

Supreme Court, U.S.  
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~~No 23A~~

In the United States Supreme Court

Friedrich Lu, Applicant

v

Julio A Castillo, Anna Blackburne-Rigsby, Roslynn R Mauskopf, David J Barron,  
Jeffrey R Howard, and Joseph N Laplante, Respondents

**Emergency Application for  
Writ of Injunction or Mandamus**

**To the Honorable John G Roberts Jr  
Chief Justice of the Supreme Court of the United States and Circuit  
Justice for District of Columbia Circuit**

Applicant: Friedrich Lu, pro se

Date: April 15, 2023

Email address: chi2flu@gmail.com

Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

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No 23A-  
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Friedrich Lu, Applicant

v

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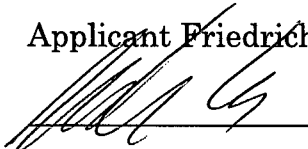
CERTIFICATE OF SERVICE

Per S Ct Rule 29.5(c), Friedrich Lu certifies under penalty of perjury under the laws of the United States of America that on Apr 15, 2023 he serve a copy of all documents electronically at the respective email address of United States Solicitor General Elizabeth B Prelogar, whose address is 950 Pennsylvania Ave., NW Washington, DC 20530-0001,  
• and District of Columbia Solicitor General Caroline S Van Zile, whose address is 400 6th Street, NW, Washington, DC 20001.

Lu remarks that all parties required to be served have been served.

Executed on April 15, 2023

Applicant Friedrich Lu, pro se

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No 23A-  
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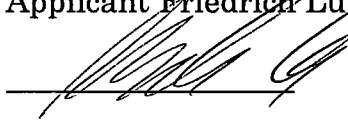
Julio A Castillo, Anna Blackburne-Rigsby, Roslynn R Mauskopf, David J Barron,  
Jeffrey R Howard, and Joseph N Laplante, Respondents

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains 1,543 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d). I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 15, 2023

Applicant Friedrich Lu, pro se

A handwritten signature in black ink, appearing to read 'Friedrich Lu', is written over a horizontal line.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FRIEDRICH LU,

Plaintiff,

v.

JULIO A. CASTILLO, *et al.*,

Defendants.

Civil Action No. 1:22-cv-3683 (JMC)

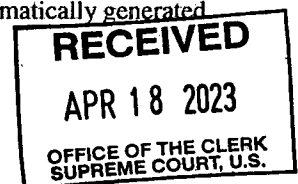
MEMORANDUM

On November 30, 2022, Lu filed a Complaint in this Court against six Defendants: Julio Castillo, Clerk of the District of Columbia Court of Appeals; Chief Judge Anna Blackburne-Rigsby of the District of Columbia Court of Appeals; Judge Roslynn Mauskopf of the U.S. District Court for the Eastern District of New York, who also serves as the current Director of the Administrative Office of the United States Courts; Chief Judge David Barron of the U.S. Court of Appeals for the First Circuit; Senior Judge Jeffrey Howard of the U.S. Court of Appeals for the First Circuit; and Judge Joseph LaPlante of the U.S. District Court for the District of New Hampshire.<sup>1</sup> ECF 1 at 1.

Lu's Complaint alleges that he was prevented from filing an amicus brief in *Trump v. Carroll*, Case No. 22-SP-0745, in the District of Columbia Court of Appeals. Lu claims that Castillo, as clerk of the court, was primarily responsible for preventing him from filing his brief, but Lu also alleges that all Defendants were part of a "Racketeering Influenced and Corrupt

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<sup>1</sup> Unless otherwise indicated, the formatting of quoted materials has been modified throughout this opinion, for example, by omitting internal quotation marks and citations, and by incorporating emphases, changes to capitalization, and other bracketed alterations therein. All pincites to documents filed on the docket are to the automatically generated ECF Page ID number that appears at the top of each page.



Organization (RICO) enterprise that [had] been going on for years.” ECF 1 at 2. Lu alleges that Defendants violated the First and Fourteenth Amendments of the U.S. Constitution, as well as 18 U.S.C. § 1962(d) and 28 U.S.C. § 2201. *Id.* at 3. Lu seeks injunctive relief, presumably to file his amicus brief, and compensatory and punitive damages. *Id.*

The Court dismisses Lu’s Complaint under 12(b)(6) for failing to state a claim upon which relief can be granted. *See Baker v. Dir., U.S. Parole Comm’n*, 916 F.2d 725, 727 (D.C. Cir. 1990) (holding that sua sponte dismissal is appropriate where it is “patently obvious” that plaintiff could not succeed on their claim).

Lu’s first claim appears to allege that Defendants Castillo and Chief Judge Blackburne-Rigsby violated the First Amendment and the Fourteenth Amendment by denying Lu’s request to file an amicus brief. Lu provides no legal framework to support this claim, likely because none exists—courts can restrict the filing of amicus briefs to promote judicial efficiency and fairness to parties. Lu also alleges that these Defendants violated the Equal Protection Clause, but his Complaint does not include any allegations of discriminatory intent against him.

Instead, Lu claims that the Defendants are conspiring to prevent him from filing amicus briefs and other pleadings in courts. A quick review of Lu’s litigious history confirms the unfounded premise of these assertions: after filing a number of frivolous lawsuits in Massachusetts courts, the U.S. District Court for the District of Massachusetts enjoined Lu from filing any more documents without certifying that he is making his claims in good faith.<sup>2</sup> *Lu v. Harvard Univ.*, No. 1:00-cv-11492, ECF 49 at 17 (D. Mass. Mar. 29, 2002); *see also Lu v. Budd*, 546 F. Supp. 3d 9,

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<sup>2</sup> At the 12(b)(6) stage, courts can consider “matters of which [they] may take judicial notice.” *EEOC v. St. Francis Xavier Parochial Sch.*, 117 F.3d 621, 624 (D.C. Cir. 1997).

10 n.1 (D. Mass. 2021) (collecting cases). Lu’s lack of success in courts is due to the baselessness of his claims, not the machinations of a criminal enterprise.

For similar reasons, Lu’s third claim—seeking declaratory judgment against Defendant Judge Laplante because he “has sinned,” ECF 1 at 3—is also dismissed for failing to state any plausible legal theory.

Finally, the claims against judges face an additional barrier. “Judges enjoy absolute judicial immunity from suits for money damages for all actions taken in the judge’s judicial capacity . . . .” *Sindram v. Suda*, 986 F.2d 1459, 1460 (D.C. Cir. 1993). To the extent that Lu’s Complaint seeks to relitigate prior cases, *see* ECF 1 at 2, those claims are barred because adjudicating cases falls within a judge’s judicial capacity.

A separate final and appealable Order accompanies this Memorandum.

DATE: December 22, 2022



Jia M. Cobb  
U.S. District Court Judge

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

FRIEDRICH LU,

Plaintiff,

v.

JULIO A. CASTILLO, *et al.*,

Defendants.

Civil Action No. 1:22-cv-3683 (JMC)

**ORDER**

For the reasons stated in the accompanying Memorandum, it is hereby **ORDERED** that Plaintiff's Complaint is **DISMISSED**.

**SO ORDERED.**

*This is a final and appealable Order.*

DATE: December 22, 2022



Jia M. Cobb  
U.S. District Court Judge

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 23-5011****September Term, 2022****1:22-cv-03683-JMC****Filed On: January 17, 2023** [1981690]

Friedrich Lu,

Appellant

v.

Julio A. Castillo, Clerk, et al.,

Appellees

**ORDER**

It is **ORDERED**, on the court's own motion, that this case be held in abeyance pending further order of the court.

The Clerk is directed to transmit a copy of this order to the district court. The district court is requested to notify this court promptly upon the disposition of the pending motion for reconsideration and motion to vacate.

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Amanda Himes

Deputy Clerk



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FRIEDRICH LU,

Plaintiff,

v.

JULIO A. CASTILLO, *et al.*,

Defendants.

Civil Action No. 1:22-cv-03683 (JMC)

**ORDER**

Friedrich Lu filed his *pro se* Complaint on November 30, 2022.<sup>1</sup> ECF 1. The Court reviewed his Complaint, but ultimately concluded that there was no legal theory upon which Lu's claim could succeed and therefore dismissed the Complaint under Fed. R. Civ. P. 12(b)(6) for failing to state a claim upon which relief could be granted. *See* ECF 7 at 2 (citing *Baker v. Dir., U.S. Parole Comm'n*, 916 F.2d 725, 727 (D.C. Cir. 1990)). Lu filed a Motion for Reconsideration on December 27, 2022, ECF 9, and a Motion to Vacate the Court's Memorandum Opinion and Order on January 4, 2023, ECF 10. He subsequently appealed this Court's initial decision to the D.C. Circuit, CF 11, which held the appeal in abeyance pending resolution of Lu's Motion for Reconsideration, *see* ECF 13.

A party may file a Motion to Reconsider under Fed. R. Civ. P. 59(e) within twenty-eight days of a judgment. The Court has discretion whether to grant such a request, and the Court need not do so unless "there is an intervening change of controlling law, the availability of new

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<sup>1</sup> Unless otherwise indicated, the formatting of quoted materials has been modified throughout this opinion, for example, by omitting internal quotation marks and citations, and by incorporating emphases, changes to capitalization, and other bracketed alterations therein. All pincites to documents filed on the docket are to the automatically generated ECF Page ID number that appears at the top of each page.

evidence, or the need to correct a clear error or prevent manifest injustice.” *Ciralsky v. CIA*, 355 F.3d 661, 671 (D.C. Cir. 2004).

Lu’s Motion for Reconsideration argues that this Court prematurely dismissed his Complaint. *See generally* ECF 9. The Court acknowledges that dismissal sua sponte is an unusual step, but precedent in this district holds that, if the Court determines that a plaintiff cannot possibly win relief, dismissal “is practical and fully consistent with plaintiffs’ rights and the efficient use of judicial resources,” even if a plaintiff is not proceeding in forma pauperis. *Baker*, 916 F.2d at 726. Such is the case here. Even if Lu’s Complaint is construed liberally, it does not provide factual allegations that state a plausible claim for relief.

In addition to the arguments raised in his Motion for Reconsideration, Lu raises a few others in his Motion to Vacate. First, Lu contends that judicial immunity should not have been considered because only Judge Laplante was sued in his official capacity, and he was sued for adjudicatory functions. ECF 10 at 2. Even if Laplante’s actions could be described as adjudicatory, *see* ECF 1 at 2, they do not form the basis of a RICO conspiracy. Similarly, there is no legal theory that could support Lu suing the Director of the Administrative Office due to the D.C. Court of Appeals’ denying him leave to file an amicus brief. The Court, therefore, finds no reason to disturb its prior ruling on this account.

Lu also alleges that the Court misconstrued the nature of his claims. *See* ECF 10 at 3. To evaluate this argument, the Court took a fresh look at Lu’s Complaint and the Court’s Memorandum Opinion, and considered the arguments raised in Lu’s subsequent motions. The Court believes that it accurately represented the claims presented and correctly determined them to fall short of stating a plausible claim for relief. The Court acknowledges that Lu is a pro se


plaintiff and thus construes his filings liberally, but nothing in Lu's motions provide a basis for the Court to reconsider its decision.

Finally, Lu mentions that he meant to file a Motion for Preliminary Injunction but notes that it was not docketed. The Court received a copy of this motion via email, but it is not the practice of the Court to file motions on the docket that it receives via email. *See* LCvR 5.1(a) ("Except when requested by a judge . . . papers [shall not] be left with or mailed to a judge for filing."). Even if this motion had been filed it would have been mooted when the Complaint was dismissed.

After giving this case renewed consideration, the Court is satisfied with its initial decision and finds no basis to vacate it. The Court ORDERS that Lu's Motion for Reconsideration, ECF 9, is DENIED, and also ORDERS that Lu's Motion to Vacate, ECF 10, is DENIED.

**SO ORDERED.**

DATE: February 6, 2023

  
\_\_\_\_\_  
Jia M. Cobb  
U.S. District Court Judge

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 23-5011****September Term, 2022****1:22-cv-03683-JMC****Filed On: April 10, 2023**

Friedrich Lu,

Appellant

v.

Julio A. Castillo, Clerk, et al.,

Appellees

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**BEFORE:** Pillard and Childs, Circuit Judges, and Sentelle, Senior Circuit Judge

**J U D G M E N T**

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the motion for injunction, it is

**ORDERED** that the motion for injunction be denied. It is

**FURTHER ORDERED AND ADJUDGED** that the district court's December 22, 2022 order be affirmed. Appellant argues in his brief and in his motion that two motions for preliminary injunctions that he either filed or attempted to file in district court should have been granted. However, the denial of a motion for a preliminary injunction "merge[s]" into a final decision on the merits, Conecuh-Monroe Cmty. Action Agency v. Bowen, 852 F.2d 581, 586 (D.C. Cir. 1988), and appellant has shown no error in the district court's dismissal of his claims. He has identified no federal right enforceable under 42 U.S.C. § 1983 to file an amicus brief, and he has forfeited any challenge to the dismissal of his claim under the Racketeer Influenced and Corrupt Organizations Act by not addressing that claim in his brief, see United States ex rel. Totten v. Bombardier Corp., 380 F.3d 488, 497 (D.C. Cir. 2004). Consequently, he cannot show that he was entitled to the requested injunctive relief.

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 23-5011**

**September Term, 2022**

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Michael C. McGrail

Deputy Clerk

## QUESTIONS PRESENTED FOR REVIEW

Were district court's dismissal and refusal to docket a second motion for injunctive relief tantamount to denial of the two motions for such?

Was district court's judgment ineffectual?

### LIST OF RELATED CASES

- *Lu v Castillo*, US Dist Ct (DDC) No 22-3683. Judgment entered Dec 22, 2022.
- *Lu v Castillo*, CADC No 23-5911. Judgment entered Apr 10, 2023.

### JURISDICTION

(1)

(a) Lu's Jan 17, 2023 opening brief's Jurisdictional Statement said,

"Appellate jurisdiction is on 28 USC § 1292(a)(1); *Carson v American Brands, Inc, T/A American Tobacco Co* (1981) 450 US 79, 80 ("an interlocutory order of the District Court denying a joint motion of the parties to enter a consent decree containing injunctive relief is an appealable order"), 86, n 11 (citing *General Electric Co v Marvel Rare Metals Co* (1932) 287 US 430, 433 (By dismissing counterclaim praying injunction, district "court necessarily decided that upon the facts alleged in the counterclaim defendants were not entitled to an injunction" -- rendering said dismissal immediately appealable) ).

(b) Court of Appeals never stated whether appellate jurisdiction was based on 28 USC §§ 1291 or 1292(a), but ended the district court case.

(2)

(a) To review denial of injunctions, Circuit Justice definitely has jurisdiction pursuant to 28 USC § 1651 (All Writs Act).

(b) "The vortex of the finality trap lurks whenever a plaintiff sues a basket of defendants." *Williams v Taylor Seidenbach, Inc* (CA5 2020) 958 F.3d 341, 349 (*en banc*). With sleight of hand, both courts below set Lu up and locked up his case in a permanent finality trap, making Lu worse off than *Quackenbush v Allstate Insurance Co* (1996) 517 US 706 ("effectively out of court"). If Justice is unwilling to

deliver Lu from the trap, he may still grant injunctions under collateral order doctrine. See *Digital Equipment Corp v Desktop Direct, Inc* (1994) 511 US 863, 868-869 (the first 2 of 3 *Cohen* conditions), 875 (third condition of the *Cohen* test: “constitutional or statutory provision”).

#### STATEMENT OF THE CASE

(1)

(a) Invoking 28 USC § 1331, on Nov 30, 2022 Lu commenced the case at district court with *Complaint* and a motion enjoin clerk of District of Columbia Court of Appeals to accept the efile of Lu’s *Motion for Leave to File Amicus Brief*. App 1-24. (The clerk had inexplicably withheld Lu’s ability to efile, absent a hearing before or after. App 24, ¶ 3) Lu emailed to judge’s chamber, and, after failing to have it docketed, mailed in to clerk’s office a *second* motion for preliminary injunction against David Barron (Chief Circuit Judge of First Circuit) and Joseph Laplant, J. App 25-26. District court to this date has refused to docket this second motion for preliminary injunction, or explained why it turned down the mailed-in (as opposed to the emailed) version. Without premonition, on Dec 22, 2022 district court (Jia M Cobb, J) entered *Memorandum* and a separate Order (judgment) of dismissal.

(b) Omitting lead defendant Castillo at the very least, the judgment was/ is ineffectual in the eye of Fed Rule Civ Proc 54(b) whose 2009 ed reads *in toto*:

“When an action presents more than one claim for relief—whether as a claim, counterclaim, crossclaim, or third-party claim—or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties

and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

(c) Besides *Motion for Reconsideration* and motion to vacate (docketed on Dec 27, 2022 and Jan 4, 2023; App 27-32), Lu filed notice of (interlocutory) appeal from constructive denial of these two motions for preliminary injunction. App \*\*.

(2)

(a) Lu's opening brief (docketed Jan 17, 2023) at Court of Appeals averred at Argument ¶ (2) stated:

“District court's dismissal of *Complaint* is all about judges, though \* \* \* (b) the lead defendant was a clerk about whom *Motion for Injunctive Relief Against Castillo and DC Court of Appeals* was meant but whom *Memorandum* never mentioned.

(b) Despite this, on the same day Court of Appeals requested district court to report on the latter's disposition of Lu's motions for reconsideration and to vacate.

(c) On Feb 6, 2023 District court entered Order denying<sup>9</sup> Motion for Reconsideration and<sup>10</sup> Motion to Vacate. Separately on the same day Lu complained to Court of Appeals that district court had not docketed four documents of his. App 41-43.

(d) District of Columbia defendants (Castillo and Blackburne- Rigsby) had been served with process on Dec 16, 2022, but neither appeared in courts below. Federal defendants (Barron, Laplante, Howard and Mauskopf) filed papers in district court but not Court of Appeals.

(e) Court of Appeals entered its own *Judgment* on Apr 10, 2023. Out of an abundance of caution, the next day Lu moved for the granting of



the two motions for preliminary injunction, which Court of Appeals denied as moot on Apr 14, 2023.

### ARGUMENT

(1) This is an application to circuit justice under S Ct Rule 22, rather than petition for certiorari under Rule 12. Contrast *New York Times Co v United States* (1971) 403 US 713, 714 (“We granted certiorari”) (*per curiam*), where cases under review were of single claim with one relief sought: injunction.

(2) S Ct Rule 10(a) instructs that

“a United States court of appeals \* \* \* has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court’s supervisory power.

(3)

(a) Lu is likely to succeed in the merits -- if the case in district court is free from finality trap.

(b) Lu’s two motions for preliminary injunction are open and shut, and yet neither court below read them.

(4) Applying Rule 54(b) to cases below.

(a) Court of Appeals *Judgment* first observed that “the denial of a motion for a preliminary injunction merges into a final decision on the merits.” (internal quotation marks, citation and brackets omitted). That is true if and only if district court had entered a veritable judgment.

(b) Said *Judgment* next ruled, “He [Lu] has identified no federal right enforceable under 42 USC § 1983 to file an amicus brief,” echoing district court’s

Dec 22, 2022 *Memorandum* (“courts can restrict the filing of amicus briefs to promote judicial efficiency and fairness to parties”).

(c) The following is all there was in the *Complaint* about lead defendant Castillo and Blackburne-Rigsby.

“(2)(a) Defendants are: Clerk Julio A Castillo and Chief Judge Anna Blackburne-Rigsby of District of Columbia Court of Appeals (DCCA) \* \* \*

(b) Castillo \* \* \* are sued in both official and individual capacities \* \* \* All others [including Blackburne-Rigsby] are sued in official capacity only.

(3) In *Trump v Carroll*, DCCA No 22-SP-745, Castillo on Nov 7, 2022 allowed amicus Friedrich Lu to efile, which Lu did same day, filing a motion that was approved but never docketed. Afterwards, *Castillo cut off Lu’s access to efile* (Lu discovered that when he efiled on Nov 16, 2022), through no fault of Lu’s. Castillo’s termination was without notice to Lu or hearing before or after, and would not even acknowledge that Lu’s ability to efile was nulled. A DCCA rule on efile requires an efiler to file thereafter via efile *only*, so (since Nov 16) Lu can not mail in his motion for leave to file amicus brief, plus the brief itself.” (emphases added)

(d) *Complaint* ¶ 3 is about the lead defendant (Castillo the clerk) and his *ministerial* duty. Blackburne-Rigsby, not mentioned in the text of *Complaint*, was sued because Rule 19(a)(1)(A) (required joinder of parties) demands it.

(5)

(a) Let’s turn to District Court’s Dec 22, 2022 *Memorandum*.

“Lu claims that Castillo, as clerk of the court, was primarily responsible for preventing him from filing his brief \* \* \* Lu’s first claim appears to allege that Defendants Castillo and Chief Judge Blackburne-Rigsby violated the First Amendment and the Fourteenth Amendment by denying Lu’s request to file an amicus brief. Lu provides no legal framework to support this claim, likely because none exists -- courts can restrict the filing of amicus briefs to promote judicial efficiency and fairness to parties.

(b) *Memorandum* talked about “courts can restrict the filing of amicus briefs.” By “courts,” Cobb, J, meant judges. Here, however, owing to Castillo’s blocking of Lu’s e-filing, DCCA judges have not been able to benefit from Lu’s brief.

(6) The punch line: Had district court’s judgment been effectual, Lu’s *interlocutory* appeal would not have, and Court of Appeals lacked appellate jurisdiction -- something that directly contradicts the latter’s merit-based judgment.

RELIEF SOUGHT

(1) granting the two motions for preliminary injunction.

(2) issuing mandamus to direct district court to docket the four papers on dates clerk’s office received them via mail and ordain that its Dec 22, 2022 judgment contravene Rule 54(b).

No 23A-  
In the United States Supreme Court

Friedrich Lu, Applicant

v

Julio A Castillo, Anna Blackburne-Rigsby, Roslynn R Mauskopf, David J Barron,  
Jeffrey R Howard, and Joseph N Laplante, Respondents

## APPENDIX

### TABLE OF APPENDIX

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\* district court did not docket these three papers

† District court, after Lu's grievance in Motion to Lift Hold at Court of Appeals, docketed it around Feb 16, 2023 but backdated it to Feb 6, 2023 (its docket number "18" is bigger than the docket entry dated Feb 7, 2023 (docket # 17: Supplemental Record on Appeal transmitted to US Court of Appeals).

Civil Action No 22-3683-JMC  
UNITED STATES DISTRICT COURT  
DISTRICT OF DISTRICT OF COLUMBIA

Friedrich Lu, Plaintiff

v

Julio A Castillo, Anna Blackburne-Rigsby, Roslynn R Mauskopf, David J Barron,  
Jeffrey R Howard, and Joseph N Laplante, Defendants

COMPLAINT

(1) The court has subject matter jurisdiction over this matter under 28 USC § 1331.

(2)

(a) Defendants are: Clerk Julio A Castillo and Chief Judge Anna Blackburne-Rigsby of District of Columbia Court of Appeals (DCCA); Director Roslynn R Mauskopf of Administrative Office (AO) of United States Courts; sitting Chief Judge David J Barron, his predecessor Jeffrey R Howard (who assumed senior status on Mar 31, 2022) of United States Court of Appeals for the First Circuit (First Circuit), and District Judge Joseph N Laplante of United States District Court for District of New Hampshire.

(b) Castillo and Barron are sued in both official and individual capacities, with Howard sued in individual capacity only. All others are sued in official capacity only.

(3) In *Trump v Carroll*, DCCA No 22-SP-745, Castillo on Nov 7, 2022 allowed amicus Friedrich Lu to efile, which Lu did same day, filing a motion that was approved but never docketed. Afterwards, Castillo cut off Lu's access to efile (Lu discovered that when he efiled on Nov 16, 2022), through no fault of Lu's. Castillo's termination was without notice to Lu or hearing before or after, and would not even acknowledge that Lu's ability to efile was nulled. A DCCA rule on efile requires an efiler to file thereafter via efile only, so (since Nov 16) Lu can not mail in his motion for leave to file amicus brief, plus the brief itself.

(4)

APP 1

- (a) AO is the administrative agency of federal court system and directly supervised by the Judicial Conference of the United States. Wikipedia.
- (b) Lu's Oct 28, 2021 letter to Mauskopf stated in part: "The entire bench of United States Court of Appeals for the First Circuit has engaged in cover-up [of judicial corruption]. It is my belief that it is, and would have been, futile to complain about judicial misconduct to First Circuit Judicial Council" and asked for referral to Judicial Conference for investigation. Lu has heard nothing back, from Mauskopf or Judicial Conference.
- (c) Chief judges of federal circuit courts are ex officio members of Judicial Conference. On information and belief, Howard and Barron successively fended off Mauskopf from doing her job. Barron meanwhile, though required by law to disqualify himself from Lu's lawsuits (especially after Lu sued him), performed administrative (as opposed to adjudicatory) functions so that Lu's Apr 28, 2022 petition for mandamus *In re Lu*, CA1 No 22-1324, has had no judges assigned to it. On July 7, 2022 Lu sued Howard and Barron in *Lu v Saylor*, US Dist Ct (D.Mass.) No 22-11106, alleging that First Circuit was a Racketeering Influenced and Corrupt Organizations (RICO) enterprise that has been going on for years. Purportedly Laplante was assigned to that case, who, though, would not, contrary to Fed Rule Civ Proc 77(d)(1), has Lu mailed a copy of the assignment order, much less orders he has issued in the case -- except his latest order dated Nov 10, 2022 with docket # 24. It is believed that notwithstanding federal laws calling for intercircuit assignment, Barron assigned Laplante to the case, having procured a promise to kill the lawsuit.
- (d) Castillo is associated with said RICI enterprise thorough person(s) unknown to Lu.

(5) Count One: 42 USC § 1983 (Castillo as well as Blackburne-Rigsby deprives Lu;s rights secured by First Amendment (access to court), Due Process and Equal Protection Clauses of Fourteenth Amendment to federal constitution).

(6) Count Two: 18 USC § 1962(d) (RICO conspiracy; applicable to all defendants).

(7) Count Three: 28 USC § 2201 (Declaratory Judgment Act). Declaratory judgment is sought that Laplante has sinned, in violation of ROCO.

(8) Lu requests court fees, declaratory judgment, injunctive relief and jury trial for damage (compensatory and punitive).

Plaintiff: Friedrich Lu, pro se

Date: November 29, 2022

Email address: chi2flu@gmail.com

Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

UNITED STATES DISTRICT COURT  
DISTRICT OF DISTRICT OF COLUMBIA

Friedrich Lu, Plaintiff ) Civil Action No  
v )  
Julio A Castillo, et al, Defendants )

MOTION FOR INJUNCTIVE RELIEF AGAINST CASTILLO  
AND DC COURT OF APPEALS

(1) District of Columbia Court of Appeals (DCCA) will hear oral argument on Jan 10, 2023.

The court ought to act forthwith. Lu request injunctive relief that his motion for leave to file

(second) brief as well as the brief itself -- in response to DCCA's Oct 25, 2022 order -- be filed retroactively, as of Nov 16, 2022 (the date Lu first attempted to file the above 2 papers in vain).

(2)

(a) DCCA clerk mans the efile. See *Memorandum of Law* ¶ (1)(a).

(b) After his efile request was "rejected" on Oct 6, 2022, Lu mailed his (first) amicus brief, which was "lodged" on Oct 12 following. See *Trump v Carroll*, DCCA No 22-SP-745 docket (as of Nov 21, 2022), which is **Exhibit A**. (SP stands for Special Proceedings.)

(3)

(a) **Exhibits B** and **C** are DCCA orders dated Oct 20 and 25, respectively, a paper copy of which was mailed to Lu.

(b) On Nov 7, 2022 Lu's second efile request was allowed within an hour. See attachment 1 in email I of Exhibit G. Lu quickly efiled *Miscellaneous Motion* (**Exhibit D**) same day, which was "accepted" (**Exhibits E** and **F** (F as of today)), but, to date, has not been docketed. See Exhibit A.

(c) Lu attempted in vain to efile his motion for leave to file *second* amicus brief, starting Nov 16, 2022. He called DCCA clerk's office at (202) 879-1010 and talked to a deputy or assistant clerk, who eight minutes into the phone call, abruptly left for a minute or so. On information or belief, she went to consult clerk himself. In the next two days (Thursday and Friday, Nov 17 and



18, respectively), clerk directed an obfuscating campaign to gaslight Lu, never letting on that he (clerk) had blocked Lu's efile. See email exchanges in **Exhibit G**. Since Nov 16 (he did not try between Nov 7 and 16), Lu could still access his efile account but not efile.

(d) *Terms and Conditions for Use of the Electronic Filing Service*. District of Columbia Court of Appeals, undated, states:

[https://www.dccourts.gov/sites/default/files/COA-efiling-cases-online-PDFs/DCCA\\_eFile\\_Terms\\_and\\_Conditions.pdf](https://www.dccourts.gov/sites/default/files/COA-efiling-cases-online-PDFs/DCCA_eFile_Terms_and_Conditions.pdf)

Under the rubric of "A. Obligations of User": "2. Once the User has registered for e-filing and has been accepted as an authorized user, the user agrees to: \* \* \* b. Except as permitted by the Court's rules and administrative orders, file all documents with this Court electronically, accept electronic service from other participants, and accept electronic service of all orders and notices from this Court."

Under the rubric of "B. Operative Terms": "2. Filed – If a document is accepted for filing, it is deemed filed at the time the document was submitted to the e-filing system. The system will generate a confirmation email upon receipt of the document. When the Court accepts the document for filing, the date and time of filing entered in the docket will relate back to the date and time the document was received by the e-filing system."

The upshot is that A.2.b. requires Lu to efile second amicus brief -- he could not mail it; and that B.2. commands docketing of Lu's Miscellaneous Motion.

Plaintiff: Friedrich Lu, pro se  
Date: November 29, 2022  
Email address: chi2flu@gmail.com  
Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112



Cases E-Filing Account

Find Case...

Cases

Case Search

Participant Search

Case Information: 22-SP-0745

**Short Caption:** DONALD J. TRUMP, ET AL. V. E. JEAN CARROLL  
**Classification:** Appeals - Special Proceedings - Certified Question Of Law

**Superior Court or Agency Case Number:** U.S. Court of Appeals for the Second Circuit  
**Filed Date:** 09/28/2022

**Opening Event Date:** 09/28/2022  
**Case Status:** Pending

**Record Completed:**  
**Post-Decision Matter Pending:**

**Briefs Completed:**

**Argued/Submitted:**

**Disposition:**  
**Next Scheduled Action:** Brief

**Mandate Issued:**

Party Information

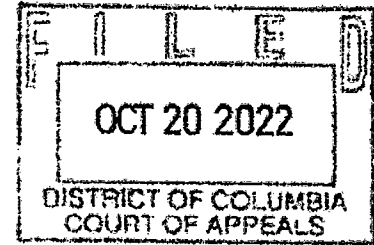
Appellate Role	Party Name	IFP	Attorney(s)	Arguing Attorney	E-Filer
Amicus Curiae	Rape, Abuse & Incest National Network	N	Zoe Salzman	N	N
Amicus Curiae	Time's Up Foundation	N	Zoe Salzman	N	N
Amicus Curiae	Legal Momentum, The Women's Legal Defense and Education Fund	N	Zoe Salzman	N	N
Amicus Curiae	National Alliance to End Sexual Violence	N	Zoe Salzman	N	N
Amicus Curiae	National Center for Victims of Crime, NCVC	N	Zoe Salzman	N	N
Amicus Curiae	New York City Alliance Against Sexual Assault	N	Zoe Salzman	N	N
Amicus Curiae	Safe Horizon, Inc.	N	Zoe Salzman	N	N
Appellant	United States	N	Mark R. Freeman	Y	Y
			Joshua M. Salzman	N	Y
			Mark B. Stern	N	N
Appellant	Donald J. Trump	N	Alina Habba	N	N
			Michael T. Madaio	N	N
			Jason C. Greaves	Y	Y
Appellee	E. Jean Carroll	N	Roberta Kaplan	N	Y
			Leah Litman	N	N
			Joshua Matz	N	Y
			Raymond Tolentino	N	Y
			Matthew Craig	N	Y
			Rachel Tuchman	N	Y

Events

Event Date	Status	Description	Result	PDF
09/28/2022	Filed	Certification Of Question Of Law received from the U.S. Court of Appeals for the Second Circuit, includes the transmittal letter, certification letter, docket sheet, briefs and order concurring opinion (J. Calabresi), dissenting opinion (J. Chin) and special appendix.		
09/30/2022	Filed	Appearance of Joshua Matz (Appellee)		
09/30/2022	Filed	Appearance of Raymond Tolentino (Appellee)		
10/03/2022	Filed	Motion To Appear Pro Hac Vice (Appellee)	Granted	
10/03/2022	Filed	Motion To Appear Pro Hac Vice (Appellee)	Granted	
10/07/2022	Filed	Motion To Appear Pro Hac Vice (Appellee)	Granted	
10/12/2022	Filed	Motion For Leave to File Amicus Brief Brief (Amicus Curiae Lu)	Denied Without Prejudice	
10/12/2022	Lodged	Brief (Amicus Curiae Lu)		
10/20/2022	Filed	Order Granting the motions of Joshua Matz, Esquire, are granted and the Clerk shall enter the appearances of Roberta Kaplan, Esquire, Matthew Craig, Esquire, and Rachel L. Tuchman, Esquire, pro hac vice on behalf of appellee and that Friedrich Lu's motion for leave is denied without prejudice		
10/20/2022	Filed	Appearance of Robert Kaplan, Esquire, Matthew Craig, Esquire and Rachel Tuchman, Esquire as pro hac vice on behalf of appellee		
10/25/2022	Filed	Response to court order 10/20/22 (Appellant United States)		
10/25/2022	Filed	Order directing action that the court will consider the certified question and the case will be heard en banc the court.		
10/26/2022	Filed	Appearance of Jason C. Greaves (Appellant Trump)		
10/26/2022	Filed	Motion To Appear Pro Hac Vice (Appellant Trump)	Granted	
10/26/2022	Filed	Motion To Appear Pro Hac Vice (Appellant Trump)	Granted	
10/28/2022	Filed	Order Granting motions to appear pro hac vice and the Clerk shall enter the appearances of Alina Habba, Esquire and Michael Madaio, Esquire pro hac vice on behalf of appellant, Donald J. Trump		
10/28/2022	Filed	Appearance of Alina Habba, Esquire, pro hac vice on behalf of appellant		
10/28/2022	Filed	Appearance of Michael Madaio, Esquire, pro hac vice on behalf of appellant		
11/07/2022	Filed	Motion To Appear Pro Hac Vice (Appellant United States)	Granted	
11/09/2022	Filed	Brief (Appellant United States)		
11/09/2022	Filed	Brief (Appellant Trump)		
11/15/2022	Filed	Order Granting appellant's motion, and the Clerk is directed to enter the appearance of Mark. R. Freeman, Esquire, pro hac vice, on behalf of appellant, United States of America.		

Exhibit B

District of Columbia  
Court of Appeals



No. 22-SP-745

DONALD J. TRUMP, *et al.*,  
Appellants,

v.

20-3977

E. JEAN CARROLL,  
Appellee.

ORDER

On consideration of the September 27, 2022, order of the United States Court of Appeals for the Second Circuit certifying a question of law: the motions of Joshua Matz, Esquire, that Roberta Kaplan, Esquire, Matthew Craig, Esquire, and Rachel L. Tuchman, Esquire, be admitted pro hac vice on behalf of appellee; and Friedrich Lu's motion for leave to file a lodged brief of amicus curiae, it is

ORDERED that the motions of Joshua Matz, Esquire, are granted and the Clerk shall enter the appearances of Roberta Kaplan, Esquire, Matthew Craig, Esquire, and Rachel L. Tuchman, Esquire, pro hac vice on behalf of appellee. It is

FURTHER ORDERED that Friedrich Lu's motion for leave is denied without prejudice to renewal within seven days of the filing of the principal brief. *See* D.C. App. R. 29(a)(6). It is

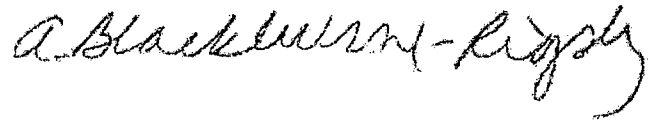
FURTHER ORDERED that a briefing order will not issue unless the parties file a joint or separate statement indicating whether the certification and accompanying papers are adequate to enable the court to decide the certified question. If no statement is filed within 30 days from the date of the certification, the matter will be submitted on the certification and accompanying papers. *See* D.C. App. R. 22(a)(2). It is

7

No. 22-SP-745

FURTHER ORDERED that counsels shall register for the court's mandatory e-filing pursuant to Administrative Order -18 forthwith.

BY THE COURT:



ANNA BLACKBURNE-RIGSBY  
Chief Judge

Copies e-served to:

Joshua M. Salzman, Esquire  
U.S. Dept. of Justice  
950 Pennsylvania Avenue, NW  
Civil Division, Rm 7258  
Washington, DC 20530

Roberta Kaplan, Esquire  
Kaplan Hecker & Fink, LLP  
350 Fifth Avenue  
63<sup>rd</sup> Floor  
New York, NY 10118

Joshua Matz, Esquire  
1050 K Street NW, Suite 1040  
Kaplan Hecker & Fink LLP  
Washington, DC 20001

Raymond Tolentino, Esquire  
1050 K Street NW, Suite 1040  
Kaplan Hecker & Fink LLP  
Washington, DC 20001

9

No. 22-SP-745

Copies mailed to:

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Mark B. Stern, Esquire  
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Civil Division, Room 7258  
Washington, DC 20530

Alina Habba, Esquire  
Michael T. Madaio, Esquire  
Habba Madaio & Associates, LLP  
1430 U.S. Highway 206  
Suite 240  
Bedminster, NJ 07921

Leah Litman, Esquire  
701 South State Street  
Ann Arbor, MI 48103

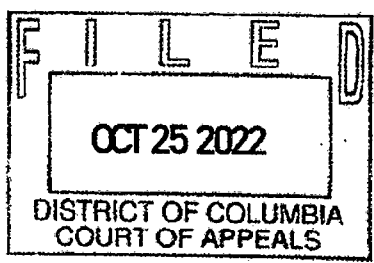
Rachel L. Tuchman, Esquire  
Matthew Craig, Esquire  
350 Fifth Avenue  
63<sup>rd</sup> Floor  
New York, NY 10118

Zoe Salzman, Esquire  
Emery Celli Erinckerhoff & Abady, LLP  
600 5<sup>th</sup> Avenue  
New York, NY 10020

Friedrich Lu  
P.O. Box 499  
Lafayette Station  
Boston, MA 02112

pmg/jl

District of Columbia  
Court of Appeals



No. 22-SP-745

DONALD J. TRUMP, *et al.*,  
Appellants,

v.

20-3977

E. JEAN CARROLL,  
Appellee.

BEFORE: Blackburne-Rigsby, Chief Judge; Glickman, Beckwith, Easterly,  
McLeese, Deahl, Howard, and AliKhan, Associate Judges.

ORDER

On consideration of the September 27, 2022, decision of the United States Court of Appeals for the Second Circuit wherein it certified a question of law pursuant to D.C. App. R. 22, and asked this court whether “[u]nder the laws of the District [of Columbia], were the allegedly libelous public statements made, during his term in office, by the President of the United States, denying allegations of misconduct, with regards to events prior to that term of office, within the scope of his employment as President of the United States?,” *Carroll v. Trump*, 49 F.4th 759, 781 (2d Cir. 2022); and this court’s discretionary authority under D.C. Code § 11-723(a) to entertain that question; it is

ORDERED that the court will consider the certified question and, upon a majority vote of the active judges of this court, that the case shall be heard initially by the en banc court. D.C. App. R. 35. It is

FURTHER ORDERED that this matter is hereby *sua sponte* expedited. It is

FURTHER ORDERED that appellants’ brief(s) shall be filed by November 9, 2022; any amicus curiae briefs supporting appellants, or supporting neither party, shall be filed by November 16, 2022; appellee’s brief shall be filed by December 1, 2022; any amicus briefs supporting appellee shall be filed by December 8, 2022; and appellants’ reply brief(s) shall be filed by December 15, 2022. D.C. App. R. 31. Because the case is expedited, no extension requests will be entertained. It is

No. 22-SP-745

FURTHER ORDERED that, because the certified question as framed essentially has two parts: part one asks this court to determine the scope of the President of the United States' employment, therefore the parties' briefs should address whether this court should opine on that aspect of the certified question; and part two asks this court to clarify its *respondeat superior* case precedents, therefore the parties are further directed to address the extent, if any, to which this court's *respondeat superior* case precedents are unclear as applied to this case, and how this court might clarify or modify those precedents to help resolve the present dispute. It is

FURTHER ORDERED that this case shall be placed on the calendar for oral argument on Tuesday, January 10, 2023, at 10:00 a.m. It is

FURTHER ORDERED that all attorneys making an appearance in this case who are not licensed to practice in the District of Columbia shall apply for admission *pro hac vice*. D.C. App. R. 49(c)(7). It is

FURTHER ORDERED that all attorneys making an appearance in this case shall register for this court's electronic filing and service system. *See* Administrative Order 1-18 (Jan. 19, 2018).

**PER CURIAM**

Copies e-served to:

Joshua M. Salzman, Esquire

Roberta Kaplan, Esquire

Joshua Matz, Esquire

Raymond Tolentino, Esquire



No. 22-SP-745

Copies e-served to:

Jason C. Greaves, Esquire

Roberta Kaplan, Esquire

Joshua Matz, Esquire

Raymond Tolentino, Esquire

Matthew Craig, Esquire

Rachel Tuchman, Esquire

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B

**No. 22-SP-745**

Copies emailed to:

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Alina Habba  
ahabba@habbalaw.com

Caroline S. Van Zile, Esquire  
Solicitor General for the District of Columbia

Copies mailed to:

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Mark B. Stern, Esquire  
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Civil Division, Room 7258  
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**No. 22-SP-745**

Zoe Salzman, Esquire  
Emery Celli Brinckerhoff & Abady, LLP  
600 5th Avenue  
New York, NY 10020

Friedrich Lu  
P.O. Box 499  
Lafayette Station Boston, MA 02112

lm

EXHIBIT D

Special Proceedings No 22-SP-0745  
DISTRICT OF COLUMBIA COURT OF APPEALS

ON CERTIFICATION OF QUESTION OF LAW FROM  
UNITED STATES COURT OF APPEALS FOR SECOND CIRCUIT

Donald J Trump and United States, Appellants  
v  
E Jean Carroll, Appellee

AMICUS'S MISCELLANEOUS MOTION

- (1) Order M-274-21 of this court allows “public access to certain case documents, briefs and orders, is available for civil cases filed or entered after August 1, 2021.” The Order, dated July 29, 2022, “as a first step,” excludes, among others, “special-proceedings cases,” of which the instant case is one.
- (2) The case at bar is purely about law (and nothing else).
- (3) Amicus Friedrich Lu, satisfied his brief was docketed on Oct 12, 2022, did not intend to say more, so he did not renew his request for e-filing within a week of the Oct 20, 2022 order.
- (4) Lu was surprised and honored to receive the court’s Oct 25, 2022 order which, *inter alia*, set the briefing schedule. (In addition, Attorney Alina Habba, principal counsel for appellant Trump, kindly mailed Lu a copy of her pro hac vice motion.)
- (5) Without reading party briefs, Lu can not say whether he has anything useful to say in the case. However, parties are not obligated to mail Lu a copy of their

brief. Even if they do, there is no way that Lu can read the (mailed) brief and respond (and have it docketed) within a week of the filing of such a (party) brief \*as called for by the briefing schedule).

- (6) WHEREFORE Lu moves
  - (a) for extension of Order M-274-21 to the instant case, and
  - (b) for e-filing (which was allowed just now).

Even both (components of the motion) are allowed, Lu may not file anything. Lu's philosophy is akin to the laconic Calvin Coolidge's.

Amicus Curiae: Friedrich Lu, pro se      /s/ Friedrich Lu  
Date: November 7, 2022  
Email address: chi2flu@gmail.com  
Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

Under penalty of perjury, Lu states that a copy of this document is served on the same day electronically on Attorneys Alina Habba and Roberta A Kaplan (private counsel for Trump and Carroll, respectively), as well as amici attorney Zoe Salzman.      /s/ Friedrich Lu

## EXHIBIT E

[subject:] D.C. Court of Appeals E-Filing Submission Notice -  
22-SP-0745 - DONALD J. TRUMP, ET AL. V. E. JEAN CARROLL  
[from:] noreply1@dcappeals.gov Mon, Nov 7, 3:48 PM  
to me

This is a notice to inform you that the MOTIONS - Motion filed on 22-SP-0745 has been successfully submitted to the D.C. Court of Appeals.

Your confirmation number is 55945.

You will be notified when the court has finished its review of the filing.

This e-mail was sent to chi2flu@gmail.com by the D.C. Court of Appeals E-Filing website.

Do not respond to this system generated e-mail notification. If you have questions or need assistance contact the Clerk's office at efilehelp@dcappeals.gov. For technical help contact efiletech@dcappeals.gov.

~~EXHIBIT~~ F

Cases **E-Filing** Account

Find Case...

E-Filing
Draft Filings
Pending Filings
Rejected Filings
Approved Filings

My E-Filings		
Status	Description	Count
Draft	E-Filings created but not sent to Court	0
Pending	Court has received E-Filings but has not approved	0
Rejected	Court rejected E-Filings	0
Approved	Court accepted E-Filings	1

## EXHIBIT G

[subject:] My request for e-filing was allowed and now I can not e-file

(I) [from:] Friedrich Lu <chi2flu@gmail.com> Thu, Nov 17,  
4:34 PM  
to efilehelp

(1) My request for e-filing was allowed on Nov 7. See attachment 1. I succeeded in e-filing Miscellaneous Motion same day.

(2) This morning I tried to e-file an amicus brief together with motion for leave to file, but could not.

I called clerk;'s office and talked to a woman with heavy Europ[ean accent. She said she was a deputy or assistant clerk the e-filing system was not down, that the docket showed my request was rejected on an Oct 20, 2022 order (to which I reminded her it was "without prejudice" and was unaware of any approval later despite my reminding.

(3) I made another request for e-filing after the phone call, which is rejected. See attachment.2.

So now, I am reproducing the Nov 25 APPROVAL as attachment 1 -- as proof.

-----attachment 1

[Subject:] D.C. Court of Appeals E-File Access Request Approved  
[from:] noreply1@dcaappeals.gov Mon, Nov 7, 1:48 PM (10  
days ago)  
to me

This is a notice to inform you that your request for access to the D.C. Court of Appeals E-Filing website has been approved. You can login to the site here:  
<https://efile.dcaappeals.gov/login.do>

Username: FriedrichLu

This e-mail was sent to chi2flu@gmail.com by the D.C. Court of Appeals E-Filing website.

Do not respond to this system generated e-mail notification. If you have questions or need assistance contact the Clerk's office at efilehelp@dcaappeals.gov. For technical help contact efiletech@dcaappeals.gov.

-----attachment 2

[subject] D.C. Court of Appeals E-File Access Request Rejected

20



[from:] noreply1@dcappeals.gov  
To: x2flu@yahoo.com

Thu, Nov 17 at 2:16 PM

This is a notice to inform you that your request for access to the D.C. Court of Appeals E-Filing website has been denied.

Clerk's Comments: Good day Mr. Lu, it appears that the Court sent out an order denying your request to e-file in appeal 22-SP-0745. I will have to reject your request to e-file in this appeal. Please contact the D.C. Court of Appeals clerk's office at 202-879-2700. Someone should be able to assist you with any questions or concerns.

This e-mail was sent to x2flu@yahoo.com by the D.C. Court of Appeals E-Filing website.

Do not respond to this system generated e-mail notification. If you have questions or need assistance contact the Clerk's office at efilehelp@dcappeals.gov. For technical help contact efiletech@dcappeals.gov.

=====

(II) [from:] Friedrich Lu  
to efilehelp

Thu, Nov 17, 5:01 PM

Incidentally, the deputy or assistant clerk who received my interstate call put me on hold suddenly to answer another person, despite the fact that she knew it.

=====

(III) [from:] Efile Help  
to me

Fri, Nov 18, 8:49 AM

Good day Mr. Lu,

Do you need assistance with your username and password logging into the e-filing system? If so, we could send you a temporary password to your email to sign back on. It appears you are not a participant for appeal 22-SP-0745. If you need to ask any questions about appearing in this appeal. Please call the clerk's office at 202-879-2700.

Best regards,

E-file Help

=====

21

(IV) [from:] Friedrich Lu <chi2flu@gmail.com> Fri, Nov 18,  
2:49 PM  
to Efile

(1) I called yesterday. I am homeless and have no cellphone. It was difficult to reach a place with a phone. In any event, I called yesterday, spent nine minutes on the phone, despite from the outset my indication of calling from Boston, Mass. And I sked the woman in your office for her name (so that I can say I talked to somebody in your office, who said so and so), She then put me on hold, and came back to say she would not give out her name.

(2)

(a) You wrote, "Do you need assistance with your username and password logging into the e-filing system? If so, we could send you a temporary password to your email to sign back on."

(b) Back on what?

I have been ABLE to log in (to my account) since Nov 7 (after having received the email that day of your office or court's approval to e-file; see attachment 1 in the first email of this thread/series), and did file one (Miscellaneous) motion which is NOT on the docket as of yesterday when I checked the docket yesterday while attempting to e-file. You as government can not treat amici (people who seek to be amici) differently, under equal protection clause of the Fourteenth Amendment.

(3) You then wrote, "It appears you are not a participant for appeal 22-SP-0745."

What do you mean by "participant." I am not a party, it is indisputable. But I am an amicus and your office did docket, on Oct 12, 2022 my (first) motion for leave to file amicus brief and the brief itself.

(4) Look, your office can not cancel the privilege to e-file for no reason, under the due process clause of the Fourteenth Amendment. A case in point is

Morrissey v Brewer (1972) 408 US 471 (frowning on no hearing before revoking parole for cause).

=====

(V) [from:] Friedrich Lu <chi2flu@gmail.com> Nov 18, 2022,  
4:39 PM  
to Efile

In the preceding email, short of time I cited Morrissey v Brewer. The one I was looking for, I have found it: Young v Harper (1997) 520 US 143. The difference between Morrissey and

Young (Harper was the prisoner) is that in the latter Harper was released early to reduce prison overcrowding (which US Supreme Court equated with parole) and his release was revoked without cause though Harper did not do anything wrong during the early release. I argue that this court's revocation of my e-file privilege without prior notice and without fault on my part violate my right to due process, under due process clause of the 14th amendment.

UNITED STATES DISTRICT COURT  
DISTRICT OF DISTRICT OF COLUMBIA

Friedrich Lu, Plaintiff ) Civil Action No  
v )  
Julio A Castillo, et al, Defendants )

MEMORANDUM OF LAW  
IN SUPPORT OF MOTION FOR INJUNCTIVE RELIEF

(1)  
(a) All aspects of e-filing at District of Columbia Court of Appeals (DCCA) are under the supervision of its clerk. See What Fees Are Associated with E-filing [by parties]? DCCA, undated <https://www.dccourts.gov/node/1840>

(“Electronic filings rejected by the court clerk are not assessed CaseFileXpror court fee”).

(b) Clerk’s “actions which prevent an individual from communicating with a court could constitute denial of access to the court.” *Henriksen v Bentley* (CA10 1981) 644 F.2d 852, 854, which is the only reported federal case against a clerk (federal or state) under 42 USC § 1983.

(2) Codified as 28 USC § 2283, Anti-Injunction Act (AIA) is not implicated. See *Pennzoil Co v Texaco Inc* (1987) 481 US 1, 7 (“§ 1983 falls within the exceptions to the Anti-Injunction Act”) (citation omitted).

(3) In the fourth email of Exhibit G, Lu stated at ¶ 4 that “your office can not cancel the privilege to e-file for no reason, under the due process clause of the Fourteenth Amendment. A case in point is *Morrissey v Brewer* (1972) 408 US 471 \* \* \*” The *Morrissey* court, *id*, 408 US, at 481, elucidated “this Court now has rejected the concept that constitutional rights turn upon whether a governmental benefit is characterized as a right or as a privilege.” (internal quotation marks and citation omitted).

Plaintiff: Friedrich Lu, pro se  
Date: November 29, 2022  
Email address: chi2flu@gmail.com  
Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

UNITED STATES DISTRICT COURT  
DISTRICT OF DISTRICT OF COLUMBIA

Friedrich Lu, Plaintiff ) Civil Action No 22-3683-JMC  
v )  
Julio A Castillo, et al, Defendants )

MOTION FOR PRELIMINARY INJUNCTION AGAINST BARRON AND LAPLANTE

(1) On July 7, 2022, *Lu v Saylor*, US Dist Ct (D.Mass.) No 22-cv-11106 was commenced. On July 19, 2022 (Docket # 3), defendant Joseph N Laplante, via intracircuit assignment, was designated to hear the case, by an order that was never mailed to Lu under Fed Rule Civ Proc 77(d)(1). Lu had moved for a copy and Laplante did not relent until he entered an order allowing such on Dec 2, 2022 (Docket # 27). The designation order is **Exhibit A**. The order, albeit unsigned, is believed to be issued by defendant David J Barron (in any event, no circuit judge in the First Circuit is left unaffected to issue an assignment order like that).

(2) *In re Motor Fuel Temperature Sales practices* (CA9 2013) 711 F.3d 1050 (Kozinski, CJ, in chamber), 1056 (Appendix A: Guidelines for the Intercircuit Assignment of Article III Judges. Approved by Chief Justice, Feb 16, 2012). Barron's self-dealing assignment order violated No 9 of the Guidelines. Cf 28 USC § 455(b)(4) (A judge in *adjudicatory* function should disqualify himself when "he \* \* \* has a financial interest in the subject matter in controversy or in a party to the proceeding").

(3) Lu moves to enjoin Barron and Laplante from carrying out the July 19, 2022 assignment order, for temporary restraining order followed by preliminary injunction.

Plaintiff: Friedrich Lu, pro se Date: December 15, 2022 Email address: chi2flu@gmail.com  
Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

Under penalty of perjury, Lu certifies that he serves the same on the same day electronically on US attorney at Washington, DC; and via certified mail on Barron and Laplante. Lu also served electronically a revised motion (adding the last clause: "for temporary restraining order followed by preliminary injunction") to US attorney at DC on Dec 19.

25



UNITED STATES DISTRICT COURT  
DISTRICT OF DISTRICT OF COLUMBIA

Friedrich Lu, Plaintiff ) Civil Action No 22-3683-JMC  
V )  
Julio A Castillo, et al, Defendants )

PLAINTIFF'S MOTION TO RECONSIDER

(1) Plaintiff Friedrich Lu just now learned of docket entries entered yesterday morning by the court at 11:37 am and 11:41 am, of Memorandum and Opinion as well as Order of dismissal (in that order; docket Nos 6 and 7, respectively). Both are supposedly in the mail and Lu is unaware of their contents. The instant motion raises the issue of procedural due process under the Fifth Amendment to the federal constitution.

(2) The court's dismissal is *sua sponte*, despite the fact that Lu paid his way to commence the case and contravening our adversarial system we are in. Thus Lu requests reversal of dismissal.

(a) Discussing a plaintiff proceeding *in forma pauperis* (which Lu is not), *Neitzke v Williams* (1989) 490 US 319, 330 held:

“To conflate the standards of frivolousness and failure to state a claim, as petitioners urge, would thus deny indigent plaintiffs the practical protections against unwarranted dismissal generally accorded paying plaintiffs under the Federal Rules. A complaint like that filed by Williams under the Eighth Amendment, whose only defect was its failure to state a claim, will in all likelihood be dismissed *sua sponte*, whereas an identical complaint filed by a paying plaintiff will in all likelihood receive the considerable benefits of the adversary proceedings contemplated by the Federal Rules.

(b)

(i) *Xue Juan Chen v Holder* (CA7 2013) 737 F 3d 1084, 1985 reminded us that

“we cannot write a party's brief, pronounce ourselves convinced by it, and so rule in the party's favor. That's not how an adversarial system of adjudication works. Unlike the inquisitorial systems of Continental Europe, Japan, and elsewhere \* \* \*

Yet the court did just that.

(ii) *Chute v Walker* (CA1 2002) 281 F.3d 314, 319-320 stated.

“Walker never raised the insufficiency of process issue; only the district court did. We need not address whether this is ever permissible, but note that other circuits frown on it and that it was impermissible under these circumstances.” (citation omitted).

(3) Defendants Julio A Castillo and Anna Blackburne-Rigsby received process seven (7) days ago, and have not entered appearance -- yet another reason that the dismissal is improper.

Plaintiff: Friedrich Lu, pro se

Date: December 23, 2022

Email address: chi2flu@gmail.com

Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

Under penalty of perjury, Lu certifies that he serves this document electronically on the same day on AUSA Sian Jones (who represents Barron, Howard, Laplante and Mauskopf).



UNITED STATES DISTRICT COURT  
DISTRICT OF DISTRICT OF COLUMBIA

Friedrich Lu, Plaintiff ) Civil Action No 22-3683-JMC  
V )  
Julio A Castillo, et al, Defendants )

PLAINTIFF'S RULE 59(e) MOTION

(1) Under Fed Rule Civ Proc (Rule) 59(e), plaintiff Friedrich Lu moves to rescind the Dec 22, 2022 *Order* of dismissal, which cited as authority *Baker v Director, US Parole Commission* (CADC 1990) 916 F.2d 725, 727 (“it is patently obvious that Baker could not have prevailed on the facts alleged in his complaint”) (*per curiam*). The opposite is true in Lu’s.

(2) This judge (Cobb J) had dismissed numerous complaints (by other litigants) -- sometimes *sua sponte* and mostly in 28 USC § 1915 (proceedings in forma pauperis) applications -- for failure to be concise in contravention of Rule (8)(a). In Lu’s case, the court asserts the contrary, unable to comprehend *Complaint* (which did say who, when, where, how and why), but unwilling to await -- from defendants! -- a Rule 12 (b) or (e) motion (the latter for a more definitive statement). It seems that Lu is damned either way he wrote a complaint (concise or long-winded).

(3) Lu starts with the *bottom* of Judge Cobb’s *Memorandum* that accompanied *Order*, which shows the court’s ignorance of major Court decisions. (When Lu drafted *Complaint*, Lu presumed that the court knew those decisions. Otherwise, Lu would have to write a law review and then the court dismiss the complaint for being verbose.) Judge Cobb is very young (which Senate -- or some members at least -- construed as inexperienced, and cloture was needed for confirmation of the honorable to the bench), and one year into the (judiciary) job. These are reasons all the more calling for caution and restraint on the part of the judge.

(4) The penultimate paragraph of *Memorandum* averred, “Finally, the claims against judges face an additional barrier. \* \* \* To the extent that Lu’s Complaint seeks to relitigate prior cases \* \* those claims are barred because adjudicating cases falls within a judge’s judicial capacity.”

(a) Defendant Roslynn Mauskopf is sued as Director of Administrative Office (*Complaint* never identified or sued her as a *judge*).

Only District Judge Joseph N Laplante is sued in official capacity, *Complaint* (2)(b), and for adjudicatory function. *Pulliam v Allen* (1984) 466 US 522, 529 (“common law [does not] recognize[] judicial immunity from prospective *collateral* relief,” so did the *Pulliam* court; emphasis added), 536-537 (no immunity bar to prospective relief against a judge) refuted Judge Cobb’s rulings -- four decades ago! And if Lu’s adversary raised the same issue, Lu would not hesitate to file a motion for sanctions under Rule 11. Except that *now* it is the judge who so remarked.)

(b) None of the remaining judges are sued for performing adjudicatory function, certainly not Mauskopf. The most charitable -- the alternative was they acted as private citizens -- is they (judges), when conspiring, carried out administrative functions which afforded them only qualified immunity. See *Forrester v White* (1988) 484 US 219 -- a decision handed down more than three decades ago.

(5) “Lu’s third claim -- seeking declaratory judgment against Defendant Judge Laplante because he ‘has sinned,’ \* \* \* -- is also dismissed for failing to state any plausible legal theory.”

Well, *Complaint* (4)(c) stated Laplante

“would not, contrary to Fed Rule Civ Proc 77(d)(1), has Lu mailed a copy of the assignment order, much less orders he has issued in the case \* \* \* Barron assigned Laplante to the case, having procured a promise to kill the lawsuit.”

(6) *Memorandum* first ruled,

“Lu’s first claim appears to allege that Defendants Castillo and Chief Judge Blackburne-Rigsby violated the First Amendment and the Fourteenth Amendment by denying Lu’s request to file an amicus brief.

(a) Judge Cobb’s summary is simply wrong. Defendant Blackburne-Rigsby is sued under Rule 19(a)(1)(A) (required joinder of parties), considering the contention proffered by defendant Castillo, the clerk, that he acted under orders from Blackburne-Rigsby.

(b) *Complaint* (3) spoke for itself:

“Castillo cut off Lu’s access to efile [amicus brief] \* \* \* through no fault of Lu’s. Castillo’s termination was without notice to Lu or hearing before or after, and would not even acknowledge that Lu’s ability to efile was nulled.

Lu’s motion for injunctive relief against Castillo, filed together with *Complaint*, fleshed out the allegation. Did Judge Cobb ever read it before rashly dismissing the case? No.

For God’s sake, Lu’s allegation about Castillo was just run-of-the-mill, garden-variety!

(That is why *Memorandum of Law in Support* of that motion ran just one page.)

(6)

(a) On Dec 23, 2022 Lu mailed two papers to clerk’s office of this court: *Motion to Reconsider* (dated same day) and *Motion for Preliminary Injunction Against Barron and Laplante* (dated Dec 15, 2022). Only the former was docketed, which Lu had sent electronically as a courtesy copy on Dec 23. The court had not rescinded *Order* of dismissal after the dickering. Lu gathered the court wanted Lu to address the substantive issues in the *Memorandum*. Here it is.

(b) More troubling is Judge Cobb’s withholding the Dec 15 motion against Barron and Laplante from being docketed. Neither a judge nor a clerk has authority to prevent a paper from being docketed. Period.

Lu had electronically transmitted the Dec 15 motion that day to judge's chambers, which was not docketed. Lu then (on Dec 23) mailed it along with *Motion to Reconsider*. Still, it was not docketed; only the latter was (selectively) docketed.

Plaintiff: Friedrich Lu, pro se

Date: December 31, 2022

Email address: chi2flu@gmail.com

Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

Under penalty of perjury, Lu certifies that he serves this document electronically on the same day on AUSA Sian Jones (who represents Barron, Howard, Laplante and Mauskopf).

UNITED STATES DISTRICT COURT  
DISTRICT OF DISTRICT OF COLUMBIA

Friedrich Lu, Plaintiff ) Civil Action No 22-3683-JMC  
v )  
Julio A Castillo, et al, Defendants )

PLAINTIFF'S NOTICE OF APPEAL

Notice is hereby given that plaintiff Friedrich Lu appeals against all defendants to United States Court of Appeals for District of Columbia Circuit, from denial of injunctive relief under 28 USC § 1292(a)(1) as interpreted by United States Supreme Court -- that necessarily sprang from the dismissal of complaint as well as district court's refusal to docket a motion for preliminary injunction.

Plaintiff: Friedrich Lu, pro se  
Date: January 6, 2023  
Email address: chi2flu@gmail.com  
Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112  
Under penalty of perjury, Lu certifies that he serves this document electronically on the same day on AUSA Sian Jones (who represents Barron, Howard, Laplante and Mauskopf).

UNITED STATES DISTRICT COURT  
DISTRICT OF DISTRICT OF COLUMBIA

Friedrich Lu, Plaintiff ) Civil Action No 22-3683-JMC  
v )  
Julio A Castillo, et al, Defendants )

OPPOSITION TO FEDERAL DEFENDANTS' MOTION TO DISMISS  
(COUCHED AS OPPOSITION TO MOTION TO VACATE)

(1) On Jan 18, 2023, federal defendants (last names: Barron, Howard, Laplante and Mauskopf) filed *Opposition to Motion to Reconsiderations* "in their official capacity only." *Id*, at 1.

(2)

(a) Plaintiff Friedrich Lu hereby opposes, not under US Dist Ct (DDC) Local Rule 7(d) (2022 ed) ("Within seven days after service of the memorandum in opposition the moving party may serve and file a reply memorandum").

(b) Rather, the "Opposition" is their (in official capacity) motion to dismiss in disguise.

(c) Barron is also sued in individual capacity, so is Howard exclusively. *Complaint*, ¶ (2)(b).

It is plaintiff's (Lu's here) prerogative to decide whom to sue and in what capacity (where applicable); defendants have no say. However, *Opposition* seeks to put words in his mouth and expand list of movants by incorporating Howard, *id*, at 2, n 3 (last cause: "the United States assumes that Judge Howard is also sued in his official capacity"), having acknowledged that "the undersigned has not received authorization to represent any of the Federal Defendants in their [individual] capacities." Federal defendants perhaps assume that all hands must be on deck (to oppose) lest a missing defendant will leave a hole that has consequences. Lu will not comment on correctness of the assumption, except pointing out that besides Barron and Howard in their individual capacity, also missing in opposition are the two District of Columbia defendants.

(3) *Opposition* is a motion to dismiss in disguise.

(a) On Dec 22, 2022, federal defendants in their official capacity (which necessarily excluded Barron's and Howard's individual capacity) filed *Notice of Appearance* (Docket #5), which was followed same day by district court's *Memorandum and Order* of dismissal (Docket ## 7 and 8, respectively).

(b) The two post-judgment motions of Lu's (on the heels of sua sponte dismissal) -- *Motion for Reconsideration* (dated Dec 23, 2022 before arrival in Boston of the mailed *Memorandum and Order*; docketed as # 9 on Dec 27, 2022); and *Rule 59(e) Motion* (dated Dec 31, 2022 after arrival of the two papers; docketed as # 10 on Jan 4, 2023 as *Motion to Vacate Memorandum & Order*) -- are deemed *ex parte*. See *Welch v Folsom* (CA3 1991) 925 F.2d 666, 669 ("Since the district court dismissed \* \* \* complaint without [defendant's] presence, it is difficult to see why the court could not reconsider that dismissal using a like procedure").

Here federal defendants appeared in official capacity on Dec 22, 2022; they were notified of both *Memorandum and Order* entered later that day; and Lu duly served them via email a copy of his post-judgment motions. Federal defendants need not join the battle (by not joining, they suffer no adverse consequence -- especially now that Judge Cobb threw her weight around and blocked the docketing of Lu's motion for injunctive relief against them). And yet they do -- a move so rarefied that Lu's exhaustive research fails to find a facsimile in reported federal cases and a gambit with its own ramifications.

(c) Moreover, *Argument in Opposition 4* propounds, except the first sentence, novel notions not found in *Memorandum* -- basically urging court to dismiss complaint on other grounds. For the record, *Argument* states after sentence 1:

"Nor does Plaintiff explain (apart from conclusory statements) how he has plausibly stated RICO claims against the Federal Defendants. Failure to state a RICO claim also dooms any purported declaratory relief claim, because it is a well-established rule that the Declaratory Judgment Act is not an independent source of federal jurisdiction and that the availability of

declaratory relief presupposes the existence of a judicially remediable right. Accordingly, a count for declaratory judgment is not cognizable as a separate cause of action, but is more properly included in the prayer for relief.” (internal quotation marks, citations and brackets omitted)

They abandon the half-baked argument just as quickly, so much so that saves Lu from opposing.

(d) Fed Rule Civ Proc 12(b) dictates a defendant gets to file a motion under that rule just once. Hence, here federal defendants in official capacity exhaust their right under the rule.

(e) The unintended consequence (from court’s viewpoint; Lu, however, is clear-eyed throughout) of the court’s sua sponte dismissal would be to accelerate course of the case.

(f) The court must treat *Opposition* as a motion to dismiss under Rule 12(b). A case in point is *Amended Memorandum Opinion and Order*

[https://scholar.google.com/scholar\\_case?case=1284404767973728494](https://scholar.google.com/scholar_case?case=1284404767973728494)

as 2012 WL 1111374, in *Leo v Beam Team, Inc*, US Dist Ct (S.D.W.Va Apr 2, 2012) No

2:10-cv-534:

“Plaintiff contends that Defendant Beam Team’s motion for partial summary judgment is a motion to dismiss in disguise. The Court agrees. \* \* \* Here, Defendant Beam Team argues that Counts One, Four, and Five ‘fail to state a cause of action, and thus, Beam Team is entitled to judgment as a matter of law \* \* \*’ (Docket 44 at 3.) This is not an argument that there is no genuine issue of material fact and that Beam Team is entitled to a judgment as a matter of law.”

See also *Richardson v United States* (CACD 1999) 193 F.3d 545, 548 (“District Court erred in refusing to consider Mr Richardson’s reply to constitute an amendment to his original complaint”).

Plaintiff: Friedrich Lu, pro se

Date: January 25, 2023

Email address: chi2flu@gmail.com

Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

For certificate of service, see Dist Ct (DCD) Local Rule 5.4(d)(2).



UNITED STATES DISTRICT COURT  
DISTRICT OF DISTRICT OF COLUMBIA

Friedrich Lu, Plaintiff ) Civil Action No 22-3683-JMC  
v )  
Julio A Castillo, et al, Defendants )

REQUEST FOR CLERK TO ENTER DEFAULT AGAINST DC DEFENDANTS

(1)

(a) Plaintiff Friedrich Lu requests clerk for entry of default against defendants both Julio A Castillo and Anna Blackburne-Rigsby, under Fed Rule Civ Proc (Rule) 55(a), which provides in full (2015 ed):

“When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk *must* enter the party’s default.” (emphasis added)

(b) Rule 4(e)(1) dictates an individual defendant may be served with process by “following state law for serving a summons in an action brought in courts of general jurisdiction in the state \* \* \* where service is made.”

Massachusetts long-arm statute, codified as Mass Gen Laws chap 223A, permits service by mail on a out-of-state defendant. Mass Rule Civ Proc 4(c) states service by “mailing may be accomplished by the party or his attorney.”

(c) Under penalty of perjury, Lu states:

“On Thursday, Dec 15, 2022, at Dedham post office I mailed process via USPS overnight Express to Castillo and Blackburne-Rigsby each at their office. USPS tracking number indicated delivery the next day.

(2) It is true that the court entered sua sponte dismissal on Dec 22, 2022 (whose contests by Lu are pending in this court). However, that does not relieve the DC defendants of the duty to answer. Rule 12(a)(1)(A) (a defendant shall serve an answer “within 20 days after being served with the summons and complaint”).

(3) Moreover, *Memorandum* (by court on Dec 22) was defective that is obvious to a reasonable person.

(a) For one, *Memorandum 2* at the outset quoted a circuit precedent for the proposition that “it is ‘patently obvious’ that plaintiff could not succeed on their [sic] claim.” The court got off on a wrong foot: Nothing was patently obvious in that department, vitiating sua sponte dismissal.

(b) *Memorandum* next segued to “first claim \* \* \* allege[s] that Defendants Castillo and Chief Judge Blackburne-Rigsby \* \* \* courts can restrict the filing of amicus briefs.” The court mangled the reading of *Complaint* to reach the warped factual conclusion that it is impossible for a reasonable person to make.

*Complaint* ¶ (3) is all there is against the DC defendants. It is about the lead defendant (Castillo the clerk) and his *ministerial* duty, and nothing else. Blackburne-Rigsby, not mentioned in the text of *Complaint*, was sued because Rule 19(a)(1)(A) (required joinder of parties) demands it.

Hence, *Appellant’s Brief* (by Lu dated Jan 10, 2023 and docketed on Jan 17 following) in *Lu v Castillo*, CADC No 23-5011 stated in Argument ¶ (2)(b):

“District court’s dismissal of *Complaint* is all about judges, though \* \* \* the lead defendant was a clerk about whom *Motion for Injunctive Relief Against Castillo and DC Court of Appeals* was meant but whom *Memorandum* never mentioned.

Rule 54(b) renders inoperable the *Memorandum*-trailing *Order* of dismissal. This court read *Appellant’s Brief*, so did federal defendants here and their counsel, who had been served with it. None saw the rule being implicated, for the latter (group) in the Jan 18, 2023 filing *opposes vacatur*.

DC defendants, being reasonable, knew or should have known that the court’s incomprehensible (and implausible) reading is no-go, and should have answered.

Plaintiff: Friedrich Lu, pro se

Date: January 25, 2023

Email address: chi2flu@gmail.com

Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

For certificate of service, see Dist Ct (DCD) Local Rule 5.4(d)(2).

UNITED STATES DISTRICT COURT  
DISTRICT OF DISTRICT OF COLUMBIA

Friedrich Lu, Plaintiff ) Civil Action No 22-3683-JMC  
v )  
Julio A Castillo, et al, Defendants )

PLAINTIFF'S RENEWED MOTION FOR INJUNCTIVE RELIEF  
AGAINST DC DEFENDANTS

DC defendants (Castillo and Blackburne-Rigsby) are in default. Circumstances have changed after the court's Dec 22, 2022 *Order* of dismissal, calling for allowance of Lu's motion for injunctive relief against these defendants. See *United Electrical Radio and Machine Workers of America v 163 Pleasant Street Corp* (CA1 1992) 987 F.2d 39, 42 (parties "continued to supplement the record" in the district court while first appeal was underway), 43 ("plaintiffs contend that our analysis in *163 Pleasant Street I* has been rendered obsolete by additions to the record which occurred while the first appeal was pending. As a result, plaintiffs assert, the district court's uncritical reliance upon our previous opinion was in error. We agree with plaintiffs' position") (footnote omitted).

Plaintiff: Friedrich Lu, pro se

Date: January 25, 2023

Email address: chi2flu@gmail.com

Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

Dist Ct (DCD) Local Rule 5.4(d)(2) (updated January 2023) ("The requirement of a certificate of service or other proof of service is satisfied by the automatic notice of filing sent by the CM/ECF software \* \* \* to counsel) exempts Lu from personal service of this document.



(2) a two-page Exhibit A (although it does not say 'Exhibit A'), which is labeled as 'scan(1).pdf.' "

(c)

(i) On Dec 23, 2022 I learned from a mirror site that district court had dismissed the case the day before. I both emailed to the judge chamber and mailed his *Motion to Reconsider* (first-class, postage prepaid). The mail also included an additional paper: my motion for injunctive relief against federal defendants (the same as I had emailed four days before.

(ii) Later that day, I received an email:

"[From:] Cobb Chambers Dec 23, 2022, 3:44 PM  
to me

Hello,

Thank you for reaching out. The Court noted the documents that were emailed on December 19, 2022, but considered them mooted alongside the other pending motions after the Order was issued yesterday.

The Court will consider this Motion to Reconsider, but it must be docketed first. Please file it with the Clerk of the Court and the Court will proceed from there.

Sincerely,

Chambers of Judge Jia M Cobb"

The "other pending motions" that were mooted included Lu's motion for CM/ECF password.

(iii) As to the two papers in my letter (described in (c)(i) *supra*), only *Motion to Reconsider* was docketed (as Docket #9), but not motion for injunctive relief against federal defendants.

(d) My Rule 59(e) Motion chided district court at ¶ (7)(b) (erroneously typed as (6)(b); there were two ¶¶ 6 there):

"More troubling is Judge Cobb's withholding the Dec 15 motion against Barron and Laplante from being docketed. Neither a judge nor a clerk has authority to prevent a paper from being docketed. Period.

Lu had electronically transmitted the Dec 15 motion that day to judge's chambers, which was not docketed. Lu then (on Dec 23) mailed it along with *Motion to Reconsider*.

Still, it was not docketed; only the latter was (selectively) docketed."

District court has never disputed this statement.

(e) On Jan 25, 2022, I mailed in (first-class, postage prepaid) three papers (attached as **Exhibit** and distinguished with watermark "COPY"):

(i) *Opposition to Federal Defendants' Motion to Dismiss (Couched as Opposition to Vacate);*

(ii) *Request for Clerk to Enter Default Against DC Defendants*

(iii) *Plaintiff's Renewed Motion for injunctive Relief Against DC Defendants.*

(3) District court mooted Lu's motion for CM/ECF password

(indicated in its email to Lu, see (c)(ii) *supra*, but not in the docket). Taking advantage of this, district court has blocked Lu's filings twice -- altogether four (4) papers.

Appellant: Friedrich Lu, pro se

Date: February 6, 2023

Email address: chi2flu@gmail.com

Address: % St Francis House, PO Box 499, Lafayette Station, Boston, MA 02112

A copy of this document was served on AUSA Sian Jones on the same day electronically.

**U.S. District Court**  
**District of Columbia (Washington, DC)**  
**CIVIL DOCKET FOR CASE #: 1:22-cv-03683-JMC**

LU v. CASTILLO et al  
Assigned to: Judge Jia M. Cobb  
Case in other court: USCA, 23-05011  
Cause: 42:1983 Civil Rights Act

Date Filed: 11/30/2022  
Date Terminated: 12/22/2022  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: U.S. Government Defendant

Date Filed	#	Docket Text
11/30/2022	<u>1</u>	COMPLAINT against DAVID J. BARRON, ANNA BLACKBURNE-RIGSBY, JULIO A. CASTILLO, JEFFREY R. HOWARD, JOSEPH N. LAPLANTE, ROSLYNN R. MAUSKOPF ( Filing fee \$ 402, receipt number 203611) with Jury Demand filed by FRIEDRICH LU. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons)(znmw) (Entered: 12/09/2022)
11/30/2022		SUMMONS Not Issued as to All Defendants (znmw) (Entered: 12/09/2022)
11/30/2022	<u>2</u>	MOTION for Injunction by FRIEDRICH LU. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit)(znmw) (Entered: 12/09/2022)
12/14/2022	<u>3</u>	Summons (5) Issued as to DAVID J. BARRON, ANNA BLACKBURNE-RIGSBY, JEFFREY R. HOWARD, JOSEPH N. LAPLANTE, ROSLYNN R. MAUSKOPF; sent to plaintiff by email. (znmw) (Entered: 12/14/2022)
12/16/2022	<u>4</u>	MOTION for CM/ECF Password by FRIEDRICH LU. (znmw) (Entered: 12/19/2022)
12/22/2022	<u>5</u>	NOTICE of Appearance by Sian Jones on behalf of DAVID J. BARRON, JEFFREY R. HOWARD, JOSEPH N. LAPLANTE, ROSLYNN R. MAUSKOPF (Jones, Sian) (Entered: 12/22/2022)
12/22/2022	<u>6</u>	NOTICE by DAVID J. BARRON, JEFFREY R. HOWARD, JOSEPH N. LAPLANTE, ROSLYNN R. MAUSKOPF re <u>2</u> Motion for Injunction (Jones, Sian) (Entered: 12/22/2022)
12/22/2022	<u>7</u>	MEMORANDUM AND OPINION: See document for details. Signed by Judge Jia M. Cobb on December 22, 2022. (lcjmc1) (Entered: 12/22/2022)
12/22/2022	<u>8</u>	ORDER: The Court ORDERS Plaintiff's Complaint to be dismissed. See document for details. Because Plaintiff's Complaint is dismissed, Plaintiff's Motion for Injunction (ECF 2) and Motion for CM/ECF Password (ECF 4) are denied as moot. Signed by Judge Jia M. Cobb on December 22, 2022. (lcjmc1) (Entered: 12/22/2022)
12/22/2022		Motions terminated: <u>2</u> MOTION for Injunction filed by FRIEDRICH LU, <u>4</u> MOTION for CM/ECF Password filed by FRIEDRICH LU. Signed by Judge Jia M. Cobb on December 22, 2022. (lcjmc1) (Entered: 12/22/2022)
12/27/2022	<u>9</u>	MOTION for Reconsideration re <u>8</u> Order, by FRIEDRICH LU. (zed) (Entered: 12/29/2022)
01/04/2023	<u>10</u>	MOTION to Vacate <u>7</u> Memorandum & Opinion, <u>8</u> Order, by FRIEDRICH LU. (znmw) (Entered: 01/05/2023)
01/09/2023	<u>11</u>	NOTICE OF APPEAL TO DC CIRCUIT COURT as to <u>7</u> Memorandum & Opinion, <u>8</u> Order, by FRIEDRICH LU. Filing fee \$ 505, receipt number 203796. Fee Status: Fee Paid. Parties have been notified. (znmw) (Entered: 01/11/2023)
01/11/2023	<u>12</u>	Transmission of the Notice of Appeal, Order Appealed (Memorandum Opinion), and Docket Sheet to US Court of Appeals. The Court of Appeals fee was paid re <u>11</u> Notice of Appeal to DC Circuit Court. (znmw) (Entered: 01/11/2023)
01/17/2023		USCA Case Number 23-5011 for <u>11</u> Notice of Appeal to DC Circuit Court filed by FRIEDRICH LU. (znmw) (Entered: 01/17/2023)



01/17/2023	<u>13</u>	ORDER of USCA as to <u>11</u> Notice of Appeal to DC Circuit Court filed by FRIEDRICH LU ; USCA Case Number 23-5011. (znmw) (Entered: 01/17/2023)
01/18/2023	<u>14</u>	Memorandum in opposition to re <u>10</u> Motion to Vacate filed by DAVID J. BARRON, JEFFREY R. HOWARD, JOSEPH N. LAPLANTE, ROSLYNN R. MAUSKOPF. (Jones, Sian) (Entered: 01/18/2023)
01/25/2023	<u>15</u>	ERRATA by DAVID J. BARRON, JEFFREY R. HOWARD, JOSEPH N. LAPLANTE, ROSLYNN R. MAUSKOPF re <u>14</u> Memorandum in Opposition. (Jones, Sian) (Entered: 01/25/2023)
02/06/2023	<u>16</u>	ORDER denying <u>9</u> Motion for Reconsideration and <u>10</u> Motion to Vacate. See Order for details. Signed by Judge Jia M. Cobb on February 6, 2023. (lcjmc1) (Entered: 02/06/2023)
02/06/2023	<u>18</u>	STRICKEN PURSUANT TO THE MINUTE ORDER ENTERED ON 2/16/23.....AFFIDAVIT FOR DEFAULT by FRIEDRICH LU. (zed) Modified on 2/21/2023, to strike. (zgf). (Entered: 02/15/2023)
02/07/2023	<u>17</u>	Supplemental Record on Appeal transmitted to US Court of Appeals re <u>16</u> Order on Motion for Reconsideration ; USCA Case Number 23-5011. (znmw) (Entered: 02/07/2023)
02/16/2023		MINUTE ORDER re <u>18</u> Affidavit for Default: The Court ORDERS that this filing be stricken. The Court dismissed Plaintiff's Complaint on December 22, 2022, <i>see</i> ECF 8; that decision is pending before the D.C. Circuit. The Defendants that Plaintiff identifies in his Affidavit were not obligated to respond Plaintiff's Complaint after it was dismissed, and therefore default should not be entered against these Defendants. Signed by Judge Jia M. Cobb on February 16, 2023. (lcjmc1) (Entered: 02/16/2023)