of care to adhere to the rules of the road was also found in the facts of the case records. The Defendant, Horton, testified, "yeah, obviously, I was following too close, I rear ended her . . . you know, I made a mistake." The Supreme Court of Nevada agreed that the misleading, confusing, and prejudicial jury instruction error substantially affected Posas's claim ". . . that the error substantially affected her rights, namely, Horton's own admission that she was following Posas too closely at the time of the accident." It was further clarified that the doctrine is applicable to the party facing the emergency, not a party who creates his or her own emergency.

The court reversed the judgment of the district court and remand for a new trial consistent with the court's opinion.

Similar to this case, Defendant, Sappington admitted to speeding along Hwy 471, while providing information to help develop the City of Brandon Police Department Information Exchange report and in THEIR CMI Company Car Accident Report [Doc. 183], as further confirmed during Defendant, Sappington's, January 14, 2021, deposition testimony. Furthermore, the leak that the Defendant, Sappington, confirmed during the noted deposition is shown the photos produced by the Plaintiff [Doc. 184]. The photos of the leak from the Defendants' vehicle shows the Defendants' vehicle facing east with the vehicle crossing into the Ambiance Subdivision driveway where the Defendants' vehicle left the Hwy 471 northbound lane, entered the Ambiance Subdivision driveway, and crashed into the Plaintiff's vehicle causing harmful or offensive contact with the Plaintiff through the extension of HER person.

II. HARMLESS ERROR: PLAINTIFF'S ADMISSIONS RESPONSES RAISED TO DISTRICT COURT:

The Plaintiff's Response [Doc. 95], recorded on August 24, 2020, presented the Plaintiff's production of Admissions to the Defendants during Discovery to the court. As demonstrated by the case record, the Defendants did not move regarding the sufficiency of the Plaintiff's answers in accordance with the Fed. R. Civ. P. 36 Requests for Admission. The Plaintiff specifically points to Rule 36, where the court would determine the sufficiency of the Plaintiff's answers to the Defendants' Requests for Admission. Furthermore, the fact-finding performed to support the district court's

final decision erred in overlooking the facts produced with the Plaintiff's August 24, 2020, Response [Doc. 95] satisfying the harmless error conflict with Plaintiff's Discovery production. The District Court's May 17, 2021 judgment and order refers back to a Discovery issue that was explained to the District Court as harmless error per Fed. R. Civ. P. Rule 61, where it states "... At every stage of the proceeding, the court must disregard all errors and defects ..." rendering the District Court's judgment and order based on a moot issue, per Rule 61. The Plaintiff's evidence, motions, and all other filings present a *prima facie* case basis for summary judgment to the Plaintiff.

As in *American Cyanamid v. Capuano*, 381 F.3d 6, 21 (1st Cir. 2004) a fact-finding discrepancy would not meet the elements for summary judgment, exemplifying a breakdown in proving adherence to procedures supporting factual positions. See Fed. R. of Civ. P. Rule 56(c) (1). Similarly, in *U.S. v. Gilbertson*, 435 F.3d 790 (2006), in the 7th Circuit, actions to knowingly alter the odometer mileage on vehicles with the intent to sell such vehicles is a direct violation of 49 U.S.C. §§ 32703(2) and 32709(b) and deemed a criminal act.

In accordance with the Mississippi Rules of Evidence, Rule 403, the act to revisit the matter on the Defendants' Request for Admissions resolved under Magistrate Judge Anderson on August 24, 2020, through the Plaintiff's Response [Doc. 95] would only be equivalent to provoking undue and unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence, should be excluded as irrelevant.

The Plaintiff presented multiple infractions that reach to the core of destabilizing foundational operations. As

foundational to the very essence of societal engagements, such infractions against societal balance should be met with reprimand for regressive and oppressive tendencies, as no group should ever be devalued to conformed acceptance of egregious norms that provide no hopes of prosperity with thriving existence. As demonstrated in this case, the Defendants' Discovery abuse was insert in ways that could allow a party, pronged to engaging in abusive misconduct and any other behavior, a sense of permissive undermining that may have the tendency to circumvent the judicial process. The type of Discovery abuse that the Plaintiff experienced in this case is something that has been repeatedly warned against along with there being recognition of the need to diligently enforce judicial controls and supervision to help prevent and discourage Discovery abuse activity that only wastes valuable time and resources. As in *ACF Industries, Inc. v. EEOC*, 439 U.S. 1081 (1979), there was a willful failure to answer interrogatories which prompted the heightened need to address such behavior. The complaint alleged broadly that petitioner had discriminated based on race in its hiring, promotion, apprenticeship, and other practices, and on the basis of sex with respect to its maternity-leave and disability benefits, as lack of Discovery production would severely hinder efforts with ensuring equity and nondiscriminatory practices.

In this case, *Poon-Atkins v. Sappington & Wal-Mart*, the Plaintiff's opportunity was complicated with the Defendants' lack of production to the Plaintiff, the Defendants' misrepresentation of the Plaintiff to Justice Wingate. The Defs['] misrepresentation of the Plaintiff's production to the Defendants' as proof was

entered in the record on February 24, 2022 [Doc. 168], for which the Plaintiff was ordered to pay the Defendants. The Defendants actions to force the Plaintiff to sign a blank medical records request provided THEM access to the Plaintiff's childhood medical records. Additionally, corruption of the Plaintiff's case files after the Plaintiff used an electronic link provided by the Defendants, record omissions, and continuously requesting the same records that the Defendants were already in possession of but continued requesting and kept the Plaintiff in a roundabout cycle of responding to the Defendants with very little opportunity to develop HER own briefs for trial. The Plaintiff's February 24, 2022 filing [Doc. 168] and the Defendants' filing an Agreed Order of Dismissal with Prejudice as to Plaintiff's Lost Wages Claim, were with reckless disregard as to its truth, for which the court relied on the veracity of the *ORDER* and status of production by the Plaintiff. Here, both the lost wages claim and Discovery production actions were materially important to outcome(s), which were ultimately granted in the Defendants' favor by the district court. In this case, the ease of Discovery abuse was extensively demonstrated in exceedance of such Discovery abuse conduct highlighted in *ACF Industries, Inc. v. EEOC*, 439 U.S. 1081 (1979), by the Defs.[] misrepresentation of the *ORDER* to the court, for which the court justifiably relied on the Defendants' statements. However, the *ORDER* was manipulated and presented to the court for decision-making in the Defs.[] favor. This case shows a significant increase in Discovery misconduct since the *ACF Industries, Inc.*, 439 U.S. case, instead of successful controls to minimize and prevent Discovery abuse and misconduct, as widespread Discovery abuse and misconduct was feared.

CONCLUSION

It is the unique creative capacities upon which the full extent of the population relies on the highest consideration of all legal doctrines. Additionally, the Court is trusted to direct and guide the lower courts with the best interpretations through which social norms are formulated in the best interest of the people in equity, wherein Articles I and III, as citizens serve to support through Amendment XV. In the midst of the current social, environmental, ecological, human, and economical destabilization, the continued disparities against Black Indigenous people must not continue to be a factor in missed improvement opportunities.

Quoting Chief Justice John Marshall on opinion in *Marbury v. Madison*, 5 U.S. 1 Cranch 137, 137 (1803)

... The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. [The] government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right. . . .

For the reasons stated above, the Plaintiff's Petition for a Writ of Mandamus must be granted.

Respectfully submitted,

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