

No. 23-34

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In The  
**Supreme Court of the United States**

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DELILA UWASOMBA,

*Petitioner,*

v.

BANK OF AMERICA; MERRILL LYNCH  
PIERCE FENNER AND SMITH INC.,

*Respondents.*

—◆—  
**On Petition For Writ Of Certiorari  
To The United States Court Of Appeals  
For The Fourth Circuit**

—◆—  
**PETITION FOR WRIT OF CERTIORARI**  
—◆—

DELILA UWASOMBA  
15560 Cosby Village Ave.  
Apt. 101  
Chesterfield, VA 23832  
804-502-8534  
delilau@gmail.com

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## QUESTIONS PRESENTED

1. Is it appropriate for a case to be dismissed for not stating a claim and the stated claim dismissed as time barred?
2. I've been told by attorneys that I have a complex employment case, what's the Court cause of action in handling such?
3. Is it justice for a private citizen to be denied a fair trial and recovery for economic loss streamed from corporate misconduct?

And it's not appropriate for an employer to remove an applicant from their position in a hiring process whether it's intentional or unintentional, they still need to be accounted for their negligence and damages.

## **PARTIES TO THE PROCEEDING**

Petitioner Delila Uwasomba was the plaintiff in the district court proceedings and appellant in the court of appeals proceedings. Respondents BANK OF AMERICA; MERRILL LYNCH PIERCE FENNER AND SMITH INC. were the defendants in the district court proceedings and appellees in the court of appeals proceedings.

## **RELATED CASES**

- UWASOMBA v. BANK OF AMERICA; MERRILL LYNCH PIERCE FENNER AND SMITH INC., No. 1:18-cv-02520-RDB In the United States District Court for the District of Maryland. Judgment entered March 31, 2020.
- UWASOMBA v. BANK OF AMERICA; MERRILL LYNCH PIERCE FENNER AND SMITH INC., No. 21-1091 In United States Court of Appeals for the Fourth Circuit. Judgment entered February 7, 2022.

## TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED .....	i
PARTIES TO THE PROCEEDING.....	ii
RELATED CASES .....	ii
TABLE OF CONTENTS .....	iii
TABLE OF AUTHORITIES.....	v
PETITION FOR A WRIT OF CERTIORARI .....	1
OPINIONS BELOW.....	1
JURISDICTION.....	1
STATUTES AND CONSTITUTIONAL PROVI- SIONS INVOLVED.....	1
STATEMENT OF THE CASE.....	2
BACKGROUND .....	7
REASONS FOR GRANTING THE PETITION ...	17
CONCLUSION.....	19
 APPENDIX	
United States Court of Appeals for the Fourth Circuit, Opinion, March 16, 2023 .....	App. 1
United States Court of Appeals for the Fourth Circuit, Judgment, March 20, 2023 .....	App. 3
United States District Court for the Eastern District of Virginia, Memorandum Order, Aug. 22, 2022 .....	App. 4
United States District Court for the Eastern District of Virginia, Order, May 11, 2022 .....	App. 13

TABLE OF CONTENTS – Continued

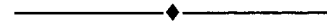
	Page
United States Court of Appeals for the Fourth Circuit, Order (denying rehearing), April 17, 2023 .....	App. 16
Voicemail Recording Transcript.....	App. 17

## TABLE OF AUTHORITIES

	Page
CASES	
Harald McPike v. Zero-Gravity Holdings, Inc., No. 1:17-cv-562 (2017).....	3
Packard Norfolk, Inc. v. Miller, 198 Va. 557 (1956).....	18
Phillips v. Starbucks, 1:19-cv-19432 .....	6
CONSTITUTIONAL PROVISIONS	
U.S. Const. amend. XIV, § 1 .....	1
STATUTES	
28 U.S.C. § 1254(1).....	1
Va. Code § 8.01-243.....	3
Va. Code § 8.01-243(A).....	17
Va. Code § 8.01-249(1) .....	3
Va. Code § 8.01-249(6) .....	2, 18
Va. Code § 18.2-216.....	3

**PETITION FOR A WRIT OF CERTIORARI**

Delila Uwasomba petitions for a writ of certiorari to review the judgment of the United States District Court for the Eastern District of Virginia.



**OPINIONS BELOW**

The opinions of the courts below were not reported.



**JURISDICTION**

The Federal Court entered Judgment on August 22, 2022. The Court of Appeals denied a timely petition for rehearing en banc on April 17, 2023. This court has jurisdiction under 28 U.S.C. § 1254(1).



**STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED**

1. 14th Amendment's Guarantee of Due Process

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or

property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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### STATEMENT OF THE CASE

The issue presented in this case involves a genuine and current conflict between the district court and Courts of Appeals lack of understanding for hiring process procedures and unrealistic expectations for a private citizen to understand the contents of judicial laws and when to apply them. It's unlawful for an employer to remove an applicant from their current position and to dismiss a case as time barred as it was not mentioned nor argued. Please do not confuse me as an attorney to be knowledgeable of which law is applicable and when to apply them. A law was broken, and the courts need to recognize a citizen's rights has been violated. In the criminal law this would constitute deceit and fraud and the citizen will be held accountable.

In accordance with amendment to Va. Code § 8.01-249(6), effective July 1, 1991, my fraud claim was timely filed because I first learned of the connection between my claims and fraud few weeks prior to filing suit.

In actions for fraud or mistake, in actions for violations of the Consumer Protection Act (§ 59.1-196 et seq.) based upon any misrepresentation, deception, or fraud, and in actions for rescission of contract for undue influence, when such fraud, mistake, misrepresentation,



deception, or undue influence is discovered or by the exercise of due diligence reasonably should have been discovered.

The federal court argues that I should have known it was fraud at the onset. Mind you, I am pro se, I have limited knowledge of the judicial laws. I first learned in March 2022 during my conversation with an old friend that practices criminal law, the actions of Bank of America et al., is in violation of Va. Code § 18.2-216.

The statute of limitations for fraud cases in Virginia is two years from the time the cause of action accrues. See Va. Code § 8.01-243. This is not necessarily two years from the time the fraud was committed. Fraud cases are subject to a “discovery rule,” meaning that the cause of action will not accrue until the alleged misrepresentation is either discovered, or, by the exercise of due diligence, reasonably should have been discovered. See Va. Code § 8.01-249(1). The clock on the two-year period does not begin ticking until that moment in time.

Furthermore, it’s not appropriate for the court to rule on the affirmative defense of the statute of limitations as time barred as the affirmative defense and the statute of limitations doesn’t appear clearly on the pages of the complaint. The issue of time barred is best left for the jury, see case of Harald McPike v. Zero-Gravity Holdings, Inc., No. 1:17-cv-562 (2017).

The federal courts also argued that the reliance was based on my conversation with Susie, which is

false. The reliance is based on my start date conversation with the hiring manager Zach Vie with instructions to start work next business day and voicemail recording as evidence for the reliance.

The federal court initially argued that Zach Vie contact was to brief me on the job entail which does not make any sense. I have been briefed on the job entail weeks prior, I have been interviewed twice, completed my background check, and provided all requested documentation. I was told by their background specialist Diedre Fox that my background check has now been completed. Zach contact was to provide start date information as I was among ten individuals scheduled to start work the next business day. You don't brief an applicant on job entail one business day prior to start date, that's done weeks prior. And the bank has used this unfair injustice ruling to not fairly compensate me for defrauding me from my assets.

In civil litigation, allegations of fraud might be based on a misrepresentation of fact that was either intentional or negligent. For a statement to be an intentional misrepresentation, the person who made it must either have known the statement was false or been reckless as to its truth. The speaker must have also intended that the person to whom the statement was made would rely on it. The hearer must then have reasonably relied on the promise and also been harmed because of that reliance.

A claim for fraud based on a negligent misrepresentation differs in that the speaker of the false statement may have actually believed it to be true; however, the speaker lacked reasonable grounds for that belief.

The bank misrepresented their positions FDIC and FNIRA requirements and the material facts in relation to the requirements of their positions by stating I do not qualify to work for a bank and to file for authorization from the FDIC, an absolute false statement. I was employed with a notable bank up till I received the call from Zach Vie that led to my resignation and I wasn't required to file for authorization to work for Wells Fargo bank. They believed I didn't meet the FDIC guidelines to work for a bank and intentionally or negligently removed me from my position with Wells Fargo. They knew their actions would have an economic impact and should have offered a position to avoid an economic disruption. Their decision not to offer a position was malicious, knowing they rendered an applicant unemployed and unable to meet financial obligations.

Retaining an attorney to address this matter on my behalf is something that I am considering. I am a full-time mother and work from home part-time, unfortunately attorneys don't operate during my less busy hours on weekends. Overall, I have not had the best of attorneys, with an attorney claiming there was an extension to file a response due to Covid and the judge ruling otherwise. Therefore, I am taking my time

retaining attorney that's affordable and understand the issue at hand thoroughly. This is the last chance for me to get this corrected and I would like to maintain my faith in the U.S. Supreme court system to uphold its judicial laws in its fairness regardless of background. In the case of Phillips v. Starbucks, 1:19-cv-19432, Phillips alleged discrimination for being fired based on her national origin. In this very similar situation where Ms. Philips was fired and, in my case, I was removed from my employer and denied employment, our well-being and finances have been disrupted. It's with prejudice that in a similar situation Ms. Philips was given an opportunity to a fair trial and will be recovering the economic and emotional distress inflicted and the company held liable and punished for their unlawful act and I am being denied that same opportunity. I am certain that Ms. Phillips had no difficulties with securing employment to minimize economic impact due to her Caucasian background. I am an African American, with a minor petit larceny resulting from a college back-to-school shopping. Overall, it's more challenging for me to secure employment after I was removed from my position with Wells Fargo, which has left me with an immeasurable economic impact and severe depression that no amount of therapy can resolve because the issue persists. We both filed suits because our well-being and finances have been impacted, whether it was by firing or removal and denial of employment, both employers made unlawful decisions that impacted lives and needs to be held liable. I was told by a court clerk that offers are retrieved all the time and so is firing. My issue is that my well-being

was disrupted in their process not that I wasn't given employment. So, it's prejudice for the court to pick and choose who is economically relieved from corporate misconduct. I do not need to be penalized for the rest of my life and my household disrupted over a situation that was resolved over a decade ago. They need to be penalized for taking matters into their own hands and thought they had the authority to determine I wasn't eligible to work for a bank. The court rulings based on this misleading facts have left me broken and questioning the robustness and effectiveness of the judicial system. To say the least I am very disappointed with the court's efforts to make light of the bank's unlawful act.

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## BACKGROUND

I was eager to get back on track with reinvestment into my newly online lady's boutique and acquiring my father's property after dealing with his passing followed by a yearlong disappearance of my younger sister and her demise. While working for Wells Fargo, I applied to Preferred Specialist Position at Bank of America website. Wells Fargo have a one-year transition policy. At that time, I had been in my position for a little under one year as a business banker, with enormous responsibilities, I needed a higher paying position to take care of my student loans, invest in my start-up lady's boutique and remodel my father's home. After successfully completing the online assessment, a recruiter Susie Madden reached out to brief

me on job entails and to schedule an interview at the job site, which is located in Cockeysville, MD. I secured an apartment for the end of November move date with option of cancellation if the job doesn't fall through. On December 2nd, a normal day at work, I received a call from what appeared to be a Maryland area code, I was on a call with a client and couldn't take the call. After completing the call, I stepped out to call back the number and that was when the call came in once again, this time I answered. It was a gentleman by the name of Zach Vie, he stated he was the hiring manager for the bank and was calling to go over information before I start work on Monday. The call was about five minutes long, after disconnecting I went back to my workstation, looked for my supervisor and at that point I gave him the news that I will be leaving Wells Fargo and today was my last day. He was surprised as I didn't give any resignation notice and advised that I go back to my workstation and type up a formal resignation letter. The reason for not providing resignation at a reasonable time was me ensuring that my position with Wells Fargo remains intact regardless of Bank of America et al., decision. I have had job offers receded in the past; and it didn't result in a lawsuit because they know how to do their job and their decisions were not malicious in any way that would have affected my well-being. Because of my background situation I am more careful with my transition from one employer to another and I am also transparent of the issue in my background check applications. Unlike others, the bank negligently removed me from my position with Wells Fargo and relocated me to Maryland just to deny

employment on allegations that I don't meet the FDIC guidelines to work for a bank, knowing it would cause disruption and distress to my well-being and finances.

After my conversation with Zach, I reached out to Susie for training material for Series 65, for me to start reviewing over the weekend, the call went to voicemail. While I was at home making arrangements to relocate in less than two days, Susie called back and stated my background check was pending and that Tuesday will be the official start date as opposed to Monday. I didn't anticipate any major issues, I have banking experience, I have already been told previously my background check was completed so it must be something minor. I clearly stated the petit larceny charge on my background check application that was conducted a couple of weeks ago, so they're fully aware and proceeded to contact me with background check completion and with start date instructions. If there were going to be any issues that should've been prioritized when I notified Susie I had resigned from Wells Fargo rather she provided an alternative start knowing this was an out of state job transition and I'll need to relocate to Maryland in order to start work Tuesday. Overall, the pending issue wasn't adding up as Deirdre Fox, their background check specialist contacted me several days earlier advising that my background check was completed. It's malicious and reckless to advise on completion of background check few days prior by Deirdre Fox if the background was still pending. It's also malicious and reckless for Zach Vie to proceed to

contact me reconfirming my background was cleared and to start work next business day.

Clearly nobody wants to admit to their wrongdoing, they want me to be so wrong and the bank right. To the point material facts are made up and structured in such a way that what's wrong is now right. I am black; therefore, I must be wrong in some way. I followed all guidelines and procedures for an individual seeking employment. There are steps within the hiring process, and I followed each of those steps to ensure a smooth transition, including protecting my position with Wells Fargo. This malicious company intentionally removed me from my position with a notable bank because they believed I didn't meet the qualifications to work for a financial institution in any capacity which is proven to be false. They defrauded me from my position with Wells Fargo, from my home, from my start-up ventures and my well-being. They don't possess the right to play around with my means of income by calling with completion of background check followed by start date instructions, and then a later start date that led to my relocation. And have the audacity to put me through a stressful financially and emotionally draining lawsuit that further derailed my well-being as opposed to resolving this issue at its onset. The position that I initially applied for at Wells Fargo was for Personal Banker and that was declined, their decision to decline had no effect on my well-being nor my finances. Wells Fargo in fact reached out to me shortly after the decline and offered an alternative position as a Business Banker and they weren't obligated to do so



as their decision not to move forward with the Personal Banker position had no effect on me. In this case, Bank of America et al., removed me from my position with a bank that gave me an opportunity, and had me relocate several hours away just to tell me my background doesn't meet qualifications to work for a bank after giving me a runaround (traveling back and forth between Maryland and Virginia after my relocation).

In recent attempts to resolve this issue without further stressful court proceedings, the bank has argued that this case is old therefore I am not entitled to fair compensation, and offered an amount that doesn't cover their damages. They have also stated per the court's ruling that I don't have a claim against the bank. A statement that haunts me to this day. After I was removed from my home, my job, the funds intended for my start-up marketing diverted to paying rent, etc., I had to give up my beloved dogs that I have had for over ten years over expensive medical needs, the attorney fees, compensation for the months that I was rendered unemployed, the loss of my property, loss of revenue from my start-up ladies online boutique, and not to mention the deep depression that I have endured from my losses, the intensive stress of dealing with the court and trying to articulate the ordeal to court standards and understanding, the constant dismissal based on false material facts all have impacted my health and my well-being. I get severe headaches from the thoughts of not being heard, and misunderstood, allegations construed to favor the bank and for me to take the lost against a bank who have shown

lack of compassion and urgency to minimize the damages inflicted. In contrast they've intensified the damages by prolonging resolution when they're clearly in the wrong.

Cheekato.com was an online lady's boutique created after my college graduation from VCU, as a graduation gift from my mother. I do not function very well in a micromanaged environment for a long period, so it has always been my intent to operate my own business. We offered a wide variety of collections, with my reinvestment and being among the fresh ladies' online boutique at that time, no doubt we wouldn't be doing great. My father's property that was intended for rent, that would have been generating sufficient income for my household. I expressed the financial devastation to the attorneys that had represented me, and it was communicated to the court.

The extent of the malicious of Bank of America et al., actions continue after their final decision to not proceed with employment. I reached out with an attorney about a month later and they refuted resolution, so why offer an unreasonable resolution now. The EEOC recommended mediation, if they can offer \$25k now, that should have been offered at the onset. They are a financial institution; they should be aware of the financial devastation, but they didn't care. They didn't care that I had been relocated three hours away and now without income for no apparent reasons. Any court clerk, justice or judge that agrees with the bank behavior needs to donate their assets and give up on whatever goals and obligations they may have. This

malicious bank denied early attempts of relief. I had a cancer scare few months prior to my application and had to get a biopsy, with their removal I no longer had health insurance to keep up with my health, I was in the middle of a root canal procedure, the tooth ended up being extracted because it was inexpensive for an extraction than to continue with the procedure. The amount that's being offered now should have been offered at my initial outcry for relief with the first attorney I worked with. I am astonished by the court statement to spare the bank from unnecessary lawyer fees burden, the bank had opportunities to spare both parties from unnecessary lawyer fees with early resolution when the EEOC recommended mediation which they declined.

As a business graduate I factored economics into my family planning so that I am not financially strained to provide for my future family. Especially with my difficult background, I didn't want to rely on any corporation to be the primary provider for my household. This civil matter has decreased my chances of securing employment. I am a private individual and if someone was to research me, I rather not have this situation be the only information to populate, unfortunately it is. They have tainted my image. My current employer that I am on 1099 basis, had to change my name from Delila Uwasomba to Chidimma Uwasomba in case clients decides to do a google inquiry. This is not what I want to be known for, when my name is researched on Google, they damage my image. The court has shown more empathy towards the bank and

concern over their lawyer fees burden and dismissing the actual victim financial and emotional burden. I made a normal decision that anyone deciding on this issue would have made, including protecting my position with Wells Fargo. I'm not certain if the courts are comparing a notable bank in the likeness of a local small business; that I can resign and call back at the end of the workday when most of the department are off work and advised to hold off on the resignation till further notice. We all know that's not how it works so I am not certain why the courts believe that's the procedure. I understand the bank reserves the right to not hire anyone of their choosing; however, they do not have the right to destabilize an applicant in the process.

The court has shown no regard for my finances, the federal court advised the circuit court will not be kind to my case if I didn't pay the filing fee in the amount of \$500 although I qualified for fee waiver at that time. I paid that fee and they still proceeded to dismiss my case with prejudice. I am a single mother with toddlers that's struggling to provide for my children and the lifestyle that I was creating for them. For my sons last year birthday, they're both October babies, I gifted them with an online children's toys and educational website, Nurababy.com. I am struggling with whether I should be investing in marketing for the business or paying for their schools and social activities fees. These are things that should have been in place prior to having my children. A clear indication of the economic impact of their actions. By now

Cheekato.com would have been a successful thriving ecommerce.

The company that I am currently employed with made recent changes to their sales practices that now affect our ability to make sales. It concerns and worries me about not being able to provide for my children, in any event that I don't meet my monthly quota. And it's going to be more difficult securing a job now that my reputation is tainted with this awful lawsuit and what populates when my name is researched.

Wells Fargo was not obligated to offer an alternative position as their decision not to move forward with the initial position didn't impact on my well-being nor my finances. They're a responsible honorable bank and I command them, and I am forever grateful. In the case of Bank of America et al., that was obligated to offer an alternative position did not and refuted early attempts for a quick resolution which would have spared some of my losses. It's questionable for the bank to present itself as a corporation with core values of bettering its customers financial health, pioneer in woman and minority business, investments, mental well-being advocate, etc. They have proven with their actions towards me they're not what they present, and they do not conduct nor operate in the manner they're perceived.

The court has continuously displayed its lack of empathy for a black woman pain who have been taken advantage of by a corporation and have shown more empathy and concern for a billion-dollar corporation. If the bank was in anyway concern for its legal fees this

issue would have been resolved when I reached out with an attorney in January, a month after their final decision to not proceed with any position or when the EEOC recommended mediation. I expressed in my EEOC argument the economic impact and my chronic health situation at that time, and not having health insurance to combat those health problems and they didn't care to offer any resolution.

It's very clear their misconduct constitutes fraud. I was misled into resigning from my position, on false allegations that I don't meet the FDIC guidelines. And the court is yet to argue on my behalf and question why they didn't move forward with the a position knowing that I quit my job based on my conversation with their hiring manager Zach Vie. The court argued that Susie contacted me hours after my resignation, she also didn't state they'll not be moving forward with employment rather she provided an alternative start date. The petit larceny charge was stated clearly on my background application. They didn't need to conduct a background check to be aware of the charge because I made them aware weeks prior at the section of the background where it question conviction. The court also ignored the fact that Diedre Fox, their background check specialist reached out to me days prior and stated my background check was completed after I submitted some documentation she requested. I had no reason to believe there was going to be any issues. The moral and ethical response should have been to move forward with a position, especially knowing the applicant is unemployed as a direct result of their actions.

It's malicious to not have moved forward with a position knowing they have destabilized an applicant. The manager that oversees that department was terminated; I would like to hear the court's argument on behalf of the bank for a wrongful termination suit.

Please keep in mind that I am not an attorney and have very limited knowledge of proceedings and I do intend on retaining an attorney as we move along. At this moment I feel the need to take charge and proceed with court filings. The past six years have been an awful journey; I waited all these years to become a mother and it has been encompassed with sever deep depression knowing that I could potentially not recover from our losses. And I question how I have made it this far. It will be devastating for my household if we're denied recuperating our losses. This is an extremely strenuous ordeal, fighting to recoup my losses after dealing with Bank of America et al., malicious misconduct, I have not had a break to enjoy my children and for them to enjoy me without this high anxiety.

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### **REASONS FOR GRANTING THE PETITION**

Certiorari should be granted to address and establish a uniform standard for dealing with complex employment legal issues. The district court's failure to state a claim, needs to be refuted on grounds a fraud claim was stated. Under Va. Code § 8.01-243(A) the bank did in fact commit actionable fraud. Some important factors to note in a fraud claim are if it was

reasonable for the plaintiff to rely on their statement regardless if it's an opinion or misrepresentation.

A misrepresentation fulfills the criterion of materiality when it "influences a person to enter into a contract when it deceives him and induces him to act, or when without it the transaction would not have occurred" (Packard Norfolk, Inc. v. Miller, 198 Va. 557, 563 (1956))

Certiorari should be granted as per amendment to Va. Code § 8.01-249(6), effective July 1, 1991, cause of action will not accrue until the misrepresentation is discovered.

Certiorari should be granted to contain the bank's unlawful misconduct from future wrongful termination suits. If the court continues to protect the bank from its unlawful misconduct and if the bank continues to deny them, the employee(s) that were terminated as a direct result of this issue need to be notified of their wrongful termination.

Certiorari is warranted on whether it's constitutional for an employer to remove an applicant from their current position in a job application process.

Furthermore, certiorari should be granted for justice, so I can finally be at peace knowing that I can continue to have faith in the judicial system.





**CONCLUSION**

For the foregoing reasons, the Court should grant a writ of certiorari.

Respectfully submitted,

DELILA UWASOMBA  
15560 Cosby Village Ave.  
Apt. 101  
Chesterfield, VA 23832  
804-502-8534  
delilau@gmail.com

APPENDIX TABLE OF CONTENTS

	Page
United States Court of Appeals for the Fourth Circuit, Opinion, March 16, 2023 .....	App. 1
United States Court of Appeals for the Fourth Circuit, Judgment, March 20, 2023 .....	App. 3
United States District Court for the Eastern District of Virginia, Memorandum Order, Aug. 22, 2022 .....	App. 4
United States District Court for the Eastern District of Virginia, Order, May 11, 2022 .....	App. 13
United States Court of Appeals for the Fourth Circuit, Order (denying rehearing), April 17, 2023 .....	App. 16
Voicemail Recording Transcript.....	App. 17