

Supreme Court, U.S.
FILED
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NO.

IN THE
SUPREME COURT OF THE UNITED STATES

DAWUD C.S. GABRIEL,
Petitioner,
v.
WINDY HILL FOLIAGE INC.,
Respondent.

To the Attention
of
The Honorable Associate Justice
Clarence Thomas

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

Petitioner's Application for Relief-
Second (2nd) Motion for an Extension
To File
Petition for Writ of Certiorari

Dawud C.S. Gabriel
Non-Attorney, Pro Se Petitioner
1307 Thurston Avenue
Sebring, FL 33870
(863) 464-1704

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**PETITIONER'S APPLICATION FOR RELIEF-
MOTION FOR AN EXTENSION TO FILE PETITION FOR WRIT OF CERTIORARI**

I. INTRODUCTION

October 3, 2022

Pursuant to 28 U.S.C. § 2101(c), S.Ct.R.13.5, & S.Ct.R.30.2, Petitioner **DAWUD C.S. GABRIEL** ("Gabriel") motions the Court for a second (2nd) extension to file a petition for Writ of Certiorari, to request the US Supreme Court to review the June 24, 2022, Judgment of the Eleventh (11th) Cir. Court of Appeals [Ex. A]. Gabriel request the Court to extend the time until November 21, 2022, primarily for reason that Gabriel is a victim of Hurricane Ian. Gabriel's hometown of Sebring, Florida, took a direct hit from Hurricane Ian, causing him to lose power for three (3) days and loss of access to essential services. For such good cause reason, the Court should grant Gabriel's request for relief and extend the time to November 21, 2022, to file a petition for Writ of Certiorari.

II. RELEVANT PROCEDURAL HISTORY

1. On July 6, 2020, Gabriel timely filed a Charge of Discrimination ("Charge") against the Respondent **WINDY HILL FOLIAGE INC.** ("Windy Hill") with the Government's Equal Employment Opportunity Commission ("EEOC") (EEOC Case No. 510-2020-04516) for violations of 42 U.S.C. § 12112(a), pursuant to 42 U.S.C. §§ 12117 & 2000e-5(e)¹. See District Court's ("D.C.") DE 01, Pg. 194-196.
2. On January 29, 2021, the EEOC issued Gabriel a Right-to-Sue letter, to file civil action in US district court for the allegations therein the Charge, in the case of Gabriel v. Windy Hill Foliage Inc., EEOC Case No. 510-2020-04516. 42 U.S.C. § 2000e-5(f)(1)². See D.C. DE 01, Pg. 198.
3. On April 21, 2021, Gabriel timely filed civil action (Case no. 2:21-CV-14177) against Windy Hill in US District Court for the Southern District of Florida³ ("US District Court-F.L.S.D."), for the allegations therein the Charge related to the case of Gabriel v. Windy Hill Foliage Inc., EEOC Case No. 510-2020-04516. 42 U.S.C. § 2000e-5(f)(1)⁴. See D.C. DE 01, Pg. 1-198.
4. On April 21, 2021, the Honorable US District Judge Aileen Cannon ("Judge Cannon") was assigned to preside over this matter. See D.C. DE 02.

¹ Basis for District Court's jurisdiction.

² Basis for District Court's jurisdiction.

³ US District Court-F.L.S.D. had subject-matter jurisdiction to hear Gabriel's claims because all of the allegations therein the Charge (whether substantially or fully) occurred within the State of Florida. 28 U.S.C. § 1391(b)(2) & 42 U.S.C. § 2000e-5(f)(3).

⁴ Basis for District Court's jurisdiction.

5. On June 7, 2021, Gabriel filed the Amended Complaint (printed on over **2,900 pages**), which consisted of **820 claims**, valued at \$82 million⁵. See D.C. DE 17, 17-1 through 17-11.
6. On July 8, 2021, service of the summons [D.C. DE 13] and the Amended Complaint was processed on Windy Hill. See D.C. DE 18.
7. On July 29, 2021, Gabriel filed a Fed.R.Civ.P.15(a)(1)(A) motion to amend the Amended Complaint [D.C. DE 17, 17-1 through 17-11] and a proposed Second (2nd) Amended Complaint⁶ (printed on over **3,000 pages**), that consisted of **820 claims**, valued at \$82 million⁷. See D.C. DE 24.
8. On July 29, 2021, Windy Hill filed a Fed.R.Civ.P.12(b)(2), (5), (6), & (f)(2) Motion to Dismiss⁸ the Amended Complaint. See D.C. DE 22.
9. On August 6, 2021, District Court⁹ improperly sua sponte **DISMISSED**¹⁰ the Amended Complaint [D.C. DE 17, 17-1 through 17-11] and deemed the Amended Complaint [D.C. DE 17, 17-1 through 17-11], as well the proposed Second (2nd) Amended Complaint¹¹, frivolous and shotgun pleadings. See D.C. DE 25.
10. On August 23, 2021, Gabriel filed a Notice of Appeal, asserting that his First (1st), Fifth (5th), and Fourteenth (14th) Amendments' rights were violated. See D.C. DE 29.
11. On August 27, 2021, Gabriel was issued Case No. 21-12901-J for his appeal in the Eleventh (11th) Cir. Court of Appeals. See D.C. DE 32.
12. On October 18, 2021, Gabriel filed an Opening Brief¹².
13. On December 7, 2021, Windy Hill filed a Response Brief¹³.

⁵ During the administrative proceedings in the EEOC, Windy Hill alleged to employ an average of 175 people. Because of such, the Congressional cap for damages under 42 U.S.C. § 1981a(b)(3)(B) is \$100,000 per claim. See D.C. DE 17-11, Pg. 217.

⁶ Such pleading was never filed by the Clerk of District Court.

⁷ During the administrative proceedings in the EEOC, Windy Hill alleged to employ an average of 175 people. Because of such, the Congressional cap for damages under 42 U.S.C. § 1981a(b)(3)(B) is \$100,000 per claim. See D.C. DE 17-11, Pg. 217.

⁸ On July 29, 2021, Windy Hill waived District Court's personal jurisdiction, falsely alleging insufficient service. See DE 22, Pgs. 8-10.

⁹ Judge Cannon has extrajudicial ties to Windy Hill's attorney, Mendy Halberstam ("Halberstam"). While Halberstam was in law school, the Honorable US Chief District Judge Cecelia Altonaga (Judge Cannon's current superior) and the Honorable US District Judge K. Michael Moore (Judge Cannon's former superior) awarded Halberstam the First (1st) Runner up Best Orator Award. Also, Judge Cannon worked as an Assistant US Attorney - F.L.S.D., serving from 2013 – 2020. See 11th Cir. Opening Brief at Pgs. 40-41, filed on October 18, 2021.

¹⁰ At the time District Court dismissed the Amended Complaint [D.C. DE 17, 17-1 through 17-11] was within the time (fourteen (14) day deadline of August 12, 2021, set by S.D.Fla.L.R.7.1(c)(1)) for Gabriel to provide a Response to Windy Hill's July 29, 2021, Fed.R.Civ.P.12(b)(2), (5), (6), & (f)(2) Motion to Dismiss [D.C. DE 22].

¹¹ Judge Cannon never reviewed this pleading. Judge Cannon's chambers is located in Fort Pierce, Florida. Gabriel sent his July 29, 2021, Fed.R.Civ.P.15(a)(1)(A) motion [D.C. DE 24] along with the proposed pleading to F.L.S.D. Fort Lauderdale, Florida location (approximately one hundred (100) miles distance between both locations). Such pleading was noted to be received, yet the Clerk of District Court never filed the pleading for Judge Cannon to make such false assessment. See D.C. DE 24.

¹² Appellate Clerk did not assign this filing a docket number.

¹³ Appellate Clerk did not assign this filing a docket number.

14. On January 4, 2022, Gabriel filed a Motion for Leave-Excess Words/Pages and a proposed Reply Brief. See 11th Cir. DE 9566515-1.
15. On June 24, 2022, the Eleventh (11th) Cir. Court of Appeals¹⁴ entered a non-published Judgment, **AFFIRMING**¹⁵ District Court’s dismissal of Gabriel’s Amended Complaint [D.C. DE 17, 17-1 through 17-11]. See Ex. A.
16. On July 27, 2022, the Court extended the time until October 24, 2022, for Gabriel to file his § 1254(1) Petition. See Ex. B. Pgs. 1-2.
17. Gabriel now motions the Court for a second (2nd) extension until November 21, 2022, to file a petition for writ of Certiorari.

III. LEGAL STANDARD

A. 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).

B. S.Ct.R.13.5

“For good cause, a Justice may extend the time to file a petition for a writ of certiorari for a period not exceeding 60 days. An application to extend the time to file shall set out the basis for jurisdiction in this Court, identify the judgment sought to be reviewed, include a copy of the opinion and any order respecting rehearing, and set out specific reasons why an extension of time is justified. The application must be filed with the Clerk at least 10 days before the date the petition is due, **except in extraordinary circumstances.**” S.Ct.R.13.5.

C. Good Cause Standard

“[W]here specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is . . . entitled to relief, it is the duty of the court to provide the necessary facilities and procedures for an adequate inquiry. Bracy v. Gramley, 520 US 899, 908-909, 117 S. Ct. 1793, 138 L. Ed. 2d 97 (1997); Harris v. Nelson, 394 US 286, 300, 89 S. Ct. 1082, 22 L. Ed. 2d 281 (1969).

IV. REASON FOR GRANTING SECOND (2ND) EXTENSION REQUEST

A. Hurricane Ian

Gabriel’s hometown of Sebring, Florida, took a direct hit from Hurricane Ian, causing him to lose power for three (3) days and loss to access of essential services. Bracy v. Gramley, 520 US 899, 908-909, 117 S. Ct. 1793, 138 L. Ed. 2d

¹⁴ The Honorable US Circuit Judge Barbara Lagoa (“Madam Judge Lagoa”) was on the panel that entered Judgment on June 24, 2022. Madam Judge Lagoa has extrajudicial ties to Halberstam. While Halberstam was in law school, Madam Judge Lagoa awarded Halberstam the First (1st) Runner up Best Orator Award. Also, Madam Judge Lagoa worked in the US Attorney Office – F.L.S.D., prior to Judge Cannon being employed at the same location. In the proposed Reply Brief (filed with the January 4, 2022 Motion for Leave – Excess Words/Pages), Gabriel requested Madam Judge Lagoa’s recusal. See 11th Cir. DE 9566515-1.

¹⁵ The Court has jurisdiction to grant certiorari and to approve this motion, under 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). Petitioner timely files this motion within the time constraints to file a petition for writ of Certiorari, set by 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).

97 (1997); Harris v. Nelson, 394 US 286, 300, 89 S. Ct. 1082, 22 L. Ed. 2d 281 (1969). See Ex. C, Pg. 1, Ex. D, Pgs. 1-2, Ex. E, Pgs. 1-3, and Ex.. F., Pgs. 1-2

**B. Gabriel v. Melton Truck Lines,
Case no. 22-5070 (10th Cir.2022)**

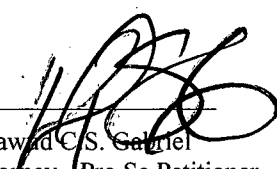
Gabriel is an appellant in the matter of Gabriel v. Melton Truck Lines, Inc., Case 22-5070 (10th Cir.2022). See Ex. G, Pgs. 1-5. Gabriel is contending that the US District Court - Northern District of Court, on August 16, 2022, illegally dismissed the matter¹⁶. Bracy v. Gramley, 520 US 899, 908-909 (1997); Harris v. Nelson, 394 US 286, 300 (1969). Simultaneous to filing this extension as well as another extension request to filing a § 1254(1) Petition for the case of Gabriel v. Trans Am Trucking Co., Case no. 22-3102 (10th Cir. 2022) (with the Honorable Associate Justice Neil M. Gorsuch), Gabriel is motioning for an illegal order¹⁷ [EX. H] entered on September 30, 2022, to be vacated and motioning for sanctions against Melton Truck Lines Inc., in the case Gabriel v. Melton Truck Lines, Inc., Case 22-5070 (10th Cir.2022)¹⁸.

V. CONCLUSION

For the foregoing reasons, the Court should grant Gabriel's request for relief, by extending the time until November 21, 2022, to file a petition of Writ of Certiorari, requesting the Court review the June 24, 2022, Judgment of the Eleventh (11th) Cir. Court of Appeals.

October 3, 2022

Respectfully,


Dawid C.S. Gabriel
Non-Attorney - Pro Se Petitioner
1307 Thurston Avenue
Sebring, FL 33870
(863) 464-1709

¹⁶ The matter of Gabriel v. Melton Truck Lines, Inc., Case no. 4:21-cv-00493 (ND/OK 2021).

¹⁷ On September 30, 2022, the Tenth Cir. C.O.A. knowingly ordered that Gabriel not receive service of such order, along with other illegal judiciary acts.

¹⁸ Because of partiality issues in violation with 22 U.S.C. 455(a), Gabriel may very well be requesting the Court to review the actions, judgment, and orders of the Tenth Cir. Court of Appeals in the matter of Gabriel v. Melton Truck Lines, Inc., Case 22-5070 (10th Cir.2022) at a future time.

EXHIBIT A

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 21-12901

Non-Argument Calendar

DAWUD CANAAN STURRUP GABRIEL,

Plaintiff-Appellant,

versus

WINDY HILL FOLIAGE INCORPORATED,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 2:21-cv-14177-AMC

Before WILSON, LAGOA, and ANDERSON, Circuit Judges.

PER CURIAM:

Dawud Canaan Sturrup Gabriel, *pro se*, appeals the district court (1) striking without prejudice of his amended complaint as an impermissible shotgun pleading, (2) denying without prejudice his proposed second amended complaint because it too was a shotgun pleading, and (3) denying his motion to set aside those rulings as void. He contends that the district court abused its discretion in making those rulings. He also contends, for the first time on appeal, that the district court judge erred by not *sua sponte* recusing herself. After careful review, we find no error and affirm.

I.

Forfeiture occurs automatically whenever a party fails to timely assert their rights. *United States v. Campbell*, 26 F.4th 860, 874 (11th Cir. 2022) (en banc). But courts do have the ability to “resurrect” forfeited issues *sua sponte* in “extraordinary circumstances.” *Id.* at 872 (quoting *Wood v. Milyard*, 566 U.S. 463, 471 n.5 (2012)). We have identified five situations in which we may exercise our discretion to consider a forfeited issue:

(1) the issue involves a pure question of law and refusal to consider it would result in a miscarriage of justice; (2) the party lacked an opportunity to raise the issue at the district court level; (3) the interest of substantial justice is at stake; (4) the proper resolution is beyond any doubt; or (5) the issue presents significant

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questions of general impact or of great public concern.

Id. at 873. Additionally, *pro se* pleadings and other filings are liberally construed. See *Gomez-Diaz v. United States*, 433 F.3d 788, 791 (11th Cir. 2005).

A district judge must disqualify herself from any proceeding in which her impartiality might reasonably be questioned. 28 U.S.C. § 455(a). “Section 455(a) requires recusal when the objective circumstances create an appearance of partiality.” *United States v. Cerceda*, 188 F.3d 1291, 1293 (11th Cir. 1999). But a charge of partiality must be supported by some factual basis. *Id.* “Recusal cannot be based on ‘unsupported, irrational or highly tenuous speculation.’” *Id.* (quoting *In re United States*, 666 F.2d 690, 694 (1st Cir. 1981)). Furthermore, under 28 U.S.C. § 144,

[w]henever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

Here, although Gabriel has forfeited the recusal issue by failing to raise it below, we exercise our discretion to consider the forfeited issue because the proper resolution is beyond any doubt: the district judge did not err by not recusing herself *sua sponte*. Gabriel’s claims to the contrary are based on unsupported

speculation. And § 144 does not apply because Gabriel did not file an affidavit with the district court stating that he believed the district judge harbored personal bias or prejudice against him. Accordingly, we affirm on this issue.

II.

We review orders dismissing complaints based on non-compliance with federal rules for an abuse of discretion. *Goforth v. Owens*, 766 F.2d 1533, 1535 (11th Cir. 1985). We review *de novo* a district court's ruling on a Federal Rule of Civil Procedure 60(b)(4) motion to set aside a judgment as void. *Burke v. Smith*, 252 F.3d 1260, 1263 (11th Cir. 2001).

To state a claim for relief, a pleading must include “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). “A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances.” Fed. R. Civ. P. 10(b). “If doing so would promote clarity, each claim founded on a separate transaction or occurrence . . . must be stated in a separate count.” *Id.* *Pro se* litigants are “subject to the relevant law and rules of court, including the Federal Rules of Civil Procedure.” *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989).

Complaints that violate either Rule 8(a)(2) or Rule 10(b), or both, are often referred to as “shotgun pleadings.” *Weiland v. Palm Beach Cnty. Sheriff's Off.*, 792 F.3d 1313, 1320 (11th Cir. 2015). We have identified four rough types of shotgun pleadings:

(1) complaints “containing multiple counts where each count adopts the allegations of all preceding counts, causing each successive count to carry all that came before and the last count to be a combination of the entire complaint”; (2) complaints containing “conclusory, vague, and immaterial facts not obviously connected to any particular cause of action”; (3) complaints that do “not separat[e] into a different count each cause of action or claim for relief”; and (4) complaints that “assert[] multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions, or which of the defendants the claim is brought against.” *Id.* at 1322–23. Shotgun pleadings violate Rule 8(a)(2)’s “short and plain statement” requirement by “fail[ing] . . . to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests.” *Vibe Micro, Inc. v. Shabanets*, 878 F.3d 1291, 1294–95 (11th Cir. 2018) (alteration in original) (quoting *Weiland*, 792 F.3d at 1323). Shotgun pleadings “waste scarce judicial resources, ‘inexorably broaden[] the scope of discovery,’ ‘wreak havoc on appellate court dockets,’ and ‘undermine[] the public’s respect for the courts.’” *Id.* (alterations in original) (quoting *Davis v. Coca-Cola Bottling Co. Consol.*, 516 F.3d 955, 979–80 & n.54 (11th Cir. 2008)).

While district courts may *sua sponte* dismiss a complaint on shotgun pleading grounds, we require them to allow a litigant one chance to remedy such deficiencies. *Id.* For example, in *Shabanets*, the plaintiff filed a “mostly incoherent complaint” with “duplicative,” “inconsistent,” and “wholly conclusory” allegations in

paragraphs spanning multiple pages. *Id.* at 1294. The district court gave the plaintiff an opportunity to replead and remedy his shotgun pleading issues, “and provided him with a veritable instruction manual on how to do so.” *Id.* at 1293–95. We endorsed this approach, stating that, “[i]n these cases, even if the parties do not request it, the district court ‘should strike the complaint and instruct counsel to replead the case.’” *Id.* at 1295 (quoting *Byrne v. Nezhat*, 261 F.3d 1075, 1133 n.113 (11th Cir. 2001)).

Under Rule 60(b)(4), “[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding [if] . . . the judgment is void.” Generally, a judgment is void under this rule if the court that rendered it lacked jurisdiction, acted in a manner inconsistent with due process of law, or was powerless to enter it. *Burke*, 252 F.3d at 1263.

Here, the district court did not abuse its discretion in dismissing Gabriel’s amended complaint as a shotgun pleading. First, the court properly concluded that the nearly 3,000-page amended complaint was a shotgun pleading. Second, the court followed our directive by giving Gabriel one chance to amend, along with a veritable instruction manual on how to do so. Finally, Gabriel has failed to explain why it was “impossible” for him to comply with the 25-page limit imposed by the court on his second amended complaint. As to his proposed second amended complaint, the minor alterations he claimed to have made make it no less of a shotgun pleading than his first amended complaint.

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Additionally, the district court properly denied Gabriel's motion to set aside as void its order striking his shotgun pleading. Because, as explained above, the court properly complied with our precedent regarding shotgun pleadings and amendment, the order was not void. Accordingly, we affirm on this issue as well.

AFFIRMED.

EXHIBIT B

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

Scott S. Harris
Clerk of the Court
(202) 479-3011

July 27, 2022

Mr. Dawud C. S. Gabriel
1307 Thurston Avenue
Sebring, FL 33870

Re: Dawud Canaan Sturup Gabriel
v. Windy Hill Foliage Incorporated
Application No. 22A72

Dear Mr. Gabriel:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Thomas, who on July 27, 2022, extended the time to and including October 24, 2022.

This letter has been sent to those designated on the attached notification list.

Sincerely,

Scott S. Harris, Clerk

by 

Jacob A. Levitan
Case Analyst

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

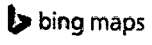
Scott S. Harris
Clerk of the Court
(202) 479-3011

NOTIFICATION LIST

Mr. Dawud C. S. Gabriel
1307 Thurston Avenue
Sebring, FL 33870

Clerk
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, GA 30303

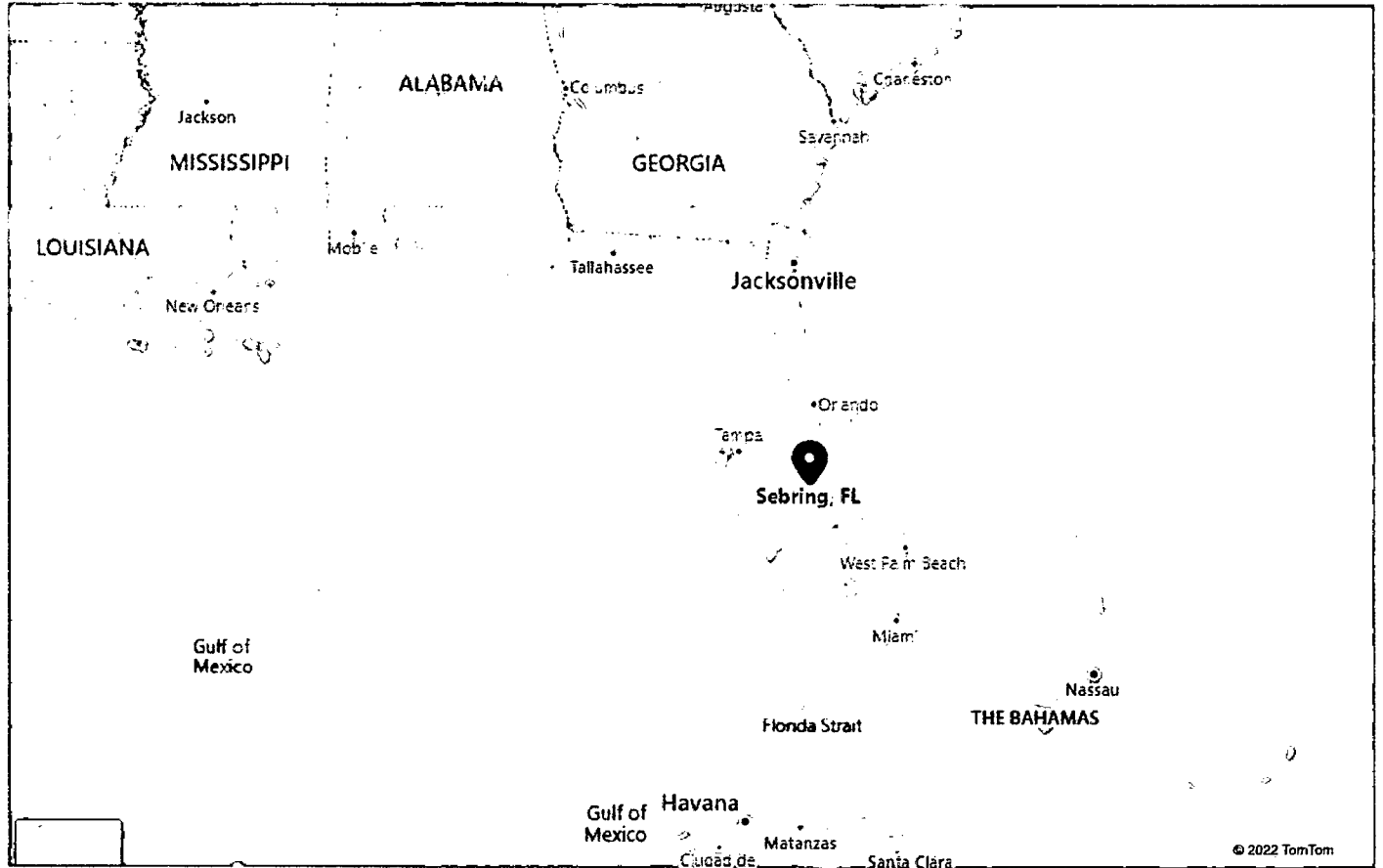
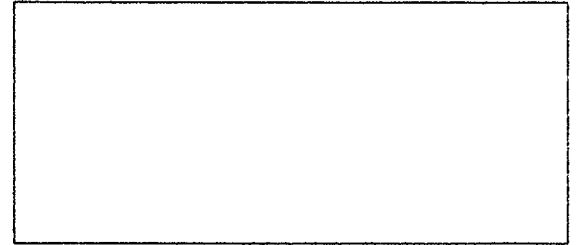
EXHIBIT C



Sebring, FL

Population: 10,729 (2020)

Area: 11.01 sq miles



Data from: Wikipedia · Freebase

EXHIBIT D



NATIONAL HURRICANE CENTER and CENTRAL PACIFIC HURRICANE CENTER

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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Key Messages



Mensajes Claves



Storm Surge Inundation



Storm Surge Watch/Warning



Peak Surge



U.S. Rainfall Potential



Flash Flooding Potential



U.S. Tornado Potential



Key Messages for Hurricane Ian Advisory 26: 11:00 PM EDT Wed Sep 28, 2022

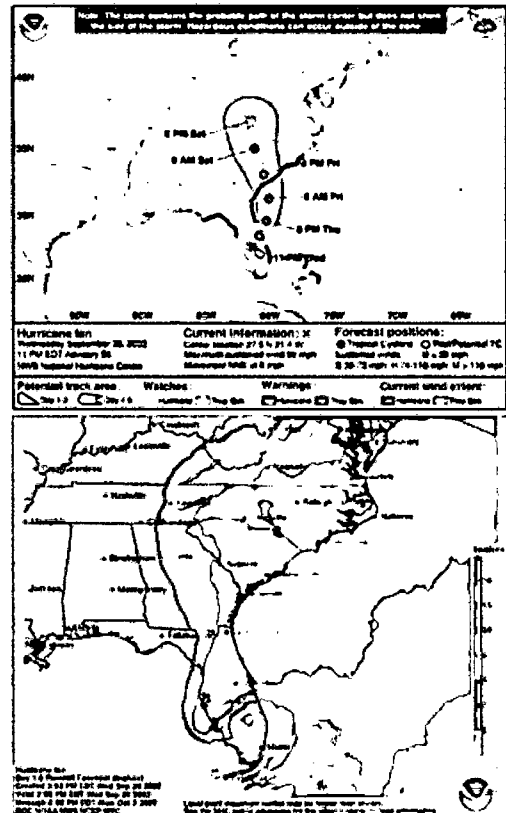


1. Severe and life-threatening storm surge inundation of 8 to 10 feet above ground level along with destructive waves is ongoing along the southwest Florida coastline from Englewood to Bonita Beach, including Charlotte Harbor.

2. Hurricane-force winds, especially in gusts, will continue to spread across central Florida near the core of Ian through early Thursday. Hurricane conditions are expected along the east-central Florida coast overnight through early Thursday.

3. Widespread, life-threatening catastrophic flooding, with major to record river flooding, will continue across portions of central Florida tonight with considerable flooding in northern Florida, southeastern Georgia and eastern South Carolina expected tomorrow through the end of the week.

4. There is a danger of life-threatening storm surge on Thursday and Friday along the coasts of northeast Florida, Georgia, and South Carolina, with hurricane conditions possible. Residents in these areas should follow any advice given by local officials.



For more information go to hurricanes.gov

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NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION



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HURRICANE IAN

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U.S. Watch/Warning Local Products



Wind Speed Probabilities



Arrival Time of Winds



Wind History



Warnings/Cone Interactive Map



Warnings/Cone Static Images



Warnings and Surface Wind



Key Messages



Mensajes Claves



Storm Surge Inundation



Storm Surge Watch/Warning



Peak Surge



U.S. Rainfall Potential



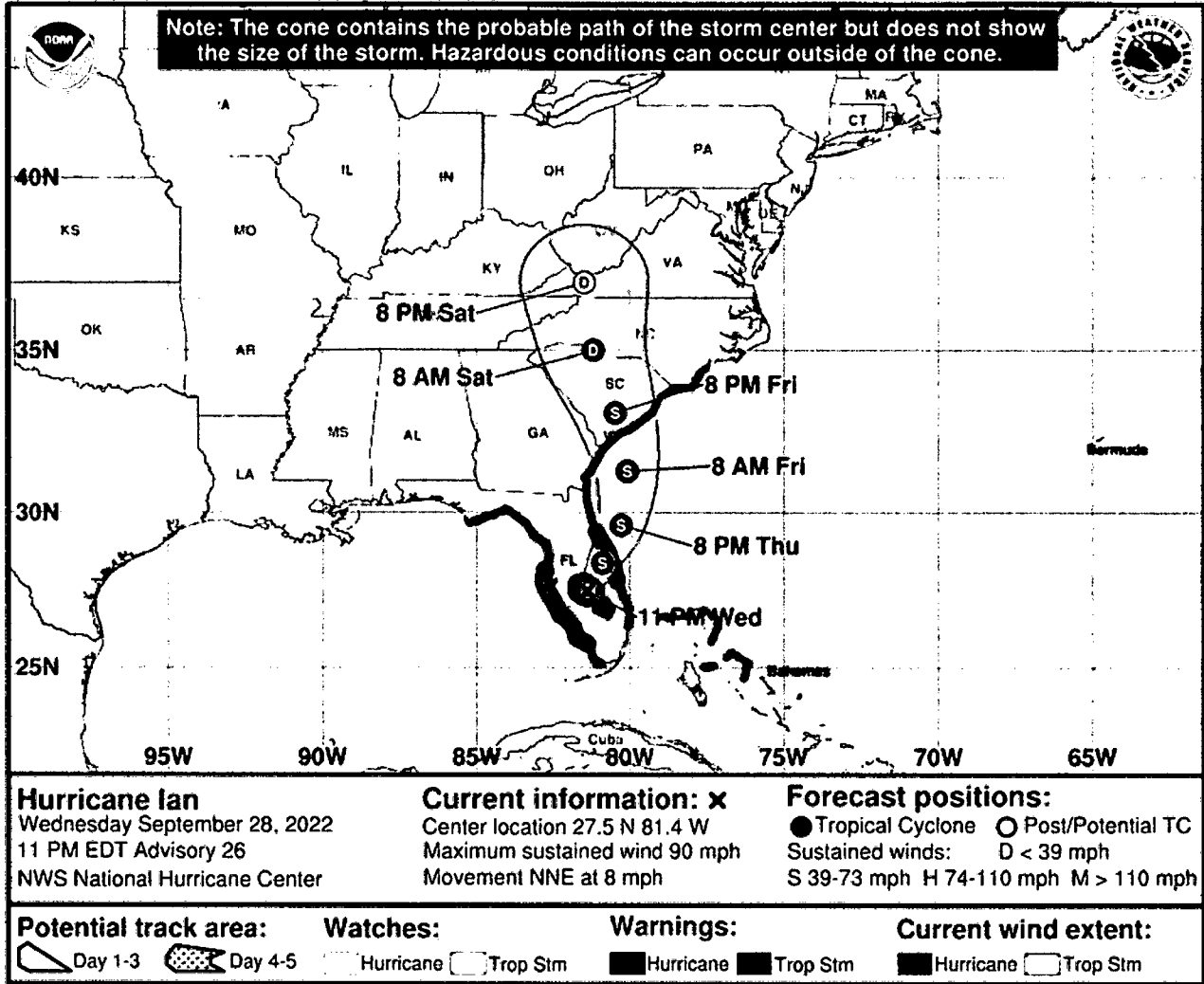
Flash Flooding Potential



U.S. Tornado Potential

Coastal Watches/Warnings and Forecast Cone for Storm Center

Forecast Length*	Forecast Track Line	Initial Wind Field
Full Forecast	On	On
3 days	Off	Off



* If the storm is forecast to dissipate within 3 days, the "Full Forecast" and "3 day" graphic will be identical

[Click Here for a 5-day Cone Printer Friendly Graphic](#)

How to use the cone graphic (video):



About this product:

This graphic shows an approximate representation of coastal areas under a hurricane warning (red), hurricane watch (pink), tropical storm warning (blue) and tropical storm watch (yellow). The orange circle indicates the current position of the center of the tropical cyclone. The black line, when selected, and dots show the National Hurricane Center (NHC) forecast track of the center at the times indicated. The dot indicating the forecast center location will be black if the cyclone is forecast to be tropical and will be white with a black outline if the cyclone is forecast to be extratropical. If only an L is displayed, then the system is forecast to be a remnant low. The letter inside the dot indicates the NHC's forecast intensity for that time:

- D: Tropical Depression – wind speed less than 39 MPH
- S: Tropical Storm – wind speed between 39 MPH and 73 MPH
- H: Hurricane – wind speed between 74 MPH and 110 MPH
- M: Major Hurricane – wind speed greater than 110 MPH

NHC tropical cyclone forecast tracks can be in error. This forecast uncertainty is conveyed by the track forecast "cone", the solid white and stippled white areas in the graphic. The solid white area depicts the track forecast uncertainty for days 1-3 of the forecast, while the stippled area depicts the uncertainty on days 4-5. Historical data indicate that the entire 5-day path of the center of the tropical cyclone will remain within the cone about 60-70% of the time. To form the cone, a set of imaginary data are placed along the forecast track at the 12, 24, 36, 48, 72, 96, and 120 h positions, where the size of each circle is set so that it encloses 67% of the previous five years official forecast errors. The cone is then formed by smoothly connecting the area swept out by the set of circles.

It is also important to realize that a tropical cyclone is not a point. Their effects can span many hundreds of miles from the center. The area experiencing hurricane force (one-minute average wind speeds of at least 74 mph) and tropical storm force (one-minute average wind speeds of 39-73 mph) winds can extend well beyond the white areas shown enclosing the most likely track area of the center. The distribution of hurricane and tropical storm force winds in this tropical cyclone can be seen in the Wind History graphic linked above.

Considering the combined forecast uncertainties in track, intensity, and size, the chances that any particular location will experience winds of 34 kt (tropical storm force), 50 kt, or 64 kt (hurricane force) from this tropical cyclone are presented in tabular form for selected locations and forecast positions. This information is also presented in graphical form for the 34 kt, 50 kt, and 64 kt thresholds.

Note: A detailed definition of the NHC track forecast cone is also available.

Quick Links and Additional Resources

TROPICAL CYCLONE FORECASTS

Tropical Cyclone Advisories
Tropical Weather Outlook
Audio/Podcasts
About Advisories

MARINE FORECASTS

Offshore Waters Forecasts
Gridded Forecasts
Graphicast
About Marine

SOCIAL MEDIA

 NHC on Facebook
 Twitter
 YouTube
 NHC Blog:
"Inside the Eye"

HURRICANE PREPAREDNESS

Preparedness Guide
Hurricane Hazards
Watches and Warnings
Marine Safety
Ready.gov Hurricanes | en Español
Weather-Ready Nation
Emergency Management Offices

RESEARCH AND DEVELOPMENT

NOAA Hurricane Research Division
Joint Hurricane Testbed
Hurricane Forecast Improvement Program

OTHER RESOURCES

Q & A with NHC
NHC/AOML Library Branch
NOAA: Hurricane FAQs
National Hurricane Operations Plan
WX4NHC Amateur Radio

NWS FORECAST OFFICES

Weather Prediction Center
Storm Prediction Center
Ocean Prediction Center
Local Forecast Offices

WORLDWIDE TROPICAL CYCLONE CENTERS

Canadian Hurricane Centre
Joint Typhoon Warning Center
Other Tropical Cyclone Centers
WMO Severe Weather Info Centre



US Dept of Commerce
National Oceanic and Atmospheric
Administration
National Hurricane Center
11691 SW 17th Street
Miami, FL, 33165
nhcwebmaster@noaa.gov

Central Pacific Hurricane Center
2525 Correa Rd
Suite 250
Honolulu, HI 96822
W-HFO.webmaster@noaa.gov

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EXHIBIT F

This graphic shows how the size of the storm has changed, and the areas potentially affected so far by sustained winds of tropical storm force (in orange) and hurricane force (in red). The display is based on the wind radii contained in the set of Forecast/Advisories indicated at the top of the figure. Users are reminded that the Forecast/Advisory wind radii represent the maximum possible extent of a given wind speed within particular quadrants around the tropical cyclone. As a result, not all locations falling within the orange or red swaths will have experienced sustained tropical storm or hurricane force winds, respectively.

Quick Links and Additional Resources





TROPICAL CYCLONE FORECASTS

Tropical Cyclone Advisories
Tropical Weather Outlook
Audio/Podcasts
About Advisories

MARINE FORECASTS

Offshore Waters Forecasts
Gridded Forecasts
Graphiccast
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 NHC on Facebook
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 NHC Blog:
"Inside the Eye"

HURRICANE PREPAREDNESS

Preparedness Guide
Hurricane Hazards
Watches and Warnings
Marine Safety
Ready.gov Hurricanes | en Español
Weather-Ready Nation
Emergency Management Offices

RESEARCH AND DEVELOPMENT

NOAA Hurricane Research Division
Joint Hurricane Testbed
Hurricane Forecast Improvement Program

OTHER RESOURCES

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NOAA: Hurricane FAQs
National Hurricane Operations Plan
WX4NHC Amateur Radio

NWS FORECAST OFFICES

Weather Prediction Center
Storm Prediction Center
Ocean Prediction Center
Local Forecast Offices

WORLDWIDE TROPICAL CYCLONE CENTERS

Canadian Hurricane Centre
Joint Typhoon Warning Center
Other Tropical Cyclone Centers
WMO Severe Weather Info Centre



US Dept of Commerce
National Oceanic and Atmospheric
Administration
National Hurricane Center
11691 SW 17th Street
Miami, FL, 33165
nhcwebmaster@noaa.gov

Central Pacific Hurricane Center
2525 Correa Rd
Suite 250
Honolulu, HI 96822
W-HFO.webmaster@noaa.gov

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EXHIBIT G

**General Docket
Tenth Circuit Court of Appeals**

Court of Appeals Docket #: 22-5070		Docketed: 08/17/2022		
Nature of Suit: 3445 Americans with Disab. Act-Empl Gabriel v. Melton Truck Lines				
Appeal From: United States District Court for the Northern District of Oklahoma - Tulsa				
Fee Status: ifp granted				
Case Type Information: 1) civil 2) private 3) -				
Originating Court Information: District: 1085-4 : 4:21-CV-00493-JFH-SH Court Reporter: Cassy Kerr, - Trial Judge: John F. Heil, III Date Filed: 11/16/2021 Date NOA Filed: 08/17/2022 Date Rec'd COA: 08/17/2022				
Prior Cases: <u>22-5008</u> Date Filed: 01/31/2022 Date Disposed: 04/29/2022 Disposition: Affirmed <u>22-5009</u> Date Filed: 01/31/2022 Date Disposed: 04/29/2022 Disposition: Affirmed				
Current Cases:				
	Lead	Member	Start	End
Related	<u>22-3102</u>	22-5070	08/17/2022	
Panel Assignment: Not available				

<p>DAWUD CANAAN STURRUP GABRIEL Plaintiff - Appellant</p>	<p>Dawud Canaan Sturrup Gabriel Email: dawudsmail@yahoo.com [NTC Pro Se] Firm: 561/398-3829 1307 Thurston Avenue Sebring, FL 33870</p>
v.	
<p>MELTON TRUCK LINES Defendant - Appellee</p>	<p>Brandon D. Kemp Direct: 405-546-3757 Email: brandon.kemp@ogletree.com [COR NTC Retained] Ogletree Deakins Firm: 405-546-3774 The Heritage Building 621 N. Robinson, Suite 400 Oklahoma City, OK 73102</p> <p>Collin Norman McCarthy Direct: 405-546-3774 Email: collin.mccarthy@ogletreedeakins.com [COR NTC Retained] Ogletree Deakins Firm: 405-546-3774 The Heritage Building 621 N. Robinson, Suite 400 Oklahoma City, OK 73102</p>


















DAWUD CANAAN STURRUP GABRIEL,

Plaintiff - Appellant,

v.

MELTON TRUCK LINES,

Defendant - Appellee.

- 08/17/2022  [10934324] Civil case docketed. Preliminary record filed. DATE RECEIVED: 08/17/2022 Notice of appearance due on 09/16/2022 for Dawud Canaan Sturup Gabriel, and Notice of appearance due on 08/31/2022 for Melton Truck Lines. (IFP motion pending in district court) [22-5070] [Entered: 08/17/2022 01:43 PM]
29 pg, 734.72 KB
- 08/24/2022  [10935932] Entry of appearance filed by Dawud Canaan Sturup Gabriel. CERT. OF INTERESTED PARTIES: n. Served on 08/24/2022. Manner of Service: email [22-5070] [Entered: 08/24/2022 11:32 AM]
2 pg, 65.89 KB
- 08/24/2022  [10935935] Notice received from Dawud Canaan Sturup Gabriel that a transcript is not necessary for this appeal. [22-5070] [Entered: 08/24/2022 11:35 AM]
1 pg, 54.88 KB
- 08/24/2022  [10935936] Consent to electronic service filed by filed by Dawud Canaan Sturup Gabriel. Served on 08/24/2022. Manner of Service: email. [22-5070] [Entered: 08/24/2022 11:37 AM]
1 pg, 33.06 KB
- 08/24/2022  [10935941] Appellant's emergency motion filed by Dawud Canaan Sturup Gabriel for permission to file electronically. Served on 08/24/2022. Manner of Service: email. [22-5070] [Entered: 08/24/2022 11:52 AM]
178 pg, 44.56 MB
- 08/24/2022  [10935947] Appellant's emergency motion filed by Dawud Canaan Sturup Gabriel for leave extension to file 10th Cir.R.27.3(A)(1)(c). Served on 08/24/2022. Manner of Service: email. [22-5070] [Entered: 08/24/2022 12:01 PM]
21 pg, 6.04 MB
- 08/24/2022  [10936020] Order filed by Clerk of the Court. The appellee is directed to file a response to Appellant's emergency motion for leave permission to file electronically file legal papers and emergency motion for leave extension to file 10th Cir. R. 27.3(A)(1)(c) motion. See order for additional information. Response due on 08/30/2022 for Melton Truck Lines. Served on. [22-5070] [Entered: 08/24/2022 02:41 PM]
1 pg, 103.34 KB
- 08/25/2022 [10936384] Entry of appearance submitted by Brandon D. Kemp and Collin N. McCarthy for Appellee Melton Truck Lines in 22-5070 for court review. Certificate of Interested Parties: Yes. Served on 08/25/2022. Manner of Service: US mail. [22-5070] --[Edited 08/25/2022 by SLS to remove docket entry from 22-3102 and to remove PDF from docket entry as the document has been filed.] BDK [Entered: 08/25/2022 04:05 PM]
- 08/25/2022  [10936388] Entry of appearance filed by Mr. Brandon D. Kemp and Mr. Collin Norman McCarthy for Melton Truck Lines. CERT. OF INTERESTED PARTIES: y. Served on 08/25/2022. Manner of Service: US mail. [22-5070] [Entered: 08/25/2022 04:15 PM]
2 pg, 65.17 KB
- 08/29/2022  [10936861] Appellant's emergency motion for the recusal of The Honorable US Circuit Judge Robert E. Bacharach filed by Dawud Canaan Sturup Gabriel. Served on 08/29/2022. Manner of Service: email. [22-5070] [Entered: 08/29/2022 03:00 PM]
29 pg, 5.72 MB
- 08/30/2022  [10937047] Response filed by Melton Truck Lines to appellant's emergency motions for permission to file electronically and for an extension. Served on 08/30/2022. Manner of Service: email. This pleading complies with all required privacy and virus certifications: Yes. [22-5070] --[Edited docket text 08/30/2022 by SLS.] BDK [Entered: 08/30/2022 09:56 AM]
16 pg, 1.52 MB
- 08/30/2022 [10937100] District court minute order entered 08/24/2022 granting leave to proceed in forma pauperis filed. Text only entry; no document attached. [22-5070] [Entered: 08/30/2022 11:08 AM]
- 08/30/2022  [10937203] Order filed by Clerk of the Court referring Appellant's emergency motion to recuse Judge Bacharach to the panel of judges that will later be assigned to consider this case on the merits.(no ruling will issue at this time). Served on 08/30/2022. [22-5070] [Entered: 08/30/2022 03:04 PM]
1 pg, 101.27 KB
- 08/31/2022  [10937306] Jurisdictional review complete. Appellant's brief due on 10/11/2022 for Dawud Canaan Sturup Gabriel. Record on appeal 10th circuit due 09/21/2022 [22-5070] [Entered: 08/31/2022 09:27 AM]
2 pg, 123.26 KB
- 09/01/2022  [10937760] Record on appeal filed. No. of Volumes: 4, Comments: Volumes I - IV. [22-5070] [Entered: 09/01/2022 01:01 PM]
6722 pg, 90.82 MB
- 09/06/2022  [10938330] Emergency reply motions for leave to electronically file and leave for an extension to file filed by Dawud Canaan Sturup Gabriel. Served on 09/06/2022. Manner of Service: email. [22-5070] [Entered: 09/06/2022 12:39 PM]
26 pg, 7.09 MB
- 09/06/2022  [10938420] Order filed by Judges Matheson and Phillips denying appellant's emergency motions for leave permission to file electronically file legal papers and for leave extension to file 10th Cir. R. 27.3(A)(1)(c) motion. Please see attached order for additional information. Served on 09/06/2022. [22-5070] [Entered: 09/06/2022 02:29 PM]
2 pg, 73.03 KB
- 09/07/2022  [10938776] Response filed by Melton Truck Lines to Appellant's Emergency Motion for the Recusal of The Honorable US Circuit Judge Robert E. Bacharach. Served on 09/07/2022. Manner of Service: email. This pleading complies with all required privacy and virus certifications: Yes. [22-5070] CNM [Entered: 09/07/2022 12:00 PM]
16 pg, 1.71 MB
- 09/07/2022  [10938963] Order filed by Clerk of the Court referring Appellee's Rresponse in Opposition to Appellant's Emergency Motion for the Recusal of Judge Bacharach to the panel of judges that will later be assigned
1 pg, 102.15 KB

to consider this case on the merits (no ruling will issue at this time). Served on 09/07/2022. [22-5070]
[Entered: 09/07/2022 05:16 PM]

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Billable Pages:	2	Cost:	0.20

EXHIBIT H

22-5070 Gabriel v. Melton Truck Lines "Order filed"

From: ca10_cmecf_notify@ca10.uscourts.gov (ca10_cmecf_notify@ca10.uscourts.gov)

To: dawudsmail@yahoo.com

Date: Friday, September 30, 2022 at 06:29 PM EDT

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Tenth Circuit Court of Appeals**Notice of Docket Activity**

The following transaction was entered on 09/30/2022 at 4:28:38 PM Mountain Daylight Time and filed on 09/30/2022

Case Name: Gabriel v. Melton Truck Lines

Case Number: 22-5070

Document(s): Document(s)

Docket Text:

[10944677] Order filed by Judges Tymkovich and Phillips granting appellant's motion to file an oversized motion to reconsider, summarily denying the motion to reconsider, denying the request to recuse Judge Matheson, the Clerk of the Court, and the Deputy Clerk of the Court, denying appellant's motion for electronic filing privileges but construing the motion as consent to receive electronic service via ECF, and granting appellant's motion to extend time to file opening brief until 11/14/2022 for Dawud Canaan Sturup Gabriel; any other relief in the motion is denied. Served on 09/30/2022. [22-5070]

Notice will be electronically mailed to:

Dawud Canaan Sturup Gabriel: dawudsmail@yahoo.com

Mr. Brandon D. Kemp: brandon.kemp@ogletree.com, sara.reeves@ogletree.com, liz.othon@ogletree.com, kurtis.newby@ogletree.com, okldocketing@ogletreedeakins.com

Mr. Collin Norman McCarthy: collin.mccarthy@ogletreedeakins.com, sara.reeves@ogletreedeakins.com, liz.othon@ogletreedeakins.com, kurtis.newby@ogletreedeakins.com, okldocketing@ogletree.com

The following document(s) are associated with this transaction:

Document Description: Main Document

Original Filename: 22-5070_order disposing of pro se motions.pdf

Electronic Document Stamp:

[STAMP acecfStamp_ID=1104938855 [Date=09/30/2022] [FileNumber=10944677-0]

[3ff5f0f5ce577f6880c4502d71b3f9cfb88002731bcd3e92bc86a27a5f66d954e1e07b51517a1bbeaae9d04fe30d1d0d267513e6f6ec88ff87a823a4acf9127e]]