

23-5564
CAUSE NO.

Supreme Court, U.S.

FILED

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In The
Supreme Court of The United States

TRENT STEVEN GRIFFIN, SR.
Petitioner,

v.

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF TEXAS, ET AL.,
Respondents.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

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Pro se

ORIGINAL

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I. QUESTIONS PRESENTED

1. Whether Honorable Jorge Solis (retired), and now Honorable Ed Kinkeade, District Court Judge, had the power or authority or there was an abuse of discretion, not according to law, constitutional misconduct to enter the orders of November 13, 2014, March 20, 2015, February 24, 2016 or March 22, 2022, specifically:

a. whether a judge has the power or authority to set aside a default, particularly when a request was made without leave of court or consent from the opposing party by an attorney outside the jurisdictional limits of the court in direct conflict with local rules or Federal Rules of Civil Procedure.

b. whether a judge has the power or authority to strike a summons and amended complaint that were served on newly added parties within 120-days (now 90 days) in accordance with Rule 4(m) of the Fed. R. Civ. P. 4.

c. whether a judge has the power or authority to alter, modify, deny or stay all discovery in a civil and constitutional rights action in a demand for jury trial in direct conflict with Rules 26 - 38 of the Federal Rules of Civil Procedure.

d. whether a judge has the power or authority to alter, modify or deny a jury trial that was demanded in an original complaint for civil and constitutional rights misconduct, for example under the laws for 42 U.S.C. §§ 1981, 1981(a), 1982, 1983, 1985, 1986 or 1988, Title VI of the CRA or Title VII of the CRA or Title I of the ADA or Title II of the ADA or section 504 of the RA of 1974 or otherwise supplemental claims or actions for ADEA or FMLA or FSLA or 1st, 4th, 13th or 14th Amendments.

e. whether a judge has the power or authority to alter, modify, enlarge or deny any part thereof under Rules 4, 5, 12, 15, 55, 56 or 60 of the Federal Rules of Civil Procedure without valid bases or reason or justification, except as provided in the rules.

f. whether a judge has the power or authority to grant a motion for judgment on the pleadings, when the pleadings are not closed in the case or the answer contained only admissions and denials and no 12(b) motions or affirmative defenses other than what is believed to be an illusory arbitration.

g. whether a judge may overrule its order by allowing an opposing party to perform in direct conflict with an order of the court or the Federal Rules of Civil Procedure.

h. whether a judge has the power or authority to grant a motion to dismiss that is filed outside the time required under Rule 12(a)(1)(A)(i) or its court orders or change the filing date of a document or does the service date become inapplicable under Rule 5(b)(1) and (b)(2)(C) for service of a pleading on an attorney that represents defendants and service is complete upon mailing in accordance with the Federal Rules of Civil Procedure.

PARTIES TO THE PROCEEDINGS BELOW

Petitioner here, and respondent and defendants-respondents below, are as follows:

Trent S. Griffin, Sr., petitioner; Honorable Ed Kinkeade for the U.S. District for the Northern District of Texas, respondent; Walgreens Company and Walgreens Employees; Greg Wasson, Chief Executive Officer; Jim Reilly, Sr., Director Human Resources; Chester Stevens, District Manager; Januari Lewis, Pharmacy Supervisor; Jerry Padilla, Pharmacy Supervisor; Felicia felton, Store Manager; Jerline Washington, Pharmacy Manager; Vanessa Strong, Store Manager; Miranda Martinez, Pharmacy Technician; Daravanh Khanmanivanh, Pharmacy Technician; Nicole Bush, Market Scheduler; Wells Fargo Bank, N.A.; American Zurich Insuarnce Company, defendants-respondents.

CORPORATE DISCLOSURE STATEMENT

The undersigned pro se plaintiff - appellant certifies that the following listed persons and entities as described in Rule 29.6 have an interest in the outcome of this case and these representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

1. PETITIONER, Trent S. Griffin, Sr.
Pro se Plaintiff
Dallas County, Texas
2. RESPONDENT, American Zurich Insurance Company
Schaumburg, Illinois

American Zurich Insurance Company is a wholly owned subsidiary of Steadfast Insurance Company, a Delaware corporation. Steadfast Insurance Company is a wholly owned subsidiary of Zurich American Insurance Company, a New York corporation. Zurich American Insurance Company, is a wholly owned subsidiary of Zurich Holding Company of America, Inc., a Delaware corporation. Zurich Holding Company of America, Inc. is 99.8711% owned directly by Zurich Insurance Company Ltd., a Swiss corporation, with the remaining shares indirectly owned by Zurich Insurance Company Ltd. Zurich Insurance Company Ltd is directly owned by Zurich Insurance Group Ltd, a Swiss corporation. Zurich Insurance Group Ltd is the only

publicly traded parent company, with a listing on the Swiss stock exchange, and a further trading of American Depository Receipts.

3. RESPONDENTS, Walgreens Company and Walgreens Employees
Walgreens Boots Alliance, Parent Company
Stefano Pessina, Executive Chairman
Rosalind Brewer, Chief Executive Officer (current)
John T. Standley, President
Greg Wasson, Chief Executive Officer
Jim Reilly, Sr., Director Human Resources
Chester Stevens, District Manager
Januari Lewis, Pharmacy Supervisor
Jerry Padilla, Pharmacy Supervisor
Felicia felton, Store Manager
Jerline Washington, Pharmacy Manager
Vanessa Strong, Store Manager
Miranda Martinez, Pharmacy Technician
Daravanh Khanmanivanh, Pharmacy Technician
Nicole Bush, Market Scheduler
4. RESPONDENT, Wells Fargo Bank, N.A.
Wells Fargo & Company
5. Counsel for Respondent American Zurich Insurance Company
Blair Dancy
Cain & Skarnulis

Laura Grabouski
Buchanan DiMasi Dancy & Grabouski, LLP
6. Counsel for Respondent Wells Fargo Bank, N.A.
Shayne D. Moses
David A. Palmer
Alyson C. Halpern
Moses, Palmer & Howell, LLP
7. Counsel for Respondents Walgreens and Walgreens Employees
Lawrence McNamara
Ford & Harrison, LLP
8. Counsel for Respondents State of Texas Defendants
Michael James Patterson
Assistant Attorney General
Office of the Attorney General
9. Respondent Honorable Ed Kinkeade
United States District Court for the Northern District of Texas, Dallas Division

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case that was directed to the Honorable Ed Kinkeade, Judge of the United States District Court for the Northern District of Texas, Dallas Division, and shows as follows:

I. OPINIONS BELOW

The opinion of the court of appeals (App., *infra*, 1a - 2a) is unreported or unpublished. The judgment of the court of appeals dismissing petitioner's appeal (App., *infra*, 3a - 4a) is unreported. The district court's orders setting forth its findings and conclusions of law for dismissal with prejudice and other orders (App., *infra*, 5a; 6a - 18a; 19a - 25a.; 26a - 34a; 35a - 52a; 53a - 63a) are unreported.

II. JURISDICTION

The judgment of the court of appeals was entered on February 23, 2023. On May 5, 2023, Justice Alito extended the time which to file a petition for a writ of certiorari to and including July 23, 2023. However, the last day for filing of the petition for a writ of certiorari is a Sunday, ergo the last day for filing is July 24, 2023. Jurisdiction is invoked on this Court by the provisions of 28 U.S.C.A. §§1254(1), 1651(a), and Rule 14 of the rules of this Court. This Court's appellate jurisdiction has been invoked under case no. 22-7811, herein a writ of prohibiton and/or mandamus or injunction will aid in this Court's appellate jurisdiction.

III. BASIS OF DISTRICT COURT'S JURISDICTION

Jurisdiction is conferred on the district court to entertain the present action by, *inter*

alia, U.S. Const. Art. III § 2; 28 U.S.C. §§ 1343, 1367; 42 U.S.C.A. §§ 1983, 1981, 1982, 1985, 1986; First, Fourth, Fifth, Seventh, Thirteenth, and Fourteenth Amendments.

IV. STATUTORY PROVISIONS AND RULES INVOLVED

1. 28 U.S.C. § 1343 provides in relevant part: "The district courts * * * shall have original jurisdiction of any civil action authorized by law to be commenced by any person: (1) to recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by an act done in furtherance of any conspiracy mentioned in section 1985 of Title 42; (2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent; (3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege, or immunity secured by the Constitution of the United States or by an act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States; (4) to recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights,"

2. 28 U.S.C. § 1654 provides: "In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein."

3. 42 U.S.C. § 1981 provides: "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all the laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, license, and exactions of every

kind, and to no other. (b) For the purpose of the section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship. (c) The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

4. 42 U.S.C. § 1982 provides: "[A]ll citizens of the United States shall have the same right, in every State and Territory, as enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property.

5. 42 U.S.C. § 1983 provides: " [E]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or cause to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other prospective proceedings for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

6. 42 U.S.C. § 1985 provides, in relevant part: " If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection

of the laws; or if two or more persons conspire * * * to prevent . . .; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

7. 42 U.S.C. § 1986 provides, in relevant part: "[E]very person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action;"

8. 42 U.S.C. § 1988 provides

9. FED. R. CIV. P. 5 provides, in relevant part: "[I]f a party is represented by an attorney, service under this rule must be made on the attorney (b)(2)(A) handing it to the person; (B) leaving it (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; (C) mailing it to the person's last known address--in which event service is complete upon mailing."

10. FED. R. CIV. P. 8 provides, in relevant part: "[I]n responding to a pleading, * * * a party must: (b)(1)(A) state in a short and plain terms its defenses to each claim asserted

against it; and (B) admit or deny the allegations asserted against it by an opposing party.

(2) A denial must fairly respond to the substance of the allegation. (c) In responding to a pleading, a party must affirmatively state any avoidance or affirmative defense, including: res judicata, waiver."

11. FED R. CIV. P. 12 provides in relevant part: "[U]nless another time is specified by this rule or a federal statute, the time for serving a responsive pleading is as follows:

(A) A defendant must serve an answer (i) within 21 days after being served with the summons and complaint."

12. FED. R. CIV. P. 15 provides , in relevant part: "[A] party may amend its pleading once as a matter of course within: (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e) or (f), whichever is earlier. (a)(3) Unless the court orders otherwise, * * * any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later. (c)(1) An amendment to a pleading relates back to the date of the original pleading when: (A) the law provides the applicable statute of limitations allow relation back; (B) the amendment asserts a claim * * * that arose out of the conduct, transaction, or occurrence set out---or attempted to be set out---in the original pleading; or (C) the amendment changes the party or the naming of the party against whom a claim is asserted, if Rule 15(c)(1)(B) is satisfied and if, within the period provided by Rule 4(m) for serving the summons and complaint, the party to be brought in by amendment: (i) received such notice of the action that it will not be prejudiced in defending on the merits; and (ii) knew or should have known that the action would have

been brought against it, but for mistake concerning the proper party's identity."

13. FED. R. CIV. P. 26 *See App., infra*, 64a

14. FED. R. CIV. P. 38 provides: "[T]he right of trial by jury as declared by the Seventh Amendment to the Constitution---or as provided by a federal statute---is preserved to the parties inviolate. (b) On any issue triable of right by a jury, a party may demand a jury trial by: (serving the other parties with a written demand---which may be included in a pleading . . ."

15. FED. R. CIV. P. 55 provides, in relevant part: "[W]hen 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. (b)(1) if the plaintiff's claim is for a sum certain or a sum that can be made certain by computation, the clerk * * * on the plaintiff's request, with an affidavit showing the amount due * * * must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor incompetent person."

16. FED. R. CIV. P. 56 provides in relevant part: "[A] party may move for summary judgment, identifying each claim or . . . * * * or the part of each claim or . . . * * * on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to summary judgment as a matter of law. (b) Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at anytime until 30 days after the close of all discovery."

17. FED. R. CIV. P. 60 *See App., infra*, 65a.

18. FED. R. CIV. P. 65 *See App., infra*, 66a.

V. STATEMENT OF THE CASE

The district court in this case issued a decisions on the merits and dimissed the case with prejudice against all defendants, specifically when all defendants failed to appear or otherwise defend. Petitioner filed briefs, motions for summary judgment, motions for new trial, motion for injunction, motion to set aside foreclosure, motions for relief from a judgment or order because the district court had laundry list of substantive and statutory errors in law and other papers for the court to conform the record to the truth for appeal.

However, petitioner's briefs, motions and other papers provided the district court made substantial errors in the district court's entire proceedings that substantively abridged or modified petitioner's rights and enlarged the rights of the defendants-respondents.

Subsequently, a notice of appeal was filed, the court of appeals affirmed the district court's decisions, then a petition for writ of certiorari. This Court denied review.

Petitioner filed a second motion for relief from a judgment or order because (1) the district court and court of appeals refused to make it part of the first appeal, and (2) a motion for relief from a judgment or order, an event occurred based on an earlier judgment that has been reversed or vacated.

This petition is filed pursuant to the authority to review a court of appeals decision under 28 U.S.C §1254(1). The court of appeals issued an unpublished decision for an extraordinary writ vested in the court of appeals by the provisions of 28 U.S.C.A. § 1651(a), and Rule 21 of the rules of the court of appeals, in order to prevent enforcement by the district court's predecessor Honorable Jorge Solis (retired) or his successor assign, Honorable Ed Kinkeade, a Judge of the United States District Court for the Northern

District of Texas, Dallas Division, respondent, of an order entered on March 20, 2015, February 24, 2016 and/or March 22, 2022, in the case of Trent S. Griffin, Sr. v. American Zurich Insurance Company, et al., being Civil Action 3:14-CV-02470K of such district court, before respondent, and to compel respondent to vacate the order for the reason that respondent or its predecessor had no power to enter the same, as is more fully alleged and argued below. A copy of the order of March 20, 2015, February 24, 2016 and March 22, 2022 are included in the Appendix to this petition, together with a copy of the opinion rendered by the court of appeals in connection therewith, the same being, officially unreported or unpublished. An order denying a rehearing was entered by respondent on March 22, 2022, without opinion, and a copy of the electronic order is likewise attached.

There are also included in the Appendix the following papers which are essential to an understanding of the instant petition: Record on Appeal in connection with appeal of district court's order under case no. 22-10304 and mandamus relief under case no. 22-10507.

V. STATEMENT OF FACTS

Congress has provided authority or power for the United States Supreme Court to promulgate general rules of practice and procedures and rules of evidence for cases in the United States district courts and courts of appeals, provided such rules does not abridge, enlarge or modify any substantive right.

On July 10, 2014, Plaintiff-Appellant, Trent S. Griffin, Sr. (hereafter referred to as "Griffin"), filed an original complaint with jury demand (ROA.35) against private and public individuals and their entities, in connection with each other that used the force of their entities, to deprive a citizen of the United States and resident of the State of Texas of

his rights, privileges, immunities, life, liberty, or property in direct conflict with the Constitutions and laws of the United States and State of Texas in direct violation of his civil rights. *See Fed. R. Civ. P. 4, 12; Volkswagenwerk A.G. v. Schlunk*, 486 U.S. 694, 700 (1988); *Omni Capital Int'l v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987); *Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997).

On July 11, 2014, a summons and copy of the original complaint was served directly on individual defendants - respondents Vanessa Strong (ROA.159), Daravanh Khanmanivanh (ROA.161), Miranda Martinez (ROA.163), Wells Fargo Bank, N.A. (ROA.165), Chester Stevens (ROA.167), January Lewis (ROA.169), Felicia Felton (ROA.171), Jerline Washington (ROA.173), Jerry Padilla (ROA.175), and others served by certified mail return receipt, which included Greg Abbott (ROA.177), John Specia, Jr. (ROA.181), Rick Perry (ROA.184), Texas Department of Insurance - Division of Workers' Compensation (ROA.187), Jim Reilly, Sr. (ROA.190), Rod Bordelon (ROA.193), Stephen McKenna (ROA.196), Mary F. Iverson (ROA.199), Greg Wasson (ROA.202), Walgreens Company (ROA.205), and American Zurich Insurance Company (ROA.209). *Id.*

On July 30, 2014, Wells Fargo Bank, N.A. (herein referred to as "Bank"), knowingly or willfully filed a combined document that included a Rule 12 motion and answer in direct conflict with the summons and federal rules (ROA.213).

On August 1, 2014, all other defendants - respondents failed to file a timely answer within the time proscribed by Rule 12 in direct conflict of the Federal Rules of Civil Procedure (ROA.328, 347, and 368), specifically an answer must be filed within twenty-one (21) days after service of a summons and complaint. *See Fed. R. Civ. P. 12(a)(1)(A)(i); Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997).

On August 4, 2014, Walgreens and Walgreens Employee Defendants (herein referred to as "Walgreens") were in **default**, but filed an unopposed motion for extension (ROA.353) to respond to a summons and complaint outside the proscribed time constraints of 21-days as prescribed by Rule 12, without excusable neglect that resulted in the district court granting the motion without leave of court, wherein Walgreens did not file a document to affirm that leave was informally granted and no notice was sent to all parties at Doc. 14 (ROA.10). *See Fed. R. Civ. P. 6(b)(1)(B), 12, and 55; N.D.TX L.R. 7.3; In re PainWebber LPs Litig.*, 147 F.3d 132, 135 (2d Cir. 1998).

Most importantly, the district court ordered that Walgreens file an answer by August 18, 2014. Doc. at 14 (ROA.10). *See Fed. R. Civ. P. 12(a)(1)(A)(i); Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997).

On August 4, 2014, State Defendants (herein referred to as "State"), did not request leave to file for an extension or conferred with Griffin for his consent to file their motion to dismiss in response to a summons and complaint outside the proscribed time constraints of twenty - one (21) days prescribed by Rule 12, resulted in the court's needless increase of judicial proceedings, particularly when State defendants - respondents were in **default**. *See Fed. R. Civ. P. 12(a)(1)(A)(i); Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997).

On August 6, 2014, the district court granted Walgreens' motion to extend time to answer or otherwise Respond to Plaintiff's Complaint, that provided "Answer deadline is 8/18/14." (ROA.22). *Id.*

On August 18, 2014, Walgreens filed a motion to dismiss (ROA.368), but did not file an answer in direct conflict with the district court's order or Rule 12, and it did not file a

document to affirm it was granted leave in direct conflict with Northern District local rule.NDTXLR 7.3; *See Fed. R. Civ. P. 12(a)(1)(A)(i); Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997).

On August 26, 2014, Walgreens' defendants - respondents filed its Certificate of Interested Persons/Disclosure Statement (ROA.421) after twenty-two (22) days after its first motion to extend (ROA.347), that listed the parties to the suit, that is in direct conflict with Rule 7.1 (ROA.421 and 1571). Fed. R. Civ. P. 7.1(b)(1),(2).

On August 28, 2014, the Bank filed its Certificate of Interested Persons/Disclosure Statement (ROA.424) after twenty-nine (29) days after its first motion to dismiss and answer combined document in direct conflict with Rule 7.1 (ROA.213). *See Fed. R. Civ. P. 7.1(b)(1),(2).*

On September 24, 2014, Griffin timely filed and served an amended complaint that added new parties, causes of action and factual allegations with specificity (ROA.569), that required service of the amended complaint and summons on the newly added defendants that replaced John (Doe 1 - 4), that included defendants -respondents Valeria Rivera (ROA.460), Andrew Cole (ROA.456) and Thomas Hight (ROA.458), which are state actors; and Nicole Bush (ROA.454), which was an employee for Walgreens Company. *See Fed. R. Civ. P. 4(m); 15(c)(1)(B); Ramirez v. County of San Bernadino*, 806 F.3d 1002, 1007 (9th Cir. 2015); *Snyder v. Pascack Valley Hosp.*, 303 F.3d 271, 276 (3d Cir. 2002); *Krupski v. Costa Crociere S.p.A.*, 560 U.S. 538, 548 (2010); *Silbaugh v. Chao*, 942 F.3d 911, 913 (9th Cir. 2019); *Lee v. Airgas-Mid S., Inc.*, 793 F.3d 894, 898 (8th Cir. 2015).

However, all other defendants - respondents received constructive notice of the amended complaint, wherein all defendants - respondents did not file an answer in the

time proscribed by Rule 15, ergo all other defendants - respondents are in default (ROA.569, 630 and 631). *Id.*

On October 6, 2014, counsel for Zurich, represented through an affidavit of attorney Todd Richards, that indicated "I did not receive any other filings or notices in the Federal lawsuit, . . ." (ROA.628), which was a misrepresentation to the district court, specifically he did not receive the original complaint (ROA.35, 215) or amended complaint (ROA.569, 630, 631).

However, attorney Todd Richards, whom is a competent individual, did provide that "I did not forward the summons to American Zurich Insurance Company, nor take any action other than to place the summons in a file to be monitored for any future action should such be waranted," that provided he received actual notice of the lawsuit and willfully ignored it, specifically when he was directly acting on its behalf in State court (ROA.556).

On September 24, 2014, the filing and service of Griffin's amended complaint (ROA.569) related back to the original complaint (ROA.35), that generated a flurry of dilatory pleas, that included motions to strike filed by State (ROA.488), and Walgreens (ROA.498), wherein the motions did not plead any prejudice or surprise, or whether Griffin's amended pleading presented any redundant, impertinent, immaterial or scandalous matter, in which the Bank joined the motions to strike (ROA.511), particularly when the amended complaint heading was improperly cited by a mistake, but for the dilatoriness of the defendants, plaintiff was prejudiced. *See Fed. R. Civ. P. 4(m); Fed. R. Civ. P. 12 et seq., Fed. R. Civ. P. 15(c); Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997); *Ramirez v. County of San Bernadino*, 806 F.3d 1002, 1007 (9th Cir. 2015); *Snyder*

v. Pascack Valley Hosp., 303 F.3d 271, 276 (3d Cir. 2002); *Krupski v. Costa Crociere S.p.A.*, 560 U.S. 538, 548 (2010); *Silbaugh v. Chao*, 942 F.3d 911, 913 (9th Cir. 2019); *Lee v. Airgas-Mid S., Inc.*, 793 F.3d 894, 898 (8th Cir. 2015).

Even so, the dilatory motions that were filed, established all defendants - respondents received actual and constructive notice of the amended complaint, but failed to file an answer or conference, needlessly increasing the cost of litigation. *See NDTX L.R. 7.1; see also Fed. R. Civ. P. 1, 12, and 15; Jones v. Bock*, 549 U.S. 199, 212-13 (2007); *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986); *U.S. v. Orr Water Ditch Co.*, 391 F.3d 1077, 1082 (9th Cir. 2004), *amended*, 400 F.3d 1117 (9th Cir. 2005).

On October 6, 2014, Counsel for American Zurich Insurance Company (herein referred to as "Zurich"), that was retained outside of the Northern District of Texas jurisdictional boundaries for local counsel, filed a motion to set aside (ROA.514) without consent or leave of the court or notice of appearance or otherwise not in accordance with Federal Rules of Civil Procedure or the Northern District of Texas local rules. *See NDTX L.R. 7.1 and 83.10; Fed.R. Civ. P. 12 and 15.*

On October 7, 2014, Counsel that was retained outside the jurisdictional boundaries of the Northern District Court of Texas, filed Zurich's Certificate of Interested Persons/ Disclosure Statement (ROA.632), after one (1) day of the first filing of a motion to set aside with counsel knowledge in direct conflict with Rule 7.1 (ROA.514 and 637). *See Fed. R. Civ. P. 7.1(b)(1).*

On October 7, 2014, Zurich, knowingly or willfully filed a motion for leave to proceed without local counsel (ROA.637) and without consent (ROA.640) or certificate of conference, particularly when it received actual notice of a summons and complaint, that

were mailed by certified mail return receipt to a competent individual that filed the document away for future purposes (ROA.209 and 556) and Zurich received constructive notice of an amended complaint (ROA.569) that was served by certified mail return receipt on September 24, 2014 (ROA.632, 630 and 631) to its registered agent. *See* Fed. R. Civ. P. 12 and 15.

On October 17, 2014, Zurich filed a motion to dismiss pursuant 12(b)(1) and (6) without leave of court or a request for an extension to answer or file a motion under Rule 12 of the Federal Rules of Civil Procedure or a certificate of conference (ROA.687), wherein counsel's willful and purposeful misrepresentation on the Court that, "its [answer] was due October 20, 2014" (ROA.529 and 638), but filed a motion to dismiss (ROA.687) twenty-four (24) days after service of a summons and amended complaint. Fed. R. Civ. P. 12 and 15.

Without any discretion, State, Bank, Walgreens and Zurich, after service of a summons and attached amended complaint, all filed more dilatory motions or papers in avoidance to answer or otherwise defend without consent or certificate of conference. *See* NDTX L.R. 7.1

On October 21, 2014, a summons and amended complaint were served on Nicole Bush and on October 21, 2014, Walgreens received actual notice and service of the amended complaint (ROA.849, 850). Fed. R. Civ. P. 4, 5, 12 and 15.

On October 21, 2014, a summons and amended complaint were served on Thomas Hight and on October 21, 2014, State received actual notice and service for an individual and official for the State (ROA.851, 852, 853). Fed. R. Civ. P. 4, 5, 12 and 15.

On October 22, 2014, a summons and amended complaint were served on Valerie

Rivera and on October 24, 2014, State received actual notice and service as an individual and official for the State (ROA.883, 884, 885 and 886). Fed. R. Civ. P. 4, 5, 12 and 15.

On October 22, 2014, a summons and amended complaint were served on Andrew Cole and on October 29, 2014, State received actual notice and service as an individual and official for the State (ROA.887, 888, and 889). Fed. R. Civ. P. 4, 5, 12 and 15.

On November 12, 2014, State specifically filed an **[untimely]** notice of appearance on behalf of State defendants - respondents Thomas Hight (ROA.923), specifically when State was served on October 21, 2014 and received actual notice of the summons and amended complaint on same date (ROA.851). Fed. R. Civ. P. 12.

Even so, the amended complaint was served on State's counsel (ROA.630), and State did not file an answer within fourteen (14) days, the time proscribed by Rule 15, thus provide State is in **default**. Fed. R. Civ. P. 12 and 15.

On November 18, 2014, State specifically filed another **[untimely]** notice of appearance and notice of joinder on behalf of Andrew Cole (ROA.952), in connection with its **[untimely]** motion to dismiss (ROA.328), specifically when defendant - respondent was served on October 22, 2014 (ROA.889), but failed to file an answer as proscribed under Rule 12 after the service of a summons and complaint to answer or otherwise defend against an amended complaint (ROA.35 and 569). Fed. R. Civ. P. 4, 5, 12 and 15.

On October 8, 2014, State did not respond to an amended complaint as proscribed by Rule 15, particularly when it **[must]** answer when it was served an amended complaint (ROA.569 and 630). Fed. R. Civ. P. 15(a)(3); *Snyder v. Pascack Valley Hosp.*, 303 F.3d 271, 276 (3d Cir. 2002).

Additionally, State did not file an answer, Rule 12 motion or other paper, specific to

Valeria Rivera, particularly when Valeria Rivera was sued in her individual and official capacity, and when State received actual notice of a summons and amended complaint on October 24, 2014 (ROA.569, 885). Fed. R. Civ. P. 4, 5, 12 and 15.

Alternatively, if Griffin did not serve Valeria Rivera, State filed an [untimely] motion to dismiss (ROA.328). Fed. R. Civ. P. 12.

However, after receipt of the summons and the amended complaint on behalf of Andrew Cole and Thomas Hight, State received notice of Valeria Rivera , a state actor, whom was sued in her official and individual capacity (ROA.569, 630, 984, and 1618).

More importantly, State received **constructive notice** of an amended complaint and did not file an answer (ROA.569, 630). Fed. R. Civ. P. 15(a)(3); *Snyder v. Pascack Valley Hosp.*, 303 F.3d 271, 276 (3d Cir. 2002).

Additionally, defendant - respondent Valeria Rivera was properly served a summons and a copy of the amended complaint, specifically when it was mailed to her last known address or work place (ROA.884) and to the Chief Clerk of Proceedings for the State of Texas (ROA.883 and 885). Fed. R. Civ. P. 4, 5, 12 and 15.

On November 13, 2014, under the district court's predecessor, it was ordered that, Griffin file a response to an [untimely] motion to dismiss within ten (10) days (ROA.926), that was filed by Zurich (ROA687) twenty-four (24) days outside the proscribed time of Rule 12 or fourteen (14) days outside the proscribed time of Rule 15 to answer an amended complaint (ROA.569, 630). Fed. R. Civ. P. 12 and 15.

On November 20, 2014, Griffin filed and served his second amended complaint (ROA.955) as a required response pursuant to the district court's order, particularly when the Bank, State, Walgreens and Zurich were in default and default judgment should have

been entered by the clerk of court upon request (ROA.569, 630, 955, 1021). Fed. R. Civ. P. 12, 15 and 55.

Again, the filing and service of Griffin's second amended complaint, that adopted his original complaint (ROA.35), generated a flurry of motions that are dilatory in nature, specifically a motion to strike (ROA.1042) filed by Zurich that did not plead surprise or prejudice, or whether Griffin's second amended complaint presented any redundant, immaterial, impertinent or scandalous matter, in which the Bank (ROA.1060) and Walgreens (ROA.1064) joined Zurich's motion to strike Griffin's second amended complaint (ROA.955), that was a required response to an order of the district court's predecessor (ROA.926). Fed. R. Civ. P. 15; *U.S v. Humana Health Plan of Tex. Inc.*, 336 F.3d 375, 387 (5th Cir. 2003); *Albers v. Board of Cty. Comm'rs of Jefferson Cty.*, 771 F.3d 697, 706 (10th Cir. 2014); *Fidel v. Farley*, 392 F.3d 220, 236 (6th Cir. 2004); *see also Simmons v. Abruzzo*, 49 F.3d 83, 86-87 (2d Cir. 1995).

More importantly, all defendants - respondents were in **default**, particularly when they failed to file required answer or responsive pleading within fourteen (14)days of an amended complaint or twenty-one (21) days of the service of a summons and complaint Fed. R. Civ. P. 4, 5, 12, and 15.

On November 4, 2014, Walgreens filed a dilatory notice to join Nicole Bush (ROA.906, 909, and 912) with its unresponsive motion to dismiss that was in direct conflict with the district court's order to answer (ROA.368), particularly when the amended complaint asserted new factual allegations against newly added parties that related back to the original complaint, wherein Walgreens failed to answer or otherwise defend within the prescribed time constraints allowed by Rule since the filing of the

original complaint (ROA.35, 167, 169, 171, 173, 175; *Cf.* ROA.347). Fed. R. Civ. P. 4, 5, 12 and 15.

More importantly, Walgreens did not file an answer as required by an order of the district court at Doc. 14 (ROA.10) or by Rule 12 (ROA.368). Fed. R. Civ. P. 4 and 12.

On December 5, 2014, after the filing of Griffin's second amended complaint (ROA.955), and the generation of dilatory motions filed by the Bank, State, Walgreens and Zurich, Griffin moved for partial summary judgment against Walgreens and served notice of a submission date (ROA.1068, 1070, 1104). Fed. R. Civ. P. 56; *Hoffman v. Tonnemacher*, 593 F.3d 908, 911 (9th Cir. 2010); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

On December 23, 2014, in response, Walgreens filed another dilatory motion (ROA.1126) and two sham affidavits (ROA.1155) that resulted in delay, a waste of judicial resources and prejudicial harm to Griffin's substantive rights. *Jones v. Bock*, 549 U.S. 199, 212-13 (2007); *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986); *U.S. v. Orr Water Ditch Co.*, 391 F.3d 1077, 1082 (9th Cir. 2004), *amended*, 400 F.3d 1117 (9th Cir. 2005).

Specifically, Jerry Padilla, defendant - appellee, declared under the penalty of perjury at 5 stated (1) "In or around December 2012, Plaintiff informed me that he no longer wanted to hold this position, and wanted to become a Staff Pharmacist"; or at 6 stated (2) "Plaintiff was subsequently transferred to Walgreens Store No. 4293 in DeSoto, Texas, which was the only store in the District with an open and available Staff Pharmacist position"; or at 9 stated (3) "Plaintiff has not returned from medical leave" or otherwise the Declaration of Jerry Padilla is a complete sham and fraud on the court (ROA.1155). Fed. R. Civ. P. 56(h).

However, Griffin addressed those infirmities or false testimony in his responses or

other papers (ROA.1160 and 1162).

Additionally, in Griffin's Doc. 3 at 38 (ROA.85, 991, 1770, 1771), provided " the plaintiff got the distinctive impression the new supervisor was there to counsel him . . . , "(ROA.1170, 1171, and 1172), wherein Griffin received at least three (3) reprimands on same date, specifically for missing managers meetings, unprofessional misconduct, violation of company policy or failure to work your assigned schedule (ROA.734, 1667, 1668, 1669, 1671).

On January 28, 2015, Griffin moved for partial summary judgment against the Bank and State (ROA.1188, 1192, 1242, and 1425). Fed. R. Civ. P. 56; *Hoffman v. Tonnemacher*, 593 F.3d 908, 911 (9th Cir. 2010); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

The Bank and State did not file a response. In two electronic orders dated January 23, 2015 (Doc. 97) and January 29, 2015 (Doc. 102), respectively, the district court's predecessor (Honorable Jorge Solis) denied Griffin's motions without providing an opportunity to be heard at any point within the litigation process or a valid response from the State, Bank or Walgreens (ROA.17; 18). See Fed. R. Civ. P. 56; *Hoffman v. Tonnemacher*, 593 F.3d 908, 911 (9th Cir. 2010); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

On January 29, 2015, at Doc. 102, the district court "admonished Griffin for premature summary judgments, or otherwise abusing the litigation process that may subject him to sanctions up to and including monetary sanctions payable to the Court, filing restrictions, or other appropriate sanctions as warranted by the circumstances" at Doc. 102 (ROA.18). See Fed. R. Civ. P. 11(c) and 26(g)(3); *King v. Fleming*, 899 F.3d 1140,

1149 (10th Cir. 2018); *PAE Gov't Servs. v. MPRI, Inc.*, 514 F.3d 856, 859 (9th Cir. 2007); *Rojas v. Town of Cicero*, 775 F.3d 906, 909 (7th Cir. 2015); *cf. Fed. R. Civ. P. 56; Scott v. Harris*, 550 U.S. 372, 380-81 (2007); *Mirando v. U.S. Dept. of Treasury*, 766 F.3d 540, 548 (6th Cir. 2014).

More importantly, counsels for the Bank, State, Walgreens and Zurich, abused the litigation process as established by their total disregard of the Rules, particularly when all the defendants - respondents **did not file** an answer, they filed documents that should have been filed in their first pleadings, motions or other papers, untimely filings, unnecessary filings or otherwise needlessly a waste of judicial resources or economy, ergo caused prejudicial harm to Griffin's substantive rights. *Fed. R. Civ. P. 11; Cooter & Gell v. Hartmax Corp.*, 496 U.S. 384, 399 (1990); *Smith v. Psychiatric Solutions, Inc.*, 750 F.3d 1253, 1260 (11th Cir. 2014).; *McGreal v. Village of Orland Park*, 928 F.3d 556, 560 (7th Cir. 2019); *Jenkins v. Methodist Hosps.*, 478 F.3d 255, 265 (5th Cir. 2007).

It's believed, the district court enlarged the substantive rights of the Bank, State, Walgreens, and Zurich, particularly when they were in **default**. *See 28 U.S.C. §§2071 to 2077; Stern v. U.S. Dist. Ct. for the Dist. of Mass.*, 214 F.3d 4, 13 (1st Cir. 2000); *see also Morel v. DaimlerChrysler AG*, 565 F.3d 20, 25 (1st Cir. 2009).

Additionally, the district court allowed counsel signing of frivolous pleadings, motions or other papers that were presented for improper purposes, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation or otherwise not in accordance with the Federal Rules of Civil Procedure, Local Rules or court order, that resulted in prejudicial harm to Griffin's substantive and statutory rights. *Fed. R. Civ. P. 1*

and 11; *Jones v. Bock*, 549 U.S. 199, 212-13 (2007); *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986).

Further, it is believed, that in the litigation process for vindication of Griffin's civil rights, but for the Bank's, State's, Walgreens', and Zurich's dilatoriness in filing more than thirty (30) motions or other papers that included: For example, [(e.g.] **ROA.213** "Motion to Dismiss and Answer combined (against Rules)," [or] **ROA.328** "Motion to Dismiss (untimely, unnecessary delay)," [or] **ROA.347** "Motion to Extend Time (untimely, unnecessary delay);]" [or] **ROA.368** "Motion to Dismiss (against court order, against Rules, unnecessary delay);]" [or] **ROA.421** and **424** "Certificate of Interested Persons/Disclosure Statement (untimely, sham);]" [or] **ROA.488** "Motion to Strike (against Rules, unnecessary delay);]" [or] **ROA.498** "Motion to Strike (against Rules, unnecessary delay);]" [or] **ROA.511** "Motion to Join (unnecessary delay);]" [or] **ROA.514** "Motion to Set Aside (fraud, without leave or consent);]" [or] **ROA.632** "Certificate of Interested Persons / Disclosure Statement (untimely);]" **ROA.637** "Motion to Proceed without Local Counsel (fraud);]" [or] **ROA.654** "Motion to Stay (unnecessary delay);]" [or] **ROA.662** "Motion to Stay (unnecessary delay);]" [or] **ROA.683** "Motion to Join (unnecessary delay);]" [or] **ROA.687** "Motion to Dismiss (untimely, unnecessary delay);]" [or] **ROA.855** "Motion to Stay (unnecessary delay);]" [or] **ROA.906** "Notice of Joinder (unnecessary delay)" [or] **ROA.909** "Notice of Joinder (unnecessary delay);]" [or] **ROA.912** "Notice of Joinder (unnecessary delay);]" [or] **ROA.923** "Notice of Appearance (unnecessary delay);]" [or] **ROA.952** "Notice of Appearance and Joinder (unnecessary delay);]" [or] **ROA.1042** " Motion to Strike (unnecessary delay);]" [or] **ROA.1060** "Motion to Join (unnecessary delay);]" [or] **ROA.1064** "Motion to Join (unnecessary delay);]" [or] **ROA.1109** "Motion to Strike (against Rules, unnecessary

delay);" [or] **ROA.1126** "Motion to Extend Time (fraud, unnecessary delay);" [or] **ROA.1182** "Motion to Withdraw (unnecessary delay);" [or] **ROA.1453** "Notice of Advisory (fraud, unnecessary delay);" [or] **ROA.1456** "Motion for Sanctions (unnecessary delay and harassment);" [or] **ROA.1571** "Certificate of Interested Persons/ Disclosure Statement (untimely);" [or] **ROA.1810** "Dilatory Answer (only answer, no affirmative defenses, admits, avoidance);" [or] **ROA.1838** "Motion to Dismis (dilatory, unnecessary delay);" [or] **ROA.1876** "Motion to Dismiss (untimely, dilatory, unnecessary delay)" and "**ROA.1907** "Motion to Dismiss (untimely, dilatory, unnecessary delay)." Fed. R. Civ. P. 1, 11, 12, 15, 55, and 56; *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986). *PAE Gov't Servs v. MPRI, Inc.*, 514 F.3d 856, 859 (9th Cir. 2007); *Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997); *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Snyder v. Pascack Valley Hosp.*, 303 F.3d 271, 276 (3d Cir. 2002); *Cement & Concrete Workers Dist. Council Welfare Fund v. Metro Found. Contractors Inc.*, 699 F.3d 230, 234 (2d Cir. 2012); *Scott v. Harris*, 550 U.S. 372, 380-81 (2007); *Hoffman v. Tonnemacher*, 593 F.3d 908, 911 (9th Cir. 2010).

For example, on February 11, 2015 , the Bank signed a motion for sanctions against Griffin, on the bases he requested initial disclosures that is afforded him under the Rules (ROA.1813), particularly when there is no order, rule or otherwise that prohibits Griffin from requesting disclosures, but for a local rule that exempts *pro se* cases from pre-trial scheduling orders, ergo all parties should follow the local and federal rules during the course of pre-trial proceedings. NDTX L.R. 7.1 and 16.1; Fed. R. Civ. P. 11, 26 to 37; *GN Netcom, Inc. v. Plantronics, Inc*, 930 F.3d 76, 82 (3d Cir. 2019); *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986).

On January 30, 2015, after the electronic orders at Doc. 102, Griffin moved for an

expedited motion for preliminary injunctive relief (ROA.1430, 1431, 1440, and 1442), but for the district court's inaction or order finding his motion for injunction as moot (ROA.1585), resulted in the furthering of the State and Bank actions, in connection with others, private and public individuals and their entities, that used the force of their entities or individuals to take control of Griffin's homestead and business property or other deprivations in direct conflict with civil and constitutional law (ROA.2138). *See* 42 U.S.C. §1981, 1982, 1983, 1985, 1986 and 1988; *see also Lacy v. Cook Cty.*, 897 F.3d 847, 859 (7th Cir. 2018);

The court of appeals in a prior appeal, provided in an order the three (3) elements that Texas law requires for a wrongful foreclosure sale (ROA.2600), but pleading under Rule 8 does not require pleading elements of the claim. Fed. R. Civ. P. 8; *Bell Atl. Corp. v. Twombly* 550 U.S. 544, 555 (2007); *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007); *Jones v. Bock*, 549 U.S. 89, 93-94 (2007).

However, the court of appeals overlooked statements of facts that were provided in his amended complaint (ROA.1607), opposition and memorandum in response (ROA.1944), motion for leave to set aside (ROA.2138, 2142, 2152) or motion for new trial (ROA.2392), that provided more than sufficient notice of the claims and the specific facts that support the claims with probative evidence.

Griffin requested for a preliminary injunction, a memorandum in support and affidavit in the district court (ROA.1430, 1431, 1442 and 1676).

But for the foreclosure in connection with a forcible entry and detainer (ROA.2967), Griffin homestead property was taken nearly eight (8) months after filing of his last amended complaint that included a request for preliminary injunction, specifically when

pleading the elements of a claim is not required, but only notice of the claim and sufficient facts as it relates to the claim (ROA.1604, 1607, 1608, 1611, 1620, 1646, 1647, 1648, 1649, 1650). *See Fed. R. Civ. P. 8; Fed. R. Civ. P. 65; Bell Atl. Corp. v. Twombly* 550 U.S. 544, 555 (2007); *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007); *Jones v. Bock*, 549 U.S. 89, 93-94 (2007); *Lacey v. Cook Cty.*, 897 F.3d 847, 859 (7th Cir. 2018).

But for the restrictions placed on Griffin's ability to proceed in accordance with the Rules as promulgated by the Supreme Court, his rights were abridged or modified, and the Bank's, State's, Walgreens' and Zurich's rights were enlarged, particularly when the district court refused to: (1) strike the State's, Bank's and Walgreens' defenses that were plead outside the 21-day prescription to respond to a complaint that was properly served unto each defendant-respondent (ROA.2075, 2110); (2) the district court failed to grant leave to set aside a foreclosure sale, particularly when Griffin plead sufficient facts and the claim for a wrongful foreclosue, theft of property or § 1982 (ROA.1607, 2138 and 2142), that included (a) extrinsic fraud (ROA.2967), (b) constitutional and unlawful misconduct ROA.2967, 2798), or (c) otherwise not in accordance with written laws or the Constitutions for the United States or State of Texas that furthered the actions of the State and Bank in connection with others, that resulted in Griffin and his daughter's homelessness or otherwise substantial prejudicial harm (ROA.2168, 2181, 2978, 2986). *See* 28 U.S.C. §§ 2071-2077; 42 U.S.C. §1981, 1982, 1983, 1985, 1986 , 1988.

Additionally, in the district court order (ROA.1585), the district court contends that Griffin did not properly file his amendments (ROA.569 and 955), but for its failure to find that Griffin filed his first amended complaint (ROA.569) and summons issued to four (4) newly named defendants (ROA. 454, 456, 458 and 460), resulted in the district court's

action on defendants' - respondents' motions to strike an [entire] amended complaint that was legally before the court, with or without defects, that resulted in more delays or needless increase in cost of judicial economy and resources. *See Fed. R. Civ. P. 1, 4, 5, 12 and 15; Jones v. Bock*, 549 U.S. 199, 212-13 (2007); *Nylok Corp.. v. Fastener World Inc.*, 396 F.3d 805, 807 (7th Cir. 2005); *see also Davis v. Ruby Foods, Inc.* 269 F.3d 818, 820-21 (7th Cir. 2001); *cf Simmons v. Abruzzo*, 49 F.3d 83, 86-87 (2d Cir. 1995).

Further, the district court's bases for striking the amended complaint (ROA.569) was based on service of a motion to dismiss filed by Walgreens (ROA.368), and Griffin's amended complaint (ROA.569) that were more than twenty-one (21) days apart, but was less than one hundred-twenty (120) days (now ninety (90) days) to serve newly named parties to the suit (ROA.1946). Fed. R. Civ. P. 4(m); *see Bowling v. Hasbro, Inc.* 403 F.3d 1373, 1376 (Fed. Cir. 2005).

However, Walgreens did not follow the district court's order to **answer** the summons and complaint by August 18, 2014 at Doc. 14 (ROA.10). Fed. R. Civ. P. 12(a)(1)(A)(i); *Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997).

On September 24, 2014, Griffin mistakenly cited the incorrect Rule, but for the district court's failure to construe the amendment (ROA.569) that was served with a summon resulted in his rights being abridged or modified, particularly when State, Walgreens and Zurich were already in **default** against the original complaint (ROA.35, 167, 169, 173, 175, 181, 184, 199, 328 and 347) and they remained in **default**, subsequent the service and filing of Griffin's last amended complaint (ROA.1604, 1607, 1810), specifically because they did not file an answer to the complaint pursuant a summons and complaint or a responsive pleading to the amended complaint. Fed. R. Civ. P. 12(a)(1)(A)(i)

and 15(a)(3); *Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997); *Snyder v. Pascack Valley Hosp.*, 303 F.3d 271, 276 (3d Cir. 2002).

On April 24, 2015, Griffin filed his amended complaint that had improperly numbered paragraphs at Doc. 133 (ROA.21). On same date, Griffin corrected the improperly numbered paragraphs and served it on the Bank, State, Walgreens and Zurich (ROA.1607). Fed. R. Civ. P. 5(b)(1), (b)(2)(C); Fed. R. Civ. P. 6(d).

On April 27, 2015, Griffin filed his corrected amended complaint that had improperly numbered paragraphs attached to his motion to withdraw and replace (ROA.1604, 1607). NDTX L.R. 6.1; Fed. R. Civ. P. 7(b)(2) and (10(c)).

On May 11, 2015, the Bank filed an answer that was not a responsive pleading, but for admissions and denials, or otherwise dilatory and no 12(b) defenses (ROA.1810). *See* Fed. R. Civ. P. 12 et seq.; *Hemispherx Biopharma, Inc. v. Johannesburg Consol. Invs.*, 553 F.3d 1351, 1360 (11th Cir. 2008).

On May 15, 2015, Zurich filed a motion to dismiss 12(b)(1) and (b)(6), but **never** filed a required answer (ROA.1823) or it required a response (ROA.1918). Fed. R. Civ. P. 12(a)(1)(A)(i); *Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997).

On May 19, 2015, State filed another **[untimely]** motion to dismiss, but **never** filed an answer (ROA.1838) or required a response (ROA.1957). *Id.*

On May 19, 2015, Walgreens filed another combined, **[untimely]** motion to dismiss and brief in support, but **never** filed an answer (ROA.1776) or it required a response (ROA.1986). *Id.*

On May 19, 2015, the Bank, in direct conflict with the district court order (ROA.1585) or Federal Rules of Civil Procedure, filed its **[untimely]** motion to dismiss,

that required a response (ROA.1944), that needlessly increased the cost of judicial proceedings. *Id.*; see *Jones v. Bock*, 549 U.S. 199, 212-13 (2007); *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986); *U.S. v. Orr Water Ditch Co.*, 391 F.3d 1077, 1082 (9th Cir. 2004).

On July 9, 2015, the Bank filed a motion for leave to file second amended answer that required a response, because it did not plead any defenses in its answer (ROA.2110).

On October 27, 2015, Griffin filed a motion for leave to set aside a foreclosure sale that was considered to be **extrinsic fraud** in connection with others that was not part of the current litigation (ROA.2138, 2142, 2152, 2658).

On February 24, 2016, the district court issued four (4) separate orders (ROA.2246, 2253, 2262 and 2280) and a final judgment (ROA.2749), and on April 25, 2016 the district court entered a subsequent electronic order at Doc. 190 (ROA.26), that was appealed to the court of appeals (ROA.2406, 2415, 2420, and 2421).

In an abundance of caution, Griffin will not address each order hear, but will provide the district court shouldn't have entered those orders or final judgment specifically because: **(1)** there's only one (1) answer filed in the case by the Bank that provided admissions or denials or otherwise dilatory in nature and no defenses or did not create a genuine issue(s) of material fact; Fed. R. Civ. P. 12; *Hemispherx Biopharma, Inc. v. Johannesburg Consol. Invs.*, 553 F.3d 1351, 1360 (11th Cir. 2008); *Perez v. Wells Fargo*, 774 F.3d 1329, 1336 (11th Cir. 2014); **(2)** State, Zurich and Walgreens failed to file an answer pursuant the service of a summons and complaint; *Beller & Keller v. Tyler*, 120 F.3d 21, 25-26 (2d Cir. 1997); **(3)** State and Walgreens 12(b) motions were not within the proscribed time ordered by the district court or by Rule; Fed. R. Civ. P. 12(a)(1)(A)(i); **(4)** Zurich did not plead in an answer affirmative defenses; *Fernandez v. Clean House, LLC*,

883 F.3d 1296, 1299 (10th Cir. 2018); *Global Tech. & Trading, Inc. v. Tech Mahindra Ltd.*, 789 F.3d 730, 731 (7th Cir. 2015); *see also Motion Med. Techs. v. ThermoTek, Inc.*, 875 F.3d 765, 771 (5th Cir. 2017); and the district court specifically, stated in the order "[A]nd until such resolution, the Court may summarily deny any [motion] filed outside this schedule unless movant has first obtained leave of court" (ROA.1596).

On May 11, 2015, the Bank omitted from its pleading any affirmative defenses or 12(b) motions that were available to it, except an illusory or self-serving unbinding arbitration, that was never agreed to by Griffin (ROA.1820). Fed. R. Civ. P. 8(c) and 12(b) (1)-(6); *Fernandez v. Clean House, LLC*, 883 F.3d 1296, 1299 (10th Cir. 2018); *Global Tech. & Trading, Inc. v. Tech Mahindra Ltd.*, 789 F.3d 730, 731 (7th Cir. 2015); ,

On May 15, 2015, Zurich's motion to dismiss (ROA.1823) focused on four grounds for dismissal, that are nonsensical in a conspiracy, particularly when (1) the suit was filed before any judgment; (2) Zurich is connected to the State and Walgreens; (3) Zurich did not provide a prior valid final judgment that would establish what claims were adjudicated to final judgment on the merits or order for *res judicata*; or (4) it omitted any service issue(s) under 12(b)(2) - (5) defenses; or (5) otherwise provided nothing in its motion or memorandum support, that suggest State action was not plead in Griffin's original or amended complaints in connection with it; or (6) otherwise, Zurich never filed an answer to the complaints (ROA.35, 569, 952, 1607), or otherwise did not defend against an original or amended complaint, subsequent service of a summons and original complaint, particularly when it did not plead affirmative defense of *res judicata* See Fed. R. Civ. P. 8(c); *Fernandez v. Clean House, LLC*, 883 F.3d 1296, 1299 (10th Cir. 2018); *Global Tech. & Trading, Inc. v. Tech Mahindra Ltd.*, 789 F.3d 730, 731 (7th Cir. 2015).

On March 20, 2015, the district court provided "[t]he Court finds good cause to completely stay **discovery** in this action until it has resolved any dispositive motions filed in accordance with this schedule. And until such resolution, the Court may deny any motion filed outside this schedule unless the movant has first obtained leave of court (ROA.1596)," that explicitly implies the district court's postponement in resolution of any dispositive motions filed in accordance with the schedule set by the Court, ergo an answer or responsive pleading **[must]** be filed within the time proscribed by Rule. *See* Fed. R. Civ. P. 12(a)(4)(A); *see also* Fed. R. Civ. P. 26(c).

The district court's order (ROA.2246) granted Zurich's 12(b)(1) and (6) based on memoranda briefs or otherwise Zurich did not plead an affirmative defense of *res judicata* in an answer, but for the actions of the district court on whether Griffin's complaint, which is a pleading stated a claim for relief (ROA.1607). Fed. R. Civ. P. 8; *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007); *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007); *Jones v. Bock*, 549 U.S. 199, 212 (2007); *Fernandez v. Clean House, LLC*, 883 F.3d 1296, 1299 (10th Cir. 2018); *Global Tech. & Trading, Inc. v. Tech Mahindra Ltd.*, 789 F.3d 730, 731 (7th Cir. 2015).

The district court went outside of the pleadings for the determination of *collateral attack or claim preclusion* that was decided as an affirmative defense of *res judicata*, particularly when Zurich **did not** file an answer in the suit, and determined there was a final judgment in the State court based on orders that were not attested to, did not contain the seal of the State or otherwise did not establish authenticity or otherwise there's a valid prior state final judgment, but was presented for an unnecessary purpose to delay, harass or needlessly increase the cost of litigation (ROA.545, 546, 547, 553, 554, 1753,

1754, 1755, 1756, 1757, 2316, 2317, 2318, 2319, and 2320), ergo is in **default**. *See Id.*; 28 U.S.C §1738

The district court's order (ROA.2253) granted the Bank's motion for judgment on the pleadings, particularly when each of the defendants did not file an answer or responsive pleading in the suit (ROA.1823, 1838, 1876, and 1907) pursuant service of a summons and complaint. More importantly, the Bank's answer was simply admissions, denials or dilatory in nature that failed to create a genuine issue(s) of material fact (ROA.1810), ergo is in **default**. *See Fed. R. Civ. P. 12(c); Perez v. Wells Fargo*, 774 F.3d 1329, 1336 (11th Cir. 2014); *Richards v. Mitchee*, 696 F.3d 635, 637-38 (7th Cir. 2012); *Grajales v. Puerto Rico Ports Auth.*, 682 F.3d 40, 45-46 (1st Cir. 2012); *Ackerson v. Bean Dredging LLC*, 589 F.3d 196, 209 (5th Cir. 2009); *see also Fernandez v. Clean House, LLC*, 883 F.3d 1296, 1299 (10th Cir. 2018).

The district court's order (ROA.2262) granted the State motion to dismiss (ROA.328, 1838), particularly when the State filed its motion to dismiss outside of the time proscribed by the district court's order or Rules after service of summons and complaints, or it **never** filed an answer since the initial filing and service of the suit, ergo is in **default** (ROA.35, 569, 955, 1607). *Fed. R. Civ. P. 12(a)(1)(A)(i)*;

The district court's order (ROA.2280) granted Walgreens combined motion to dismiss and brief in support (ROA.1876), instead of an answer, particularly when Walgreens filed its combined motion to dismiss (ROA.347, 368, 1876) outside the time proscribed by the district court's order or Rule since the service of a summons and original or amended complaints (ROA.35, 569, 955, 1607), and never filed an answer, specifically when the district court provided "Answer deadline is 8/18/14" at Doc. 14 (ROA.10), ergo is

in **default**. Fed. R. Civ. P. 12(a)(1)(A)(i).

Most importantly, all defendants - respondents are in **default** or have **admitted** the well-pleaded factual allegations in the original or amended complaints in connection with each other in a conspiracy, specifically because each failed to answer or otherwise defend against a complaint, and these are substantive and statutory errors that are substantial that were brought to the attention of the district court (ROA.2292, 2310, 2316, 2327, 2342).

On March 23, 2016, Griffin move for a new trial against the four (4) groups of defendants - respondents (ROA.2292, 2301, 2321, 2337), and alerted the district court of all the substantive errors associated with this case in his memorandum and reply briefs (ROA.2295, 2304, 2324, 2340, 2379, and 2392) before and after the court's final judgment or order (ROA.1918, 1944, 1957 and 1986). Fed. R. Civ. P. 59; *U.S. v. University of Phoenix*, 863 F.3d 1105, 1108 (9th Cir. 2017); *ING Global v. United Parcel Serv. Oasis Sup.*, 757 F.3d 92, 96-97 (2d Cir. 2014).

But for the district court's actions, resulted in the first appeal to the court of appeals. While on appeal, on July 12, 2016, Griffin moved for relief from a final judgment or order in the district court (ROA.2425, 2446, and 2467). Subsequently, Griffin filed a reply and objection to all defendants - respondents response to Griffin's motion for relief from the judgment (ROA.2551 and 2567). Fed. R. Civ. P. 60(b)(1)-(6);

Even so, the district court denied Griffin's motion for relief from a judgment on the bases it lacked jurisdiction (ROA.2590), particularly because the court of appeals denied remand of the case for an indicative ruling (ROA.2587).

The court of appeal affirmed the decision of the district court in a revised decision

and judgment (ROA.2594 and 2604), that did not consider: (1) an order for *res judicata* was inapplicable in favor of Zurich, particularly when there was [no] prior valid final decision before Griffin filed his suit in federal court or no answer or responsive pleading to provide an affirmative defense of *res judicata*; (2) Fifth Court of Appeals, Dallas County, Texas dismissed the appeal for want of jurisdiction because there was [no] final judgment in State court (ROA.2581); (3) Griffin [served] his corrected numbered amended complaint on April 24, 2015 that provided service was complete (ROA.1706); (4) he filed his corrected numbered amended complaint on April 27, 2015 that was attached to his Motion to Withdraw and Replace (ROA.1604, 1607); (5) the Bank filed the only answer (dilatory in nature) in the case (ROA.1810), that provided admissions and no motion 12(b) defenses or affirmative defenses; (6) State did not timely file an answer or Rule 12(b) motion in the entire litigation process for all of its defendants - respondents (ROA.328, 1838); (7) Walgreens did not timely file an answer or 12(b) motion after actual notice of a summons and complaint and constructive notice of an amended complaint, did not follow a court order or otherwise failed to proceed in accordance with an order of the court, ND Local Rules (ND L.R. or Fed. R. Civ. P. (ROA10 at Doc. 14); (8) Zurich did not timely file an answer in the entire litigation or *res judicata* failed as provided because it was not presented in an answer or at all pleaded; and (9) in accordance with the local and federal rules, State in connection with the Bank, Walgreens, and Zurich are in **default** and have **admitted** all factual allegations and claims for relief, and minor defects do not preclude default judgment.

Even so, Griffin timely filed a writ for certiorari in the Supreme Court for the United States, wherein the Court denied his writ (ROA.2606).

Subsequently, on December 13, 2021, Griffin served and filed a motion for relief from the final judgment or order (ROA.2608), attached affidavit (ROA.2614), memorandum in support (ROA.2623) and appendix in support (ROA.2658).

The State, Bank, Walgreens and Zurich, **did not** contest the motion or file any objections, responses or replies after being served by electronic means and priority mail.

On March 22, 2022, the district court denied Griffin's motion for relief from a final order or judgment in an electronic order (ROA.29), that was timely appealed to the court of appeals (ROA.3045).

VI. REASONS RELIED ON FOR ALLOWANCE OF WRITS

1. The issues involved in the present proceedings are of exceptional character and of great public importance in that judicial proceedings within the Federal Judicial System for civil or criminal actions may present unreliability or a product of inconsistencies in the rule of law that abrogates the public's confidence in the judicial process that result in unnecessary or the needless increase public cost of litigation, particularly when the law provides for default and default judgment when a party has failed to answer or otherwise defend pursuant the service of a summons and complaint, wherein no discretion is necessary for their entry, ergo is the enlargement of the substantive rights of a party who has failed to answer in direct conflict with Congress, that has provided authority or power for the United States Supreme Court to promulgate general rules of practice, procedures and rules of evidence for cases in the United States district courts and courts of appeals, provided such rules does not abridge, enlarge or modify any substantive right. 28 U.S.C.A. §§2071 - 2077.

2. The relief sought is not available within the United States District Court for

the Northern District of Texas, Dallas Division to set aside or vacate orders or judgments that are void or otherwise to correct a grave injustice, enter default then default judgment for unliquidated damages contained in an affidavit, that requires an ministerial act or duty and is nondiscretionary. *See Turner v. Pruitt*, 161 Tex. 532, 342 S.W.2d 422, 423 (1961). An act is ministerial if the law prescribes the duty to be performed by a judge or official with such precision and certainty that nothing is left to the exercise of discretion or judgment, particularly the time proscribed by Federal Rules of Civil Procedures. *See Bar of Tex. v. Heard*, 603 S.W.2d 829, 832 (Tex. 1980).

3. The court of appeals' previous opinion that affirmed the district court's final judgment that is unpublished or unreported, tenders to the unreliability of the court of appeals' actions in undermining its own case precedence, that of the other Circuit Courts or State Courts, and of the Supreme Court of the United States, that fail to "spare private parties and the public the time and money wasted enduring eventual reversal of improperly conducted proceedings." *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 136 (Tex. 2004); *see Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981); *see also Conley v. Gibson*, 355 U.S. 41, 355 U.S. 45-46 (1957).

4. The practice and procedures promulgated by the Supreme Court of the United States, and the constitutional and statutory laws, would require this Court to vacate court of appeals mandate and correct its opinion affirming the district court's acts of usurpation of power that had no authority or capacity to act on defendants' - respondents' motions to dismiss or otherwise in direct conflict with the Rules that are statutory, that resulted in abrogation of Petitioner's substantive rights to procedural due process or equal protection of the laws, that is of great public importance and of exceptional character, and the orders

should not stand because there must be an end to the litigation by way of default and default judgment [Angel v. Bullington, 330 U.S. 183, 192-93, 67 S.Ct. 657, 662-63, 91 L.Ed 832 (1947); Heiser v. Woodruff, 327 U.S. 726, 733, 66 S.Ct. 853, 856, 90 L.Ed 970 (1947)], specifically when all matters of facts have been admitted in the case that support the claims that were noticed to the respondents, particularly when Honorable Ed Kinkeade has a legal duty to perform and the Petitioner has a clear right to the performance of entry of default and default judgment, or this Court legal duty to compell that performance or correct a clear abuse of discretion, particularly when there is no adequate remedy on appeal because of the court of appeals' mandate that should be recalled or set aside. *See Callahan v. Giles*, 137 Tex. 571, 155 S.W.2d 793, 795 (1941); *CSR Ltd. v. Link*, 925 S.W.2d 591, 596 (Tex. 1996); *see also Canadian Helicopters Ltd. v. Wittig*, 876 S.W.2d 304, 305 (Tex. 1994). *See Hanley v. Hanley*, 813 S.W.2d 511, 517-518 (Tex. App.—Dallas 1991, no writ); *see also TransAmerican Natural Gas v. Powell*, 811 S.W.2d 913, 920-921 (Tex. 1991).

5. A clear abuse of discretion is found only when an action is "so arbitrary and unreasonable as to amount to a clear and prejudicial error of law." *See Johnson v. Fourth Court of Appeals*, 700 S.W.2d 916, 917 (Tex. 1985). When the facts are undisputed and the right is clear and unquestioned, mandamus should issue to compell performance. *In re Angelini*, 186 S.W.3d 558, 560 (Tex. 2006); *see also In re Allcat Claims Services*, 356 S.W.3d 455, 461 n.6 (Tex. 2011).

6. The respondent Honorable Ed Kinkeade acted without any guiding rules or principles, specifically when he denied Petitioner's motion for relief from a judgment in an electronic order that was dismissed as frivolous on appeal. *See Downer v. Aquamarine*

Operators, Inc., 701 S.W.2d 238, 241-242 (Tex. 1985); *see also* Walker v. Packer, 827 S.W.2d 833, 839-840 (Tex. 1992). Thus, it would require this Court to review the entire record in a **second appeal** and the court of appeals decision denying a petition for writ of prohibiton and mandamus. *See In re University Interscholastic League*, 20 S.W.3d 690, 691-692 (Tex. 2000). Voidness as a ground for relief is not a discretionary matter, but it is mandatory. *V.T.A., Inc. v. Airco, Inc.*, 597 F.2d 220, 224 (10th Cir. 1979).

7. Mandamus was a proper remedy when the district court's orders are void, particularly when the district court acted inconsistent with due process and did not provide Petitioner an opportunity to be heard in the case. *See Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *see also* *Dikeman v. Snell*, 490 S.W.2d 183, 186-187 (Tex. 1973); *cf In re Southwestern Bell Telephone Co.*, 35 S.W.3d 602, 605 (Tex. 2000). *See Ex parte Barnett*, 600 S.W.2d 252, 254 (Tex. 1980). *See also* *Williams v. New Orleans Public Serv., Inc.*, 728 F.2d 730, 735 (5th Cir. 1984); *Recreational Prop. Inc. v. Southwest Mortgage Serv. Corp.*, 804 F.2d 311, 313 (5th Cir. 1986); *Briley v. Hildago*, 981 F.2d 246, 249 (5th Cir. 1993).

8. Petitioner, in the case, sought a motion for summary judgment, the district court denied improperly, particularly when it was conclusively shown that the district court had a clear duty to rule and refused to do so. *See In re Mission Consol. Indepen. School Dist.* 990 S.W.2d 459, 460-461 (Tex. App.---Corpus Christi 1999, orig. proceeding); *In re Media Consol.*, 121 S.W.3d 70, 72-74 (Tex. App.---San Antonio 2003, orig. proceeding).

9. The court of appeals has held that "[A]pperances include a variety of informal acts on defendant's part which are responsive to plaintiff's formal action in court, and

which may be regarded as sufficient to give plaintiff a clear indication of defendant's intention to contest the claim []." Sun Bank, 874 F.2d at 276 (internal quotation omitted). Further, the court of appeals went on to explain what constitutes an appearance which is not "confined to physical appearances in court or the actual filing of a document in the record." Sun Bank of Ocala v. Pelican Homestead and Saving Assoc., 874 F.2d 274, 276 (5th Cir. 1989). Furthermore, the court of appeals provided "an appearance is an indication "in some way [of] an intent to pursue a defense." United States v. McCoy, 954 F.2d 1000, 1003 (5th Cir. 1992). *See* Bass v. Hoagland, 172 F.2d 205, 5th Cir., cert. denied, 359 U.S. 816 (1949).

VII. CONCLUSION

For the foregoing reasons, Trent S. Griffin, Sr., petitioner prays that the petition for writ of certiorari should be granted.

Petitioner further prays that this court grant petitioner such other and further relief as it may deem to be just and equitable.

Dated: May 21, 2023.

Respectfully submitted,

/s/ Trent S. Griffin, Sr.

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CERTIFICATE OF SERVICE

I certify that the above petition for writ of certiorari, motion for leave to proceed in forma pauperis, declaration and appendix were served on the respondents through their

attorneys by electronic means and regular mail to (1) Laura Grabouski, attorney for Respondent American Zurich Insurance Company at lauragrabouski@holdenlitigation; (2) Blair Dancy, attorney for American Zurich Insurance Company at his email address bdancy@ctrial.com and located at 303 Colorado Street, Suite 2850, Austin, Texas 78701; (3) Shayne Daniel Mose, attorney for Respondent Wells Fargo Bank, N.A. at email address smoses@mph-law.com; (4) David A. Palmer, attorney for Wells Fargo Bank, N.A. at email address dpalmer@mph-law.com and located at 306 W 7th Street, Suite 504, Fort worth, Texas 76102; (5) Alyson Cori Halpern, attorney for Wells Fargo Bank, N.A. at her email address ahalpern@mph-law.com; (6) Lawrence J. McNamara, attorney for Respondent Walgreens and Walgreens Employees at his email address lmcnamara@fordharrison.com and located at 1601 Elm Street, Suite 4450, Dallas, Texas 75201; (7) Michael J. Patterson, attorney for Respondent State Defendants at michael.patterson@ oag.texas.gov and mailing address of Office of the Attorney General, PO Box 12548, MC 019, Austin, Texas 78711; and U.S. District Court for the Northern District of Texas addressed to Honorable Ed Kinkeade located at 1100 Commerce Street, Room 1625, Dallas, Texas 75242-1003.

/s/ Trent S. Griffin, Sr.

Trent S. Griffin, Sr.

CERTIFICATE OF COMPLIANCE

I certify that the petition for writ of certiorari does not exceed the 40 pages limitation as required items by the U.S. Supreme Court.

/s/ Trent S. Griffin, Sr.

Trent S. Griffin, Sr.