23-5897 ORIGINAL

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Cedric Mack — PETITIONER
(Your Name)

vs.

J.M. Smuckers
Focus workForce Management — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the Tenth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Cedric Mack
(Your Name)

4837 NW Rochester Rd.
(Address)

Topeka, KS. 66617
(City, State, Zip Code)

816-702-2991
(Phone Number)

QUESTIONS PRESENTED

1. Cedric Mack brings forth whether The United States District Court of Kansas and The United States Court of Appeals for the Tenth Circuit, questionably misused FED. R. CIV. P. 56 (c)(1)(a). The ruling interlocks with a review that was blindsided by summary judgment under FRCP. 56. Where the judges' nonfulfillment to bond the standard of disputation of material fact underprivileged. Cedric Mack of a jurys' reflection of Focus Workforce Management and J.M. Smucker's dearth of trust pertaining to discrimination and retaliation. Thereby, the difference of opinion with the council in the Third Second Circuits, Supreme Court, and add-ons, when it points out this Court's ruling in St. Marys' Honor Center, Reeves, Tolan, Anderson, and "add " on. 2. The United States District Court For The District Of Kansas questionably misused Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions (effective December 1, 2013). (2) Sanctions Sought in the District Where the Action is Pending. (A)(i)(ii)((iii)(iv)(v)(vi)(vii). (2). Failure to admit. (e). Failure A Discovery Plan. Therefore, the difference of opinion with the council in the U.S. Supreme Court, United States District Court, W.D. Pennsylvania when it points out rulings in Hammond, Hovey, Roth, Campbell, Societe, and add-ons. 3. Courts questionably misused 18 U.S. Code * 1621 1623-Perjury generally. Therefore, the differences of opinion with the council in the U.S. Supreme, 11th Circuit, and 6th Circuit Court. Dunnigan, Havens, Durham's, and add-ons. 4. Courts questionably misused S. 1380-Due Process Protections Act 116th Congress (2019-2020). Equal Protection, Therefore, the difference of opinion with the council in the Supreme Court. Timbs, Goldberg, Loving, and add-ons. 5. Courts questionably misused 28 U.S.C* 1915 (e)(1). Therefore, the differences of opinion with

the council in the 4th Circuit, 5th Circuit, and add-ons. Cook, Branch, Whisenant, Mallard, and add-ons. 6. Courts questionably misused * 42.23 Opposition replies and sur-replies. (a)(b) Therefore, . 6. Did the Tenth Circuit of The United States Court of Appeals misuse its authority by factoring in oral arguments, and discovery material the courts had access to. Rule 34. Oral Argument (a)(2)(a)(b)(c). Addin Allen, Poller, and add-ons. Factoring in did the Tenth Circuit of The United States Court of Appeals misuse its discretion in applying Rule 26. Duty to Disclose; General Provisions Governing Discovery (a)(1)(i)((ii)(iii). Hickman, Palmer, and add-ons. The District Court of Kansas denies The Petitioner's right to counsel.

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LIST OF PARTIES

Jehan Moore/Lathrop GPM LLP. 2325 Grand Blvd. Suite. 2200. Telephone: 816-292-2000. Kansas City, Mo. Attorney for Defendant Focus Workforce Management. Karen Glickstein/Jackson Lewis P.C. 7101 College Blvd Suite 1200 Overland Park, Ks. 66210. Telephone: 913-981-1018. Attorney for Defendant J.M. Smuck

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Seventh Amendment Continues a practice from English common law of distinguishing civil claims that must be tried before a jury. Fifth Amendment, creates a number of rights relevant to both criminal and civil legal proceedings. It also requires that "due process of law" be part of any proceeding that denies a citizen life liberty. 13th Amendment to the United States Constitution provides that "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted. 14th Amendment rights 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. Section 2. The 15th Amendment to former abolitionists and to the Radical Republicans in Congress who fashioned Reconstruction after the Civil War, the 15th Amendment, enacted in1870, appeared to signify the fulfillment of all promises to African Americans.

Fed.R.Civ.P.56 provides in part:

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense–or the part of each claim or defense–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 judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions:

In General. On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in effort to obtain it without court action.

18 U.S. Code * 1621-1623-Perjury generally:

Having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true.

S.1380-Due-Process Protections Act 116th Congress (2019-2020):

This bill requires a federal judge in criminal proceedings to issue an order confirming the obligation of the prosecutor to disclose exculpatory evidence.

Equal Protection:

Equal Protection refers to the idea that a governmental body may not deny people equal protection of its governing laws. The governing body state must treat an individual in the same manner as others in similar conditions and circumstances. Permissible Discrimination.

28 U.S.C.*1915 (e)(1):

The court may request an attorney to represent any person unable to afford counsel.

37 CFR * 42.23-Oppositions, replies, and sur-replies:

Oppositions, replies, and sur-replies must comply with the content requirements for motions, and, if the paper to which the opposition, reply, or sur-reply is responding contains a statement of material fact, must include a listing of facts that are admitted, denied, or cannot be admitted or denied. Any material fact not specifically denied may be considered admitted. (b).

Rule 34. Oral Argument:

Party's Statement. Any party may file, or a court may require by local rule, a statement explaining why oral argument should or need not be permitted.

Rule 26, Duty to Disclose; General Provisions Governing Discovery:

Required Disclosure, the name and, if known, the address and telephone number of each individual likely to have discoverable information–along with the subjects of that information–that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

Rule 4:1 Truthfulness in Statements to Other Comment:

A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false.

Rule 103. Rulings on Evidence:

Preserving a claim of error, a party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party.

Kansas Code of Civil Procedure*60-404 and 60-405:

A verdict of finding shall not be set aside, nor shall the judgment or decision based thereon be reversed, by reason of the erroneous admission of evidence unless there

appears of record objection to the evidence timely interposed and so stated as to make clear the specific ground of objection.

Federal Rules Of Civil Procedure 43:

Evidence on a Motion, when a motion relies on facts outside the record, the court may hear the matter on affidavits or may hear it wholly or partly on oral testimony or on depositions.

FED. CRIM. RULE 52:

Plain Error, Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court.

APPENDIX

A. In The United States District Court For The District Of Kansas, Cedric Mack v. J.M. Smuckers Co. and Focus Workforce Management, No 21-4038-SAC-ADM

   Judgment and opinion, September 29, 2022

B. In The United States Court of Appeals For The Tenth Circuit United States, Cedric Mack v. J.M. Smuckers Co. and Focus Workforce Management, No. 22-3195

   Judgment and opinion, August 15, 2023

STATUTES AND RULES

OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[✓] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix B to the petition and is

[✓] reported at August 15, 2023; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

[✓] reported at September 29, 2022; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

3[redacted]C

JURISDICTION

[✓] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was August 15, 2023.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

IN THE SUPREME COURT OF THE UNITED STATES

CEDRIC MACK,

Petitioner, NO_____

v.

J.M. SMUCKERS CO., and
FOCUS WORKFORCE MANAGEMENT, INC.,

Respondents'

PETITION FOR A WRITS OF CERTIORARI

Cedric Mack a Pro se attorney, working on his behalf due to limited "funds" for hiring an attorney. Cedric Mack respectfully petitions this [c]ourt for a writ of certiorari to review the judgment of the United States Courts of Appeals for the Tenth Circuit Court. Whereas, the decision on behalf of the United States Court Of Appeals for the Tenth Circuit Court denied Cedric Mack's appeal after examining the briefs under oral argument.

Furthermore, Cedric Mack pleads with the courts an oral argument would have turned out a suitable outcome for the case on the Petitioners' behalf. See. Fed. R. App. P. 34 (a)(2)(a)(b)(c). Therefore, the court did not provide facts and evidence why an oral argument should have been held in the court of law. Whereas, Cedric Mack's case holds merit, and FWM and JMS hold no merit.

Furthermore, Cedric Mack challenges dismissals of fraud, retaliation, and his Thirteenth Amendment claims. Cedric Mack challenges the motions to strike the sur-replies Cedric Mack provided the courts with evidence to prove FWM, and JMS were at fault. Whereas, Cedric Mack held a hearing with the courts for a request for discovery at Rule 16 Pretrial Conferences See (a)(1)(2)(3).

Article 2-Rules Of Civil Procedure 60-233, Interrogatories to parties. Availability; timing. A party may serve written interrogatories on the plaintiff after commencement of the action and on any other party with or after service of process on that party. Scope. An interrogatory may relate to any matter that may be inquired into under subsection (b) of K.S.A. 60-226, and amendments thereto. An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the court may order that the interrogatory need not be answered until designated discovery is complete, or until a conference or some other time. Answering each interrogatory. Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath. Objections. The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure. See Hickman v. Taylor, 329 U.S. 495 (1947). No. 47 11-13-1946. See. Harriss v. Nelson, 394 U.S. 286 (1969). No.199 12-9-1968 Signature.

The person who makes the answer must sign them, and the attorney who objects must sign any objections. Use. An answer to an interrogatory may be used to the extent allowed by the rules of evidence. Cedric Mack held a pre-trail conference for litigation and discovery. See evidence submitted to [c]ourts.

Cedric Mack followed all rule procedures that govern litigants, which were FWM and JMS did not follow the rules govern litigants, JMS held valid information pertaining to Civil suit, Cedric Mack also provided evidence to the courts.

Furthermore, the courts abused its discretion in the decision to strike Cedric Mack's sur-replies. A plain error, discretion exercised to an end not justified by the evidence, a judgment that is

clearly against the logic and effect of the facts as are found. See. General Electric Co. Joiner, 522 U.S. 136 (1997).

Furthermore, Cedric Mack received nothing pertaining to valuable information as were to bring the case together as a whole when a certain party (JMS) withholding evidence is illegal. See. 867. Withholding of Record Information-U.S.C* 152(9) See Brady v. Maryland, 373 U.S. 83 (1963). 3-17-1963.

Whereas, Cedric Mack has provided the courts with supporting evidence of a matter of law, there would be no reasonable jury that would agree with FWM or JMS. Cedric Mack provided phone records of the harassing phone calls up until a whole year . Furthermore, the incidents Cedric Mack endured are rational enough along with the facts and evidence at his workplace to show cause permeated with discriminatory intimidation, ridicule, and insult.

Furthermore, the Appeals [c]ourt never ruled on Cedric Mack's attorney's fees owed to JMS and FWM, Cedric Mack is pro se and has no funds. See. Rule 7.07(b) which requires a party seeking attorneys fees based upon an appeal to file a motion with the appellate court following oral argument, applied to all fee-shifting statutes, including Section 40-908.Id at 163. See Snider v. American Family Mutual Insurance Co. 297 Kan. 157, 298 P 3d 1120 (2013).

Cedric Mack comes to the Clerk's Office, Supreme Court of the United States in good faith to review the case as a whole.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of October 2023, a true and accurate copy of the foregoing was sent first class mail to The Supreme Court Of The United States, and the following:

Jehan Moore/Lathrop GPM LLP
2325 Grand Blvd. Suite. 2200
Telephone: 816-292-2000
Kansas City, Mo. 64108

Attorney for Defendant Focus Workforce Management

Karen Glickstein/Jackson Lewis P.C.
7101 College Blvd. Suite. 1200
Overland Park, Ks. 66210
Telephone: 913-981-1018
Attorney for Defendant J.M. Smuckers

816-702-2991

Cedric Mack
4837 NW Rochester Rd.
Topeka, Ks. 66617
Telephone:

Pro se for Cedric Mack
/s/ Cedric Mack

STATEMENTS

Since the district court happened to grant Focus Workforce Management, and J.M. Smucker summary judgment what now is presented before the courts are the facts that will open eyes that are more suitable for Cedric Mack submitted for records and not submitted for records due to broad disregards for Petitioner evidence that was presented in the District court. Cedric Mack was an African American male who worked for both employers J.M. Smucker and Focus Workforce Management. In the process of working for the Defendants FWM and J.M. Smucker, Cedric Mack's Constitutional rights were violated [under Title VII of the Civil Rights Act of 1964 and 42 U.S.C. * 1981]. Which subdued Petitioner to acts of constant harassment followed by discrimination. Whereas, Cedric Mack was a "target" for harder work than other employees. Also, the Petitioner was constantly followed around the factory. Cedric Mack took bathroom breaks, and FWM and J.M. Smucker's employees hid behind boxes to "observe" Cedric Mack. Cedric Mack was constantly "TARGETED" to work on lines others feared were hard. See. Teamsters v. United States, 431 U.S. 324 (1977). The Petitioner was assigned to work on the line where the person involved was J.M. Smucker's employee, and he had authorized authority over the Petitioner. The incident concerned Cedric Mack's not having on all his PPE gear. The caucasian line leader began verbally yelling at Cedric Mack for such a minor fracture. Meanwhile, there was another employee who was caucasian who preoccupied the same line as Cedric Mack and did not comply with any protocols pertaining to the PPE gear. Whereas, the line leader walked right past the caucasian employee, he did not suggest to the employee to wear his PPE gear. Cedric Mack asked the caucasian line leader why he didn't confront the caucasian employee the line leader jazzily replied, "I run this line not you!" Cedric Mack reported this to his supervisor as well. The Petitioner was constantly on edge whenever he reported for duty. Cedric Mack was advised during his employment with Focus Workforce Management, and J.M.

Smucker that he would work no less than 40 hrs. a week. See. Tolan, 572 U.S. at 651 (2014). Also, see. Faragher v. City of Boca Raton, 524 U.S. 775 (1998). FWM is liable for third-party harassment because they "unreasonably" failed to take appropriate corrective action reasonably likely to prevent the misconduct from recurring, Cedric Mack reported the incident to his supervisor. See. Lapka v. Chertoff, 517 F. 3d 974, 984 (7th Cir. 2008). Furthermore, the Petitioner reported on time for duty, and he often was refused work. Whereas, Cedric Mack was onsite before most of the FWM employees, and he would still get refused work while the Caucasians would proceed forward. Cedric Mack was already a "loyal" member of FWM. The Petitioner had established a relationship through Kawasaki Motors Manufacturing Corp. USA #1 at Horsepower Dr. Maryville, Mo. Cedric Mack stabilized his employment with Kawasaki Motors or FWM, approximately three months before Petitioner transferred to J.M. Smuckers. Furthermore, FWM in Topeka Ks. FWM in Topeka Ks corresponded with FWM in Maryville Mo. about the Petitioner's conduct and work performance, and both concluded it was good. See. St. Mary's Honor Center v. Hicks, 509 U.S. 502 (1993). Also, see Reeves v. Sanderson Plumbing Products, Inc. 530 U.S. 133 (2000). Petitioner worked alongside numerous Caucasians at Kawasaki Motors or FWM and had not one incident with race discrimination. Whereas, Cedric Mack arrived to participate in work at J.M. Smucker and had a "Horrible Life Changing Experience" no human being should have to ever endure. Therefore, the District Court ruled out Cedric Mack resumed work for briefly 20 days while employed for J.M Smucker and FWM. It brings the question of "WHY" Cedric Mack participated for such a short period. Cedric Mack has a very long "meaningful" well-established work history and is a law-abiding citizen of the USA. Whereas, Cedric Mack endured a common racial discrimination which lined up in the trailer where all FWM were assigned to report for work duty. Cedric Mack entered the mobile

home and was subject to the forbidden "N" word factoring in "Why do this "NIGER" keep showing up, he's not wanted here!" Displayed by caucasian's Cedric Mack reported the problem to his supervisor because he was very concerned about his safety. Cedric Mack also endured unbearable humiliation, factoring in the consistent harassment while in the lunchroom eating lunch a caucasian guy knocked items off the table looking directly at the Petitioner with the coldest eyes followed with an outburst. "Tired of this stuff!" very aggressively. The petitioner had another encounter with two different caucasian guys when he was getting off work. Cedric Mack is indeed a prime example of a "TARGET" J.M. Smuckers have safety lines intact on the floors that lead to the breakroom and time clock running North and South. Therefore, when the afternoon shift is reporting for duty the day shift is getting off duty. The yellow lines are very narrow so you are mainly in a single line with the exception of the rule. If the line is being occupied you may coexist close to the yellow line. Cedric Mack works from 7-3 p.m. Whereas, when the 3-11 p.m. shifts report there are a lot of bodies and uproar. Cedric Mack was on his way to the break room to fetch his jacket, this particular afternoon there were more bodies occupying the safety lane. Cedric Mack was walking "tightly" to the safety lane as he had become accustomed to doing. Cedric Mack encounters two very large caucasian males antagonizing Cedric Mack about why is not within the yellow safety lines, as the two could see the lines were clearly occupied by the 2nd shift, factoring in that there were several other beings behind Cedric Mack. This particular tactic is "TARGETING" as it keeps happening persistently towards Cedric Mack. The two Caucasians surrounded Cedric Mack with actions of full intimidation. The intimidator in front of Cedric Mack hurled something quite "mental" to Cedric Mack, "Are you stupid!" The Petitioner was 'MENTALLY" impaired by such profane words. Cedric Mack explained to the gentleman his reasoning for his involvement, when it came to the

matters set forth it did not mean anything to the two gentlemen. Cedric Mack pulled his mental state together and proceeded to fetch his jacket from the break room. Cedric Mack returned to the floor as this time the safety lane was free and clear, and Cedric Mack was walking in the safety lane. Whereas, the two Caucasians were still "lurking" around Cedric Mack was spotted and tailgated by one of the gentlemen all the way to the time clock. The gentleman just stood there and contemplated Cedric Mack. "INTIMIDATION" Whereas, not to keep the environment "hostile," Cedric Mack said, "See you tomorrow." and the gentleman replied, "I hope not!" Cedric Mack's "Mental" state was tarnished right after this particular incident. See. Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986). Also, see. Dothard v. Rawlinson, 433 U.S. 321 (1977). Furthermore, Cedric Mack reported all of the "TARGETED" incidents to his supervisor at FWM. Cedric Mack provided the Supervisor's name, Sharon or Shannon which may have perhaps been spelled incorrectly. Leave it as it may, it does not mean she did occupy the position. Whereas, Cedric Mack had contact with the supervisor on a daily setting. Cedric Mack provided FWM with a full description of the supervisor, and she hired the Petitioner for the job. FWM denied she worked for the company because FWM knew for a fact her statement would have critically hurt their case. Sharon or Shannon informed the Petitioner she would indeed handle the problem soon, the Petitioner reported to the supervisor quite "often" and she never took care of the harsh problems regarding Cedric Mack. Furthermore, FWM broke its employment contract with the Petitioner as followed in the employee handbook. Equal Employment Opportunity Policy, Anti-Harassment Policy Pg. 6. Clearly states: " If you believe that you have been subject to harassment by a supervisor, management official, fellow employee, customer, client, vendor or any other person in connection with your employment at Focus, you should immediately bring the matter to the attention of your "supervisor" or placement counselor. Focus assures all

employees that complaints will be handled as confidentially as possible. Any employee who honestly and in good faith makes a complaint of discrimination or harassment, and/or participates or cooperates in a discrimination or harassment investigation, will be "protected" from retaliation Cedric Mack received the opposite treatment. See. Reeves v. Sanderson Plumbing Products, Inc. 530 U.S. 133 (2000). Also, see St. Mary's Honor Center v. Hicks, 509 U.S. 502 (1993). See. Faragher v. City of Boca Raton, 524 U.S. 775 (1998). See. Trustees of Dartmouth College v. Woodward, 17 U.S. 4 Wheat. 518 518 (1819). Furthermore, the Petitioner had succumbed to a very intolerable hostile work environment. The Petitioner's records produce a liable constructive discharge as a whole. Cedric Mack's pleas were intentionally denounced proving adverse job action which applies as the following: Harassment includes slurs, making derogatory comments, unwanted verbal conduct, hostile work environment, denying benefits, making threats, intimidating the worker, and making a constructive discharge. FWM and JMS are joint employers according to The National Labor Relations Board, an entity may be considered a joint employer of a separate employer's employees only if the two shares or determine the employees' essential terms and conditions of employment, which are exclusively defined as wages, benefits, hrs. of work, hiring, discharge, discipline, supervision, and direction of JMS exercised all the above on the Petitioner. Whereas, JMS and FWM reasonings are considered "pretextual" they set forth Cedric Mack had simply failed to conclusively prove any adverse actions which set motions forth as tended racially motivated. See. St. Mary's Honor Center v. Hicks, 509 U.S. 502 (1993). Cedric Mack did not abruptly fail to mitigate any damages pertaining to back pay as a whole. Whereas, an employer alleging a failure to mitigate must prove 2 things. 1. That the employee did not make a reasonable effort to find new work. 2. Had the employee done so he would likely have been able to obtain comparable alternative

employment. Cedric Mack's unemployment records specifically document his reasonable effort to find new work on the contrary. See. Desert Plaace, Inc. v. Costa, 539 U.S. 90 (2003). Also, see. EEOC v. Waffle House, Inc. (2002). Furthermore, FWM continued to implement harassment and intimidation by all means necessary. Whereas, factoring in FWM repeatedly placed telephone calls to the Petitioner for an extent of 9-12 months.The petitioner took measures to block the calls from FWM, but somehow FWM still made unwanted calls to the Petitioner. Whereas, one particular telephone call statement relayed "GET OUT OF TOWN!" Cedric Mack took another telephone call from FWM which said, "NIGER!" Cedric Mack contests the comments that were made were insidious. Cedric Mack filed a charge of racial discrimination with the Kansas Human Rights Commission ("KHRC"). The petitioner displayed all accurate information that his employers were JMS and FWM. Whereas, ("KHRC") filed the Petitioner's claim incorrectly and listed Topeka Workforce instead of FWM. Petitioner charges were filed on November 23, 2019, with ("KHRC") naming FWM and JMS. In the process of identifying the incorrect entity or FWM, the Petitioner displayed his utmost concerns pertaining to the error on behalf of ("KHRC"). Furthermore, Petitioner submitted his W-2 tax forms with an address for himself, and FWM. Whereas, the original investigator assigned to the claim authorized Jose Peggs and mysteriously she was exempt from the charge at hand. Dan Wently was the new authorized investigator assigned to the Petitioner charge. Dan Wently advises Cedric Mack he is subjected to filing an additional new claim on FWM, due to the fault of ("KHRC"). On the above date October 27, 2020, Petitioner entered new charges on FWM. Furthermore, Cedric Mack introduces telephone records to Dan Wently pertaining to all the harassing, and intimidating telephone calls. Dan Wently claims Cedric Mack received 47 phone calls from FWM between June 8, 2020, and October 3, 2020. Cedric Mack resigned on

November 21, 2019, the Petitioner blocked FWM number to the Petitioner's surprise they were still capable of contacting him. See. records with block numbers. they were fully aware Cedric Mack had filed for unemployment and a complaint with ("KHRC"). You Dan Wently claim Cedric Mack was an active employee FWM handbooks point out something different. Dan Wently, alleges Petitioner was terminated by FWM, and Cedric Mack self-discharged. Dan Wently, alleges Petitioner worked for FWM on September, 14-20, 2020. If Cedric Mack was still working for FWM why would he be reviving phone calls on June 8, 2020, for job opportunities Furthermore, Dan Wently alleges Petitioner was an active employee on January 25, 2021, so why did Cedric Mack stop receiving phone calls for job opportunities on October 3, 2020. Cedric Mack was receiving unemployment from FWM on January 25, 2021. It's Evident Dan Wently did not investigate the Petitioner's claim as needed. Whereas, retrospectively, FWM calls pertain to reminding employees to report for duty. Dan Wently states, On July 22, 2020. The first message the Petitioner received was from a female voice lasting 20 seconds stating that there was a mandatory shift and to call RP. The other message was also a female voice lasting 29 seconds that spoke of job opportunities with RP, these messages were not pre-recorded automated messages. This information contradicts Chelsea Swaggerty's Affidavit statement 16. The calls Plaintiff received from Focus after his resignation were pre-recorded messages from an automated system regarding new staffing opportunities with Focus clients and were not live calls from individuals. Chelsea Swaggerty also committed perjury on 11, 12, 13, 14, and 15. Chelsea Swaggerty's affidavit's content is clear that affiant relies on information from others rather than firsthand participation or experience, the District Court should have properly refused to consider the affidavit as not based on personal knowledge.The affiant statement believes a fact to be true and attests to a fact upon information or belief does not satisfy the requirement that the witness

have personal knowledge of the fact. The affidavit must set out facts that would be admissible in evidence at trial. The affiant hearsay statements would not be inadmissible if testified to at trial are not admissible on summary judgment. The affiant is located in New Jersey, she would not have any knowledge of who is the supervisor in Topeka Kansas. FWM submitted the affidavit in "bad faith" See. records. Also, see. People v. Cook, Crim.No. 19804. Supreme Court of California. September 8, 1978. Whereas, the District Courts allege FWM calling consistently was in reference to new suitable job opportunities. Retrospectively, FWM handbook pg. 9 states Cedric Mack does not call or show up for assignments it's considered VOLUNTARILY RESIGNATION, and the Petitioner's application is considered INACTIVE. Cedric Mack prevailed in his unemployment claim for racial discrimination against FWM due to their lack of credibility. Furthermore, the Petitioner was collecting unemployment and had served FWM a lawsuit summons. FWM's reasoning for "TARGETING" telephone calls was for harassment and intimidation. Whereas, FWM refused to pay the Petitioner for his authorized hours. Cedric Mack was forced to file a full complaint with the Department of Labor in Kansas. The investigator contacted FWM and FWM alleged Cedric Mack had, in fact, been provided his owed wages. The investigator concluded indeed FWM did not pay the Petitioner the wages and issued the Petitioner a check. Whereas, once again FWM gave "false testimony," factoring in economic torts which include fraud, misrepresentation, and interference with contractual relations, interference with contractual relations, interference with prospective advantage, and injurious. Whereas, misrepresentation is a false or misleading statement or a material omission that renders other statements misleading, with intent to deceive. Misrepresentation is one of the elements of common law fraud, and falsehood. Misrepresentation through the act of making a false statement can take many forms, see Commonwealth v. Scott, 355 Mass. 471 (1969) 245

N.E.2d 415. In a Massachusetts Supreme Court case, a forensic drug laboratory chemist made a number of affirmative misrepresentations by signing drug certificates and testifying to the identity of substances in cases in which she had not in fact properly tested the substance in question. Chelsea Swaggerty is in violation of "misrepresentation" Cedric Mack has provided a context of trust, and reliance between her misrepresentation and the recipient, and the statement is objectively false. Omnicare, Inc. v. Laborers District Council Construction. Indus.Pension Fund, 575 U.S.____No. 13-435. (2015)."See Records." See. United States v. Dunnigan, 507 U.S. 87 (1993). See. United States v. Havens, 446 U.S. 620 (1980). Also, see Alex Murdacgh v. South Carolina, 9:23-cr-396 (D.S.C.).

Furthermore, FWM committed fraud pertaining to Cedric Mack's overtime hours he participated in while waiting on someone to relieve him from the task. FWM time clock should have by law kept track of all employees' hours deemed worked. Rather, FWM participated in manually documenting employee hours. The simple conclusion no matter how many minutes you may have worked over FWM would deliberately sustain a cap on the time. FWM sent the Department of Labor in Kansas "FAKE" time sheets in regard to Petitioner's hours. FWM was confronted by the investigator and forced FWM to produce accurate documents. The documents provided proved FWM was manually clocking in and out employees In regards to Cedric Mack never receiving payment for the overtime. Whereas, "TARGETING" Cedric Mack FWM made claims to unemployment that the Petitioner had returned to work for JMS and FWM. The allegations involved staggered Cedric Mack's unemployment which denounced payment for approximately 3 weeks or more. Cedric Mack had to fill out a questionnaire for unemployment explaining his involvement with FWM, alleging the Petitioner was committing fraud while working and

receiving unemployment. Whereas, unemployment conducted an investigation referring to FWM allegations against Cedric Mack, and concluded that FWM made a "false complaint" against Cedric Mack. The Petitioner's unemployment was restored, and it is quite clear that FWM is deliberately "TARGETING" the petitioner with an enormous level of harassment, retaliation, and factoring in intimidation. See. St. Mary's Honor Center v. Hicks, 509 U.S. 502 (1993). See. Reeves v, Sanderson Plumbing Products, Inc. 530 U.S. 133 (2000). Id. at 9.

Whereas, ("KHRC") conducted an investigation pertaining to Cedric Mack's racial discrimination log, factoring in ("KHRC") findings holding it is not in their jurisdiction, in contrast to Petitioner's unemployment claim. Cedic Mack contest that the charges belong in ("KHRC") jurisdiction. Cedric Mack also presented his claims to the U.S. Equal Employment Opportunity Commission (EEOC). Charge No. noted as No.28D-2020-00130 (EEOC) File__JMS000014). EEOC refused to do a proper, and "just" investigation of Cedric Mack's claims. Whereas, the Petitioner produced leads factoring in preponderance evidence. This "act" is considered insubordination on behalf of (EEOC). See. St. Mary's Honor Center v. Hicks 509 U.S. 502 (1993). Also, see Reeves v. Sanderson Plumbing Products, Inc. 530 U.S. 133 (2000). Whereas, the district court granted summary judgment to the respondent's JMS and FWM summary judgments. It is clear and unresolved there is a material issue at hand factoring in adverse employment action. See. Reeves v. Sanderson Plumbing Products, Inc. 530 U.S. 133 (2000). Also see. St. Mary's Honor Center v. Hicks 509 U.S. 502 (1993). Petitioner has displayed all "faults" set forth by respondents JMS and FWM conflicting summary judgments, which raised no genuine

issues of material facts not to proceed to a reasonable jury trial. Considering the circumstances factoring in ponderance evidence, Cedric Mack "preserved" the right to a fair trial. See. Tolan v. Cotton, 572 U.S. 650 (2014). See. Anderson v. Liberty Lobby, Inc. 477 U.S. 242 (1986). Also See. Article III, Section 2, Clause 3: Duncan v. Louisiana, 391 U.S. 145 (1968). FWM Memorandum in support of summary judgment is contradictory, pg. 1-2 states: Plaintiff resigned his employment with FWM after he was asked to do a job he did not want to perform. After resigning his employment... Pg. 3 States: On November 24, 2019, Plaintiff turned in his personal protective equipment ("PPE") and left the Topeka Plant without informing anyone at Focus that he was resigning his employment or giving an explanation as to why he was leaving. See. Konigsberg v. State Bar of Cal., 366 U.S. 36. 49 n. Oct 19, 2022. Whereas, Rule 56. Summary Judgment states that a party may move for summary judgment identifying each claim or defense–or the part of each claim or defense–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 is entitled to judgment as a matter of law. The court should state on the record the reason for granting or denying the motion. Therefore, JMS and FWM have not predominantly proved any material facts on their behalf, nor can JMS nor FWM genuinely dispute Pertitinor's material facts as a whole. Therefore, FWM and JMS were recklessly granted the summary judgment based on not disclosing natural factual issues to uphold a summary judgment. Furthermore, if the Petitioner were deemed a jury trial by his peers to present "conclusive" material a noble decision factoring in admissions and interrogatory statements. See. Duncan v. Louisiana, 391 U.S. 145 (1968). Thereto, along with other substantial incriminating evidence such as telephone records, emails, and unemployment records. Adding to the facts set forth, the District Court did not balance the evidence above. See. Anderson v. Liberty Lobby, Inc.

477 U.S 242 (1986). See. Hammond Packing Co. v. Arkansas, 212 U.S. 322 (1909). Also, see. Hovey v Elliott, 167 U.S. 409 (1897).

Therefore, in determining if a genuine issue of fact exists, or survives the District Court must view or outlook relevant facts in the most sympathetic to the Petitioner. See. Fed. R. Civ. P. 56(c); Celotex Corp. v. Catrett, 477 U.S. 317, 325, 106, S. Ct. 2548,91 L.Ed.2d 265 (1986). See. Waterhouse v. Dist. of Columbia, 298 F. 3d 989, 991 (D.C. Cir. 2002). The District Court must determine whether a genuine issue of fact exists, which is light most "favorable" to the Petitioner. See. Matsushita Elec. Indus. Co. v. Zenith Radio Corp. 475 U.S. 574, 587, 106 S. Ct. 1348, 89 L.Ed.2d 538 (1986). Also, Factoring in the District Court denounced the Petitionors' new evidence claims of unemployment records. Furthermore, Cedric Mack is entitled to equal protection under governing law. See. Bush v. Gore, 531 U.S. 98 (2000). See. Korematsu v. United States, 323 U.S. 214 (1944). Whereas, JMS moved for summary judgment on July 25, 2023, and withheld evidence such as Petitioner's unemployment records. The Petitioner received his unemployment records on September 1, 2023, which is considered new evidence. Cedric Mack did not have time to properly go through the new evidence at all, the District Court rendered a decision in favor of JMS on September 29, 2023. The District Court did not have enough time to examine the 100 pg. documents, of new evidence less than 30 days after rendering a decision. See. Brady v. Maryland, 373 U.S. 83 (1963). JMS declaration of Jaclynn Brown committed perjury conducted on pg. 4, 30. States: Focus employees performing work at the Topeka Plant use separate machines to clock in and out of their shifts, and the timekeeping records are maintained by Focus, not J.M. Smucker. It's clear she does not have personal knowledge of the timesheets the Petitioner's time was recorded on a Big Heart or JMS timesheet. Whereas, Chelsea Swaggerty sent in the "fake" timesheet Big Heart to the Labor Department of

Kansas. The question stands, "Why" is JMS stamped on FWM's timesheet. Statement pg. 5, #36. J.M. Smuckers does not discipline contingent workers employed by Focus and, instead, refers all disciplinary matters involving those individuals to Focus for handling. Discipline "means" the quality of being able to behave and work in a controlled way which involves obeying particular rules or standards. JMS employees were the line leaders who told Cedric Mack how to perform his job duties, and how to behave. If the Petitioner did not perform the job he was disciplined by the JMS line leader. 37. J.M. Smucker may request that a Focus employee no longer be assigned to work in the Topeka Plant, however, J.M. Smucker has no authority to terminate a contingent worker's employment with Focus. FWM will terminate your employment if a job site gives reasons why they do not want the individual to return to work. Jaclynn Brown does not have first-hand facts but rather second-hand facts, See. People v. Cook, Crim. No. 19804. Supreme Court of California. September 8, 1978. Cedric Mack wanted to depose witnesses from JMS, but Camille Roe, attorney of JMS, would not comply, see. records.

N.M.R Civ. P. Dist. Ct. 1-056- Summary judgment. (G). Whereas, Grounds for motion— The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issues as to any material fact and that the moving party is entitled to a judgment as a matter of law. Therefore, FWM and JMS posed any grounds pointing to summary judgment being granted. It comes to a thought where the Discit Court gathers evidence to support its judgment. Furthermore, the summary judgment was granted in "bad faith" due to the fact there was no alleged discovery conference held between the Petitioner, FWM, and JMS. The District Court did not investigate the Petitioner's interrogatory questions served to FWM and JMS. Also,

the District Court did not examine the evidence provided by Petitioners which represents most favorable to the Petitioner. See. Reeves v. Sanderson Plumbing Prod. Inc., 530 U.S. 133 (200). Also, see. Tolan v. Cotton, 572 U.S. 650 (2014). Id. pg. 12. Therefore, P.3d 280, rev'g 2009–NMCA-022, 145 N.M. 658, 203P. 3d 873. Appellate review of summary judgment. In reviewing an appeal from a summary judgment, an appellate court indulges all reasonable inferences and views all the facts in the light most favorable to the party opposing the summary judgment, and the district court's decision to grant summary judgment and all other issues of law are reviewed de novo. T.H. McElvain Oil and Gas Ltd. P'ship v. Benson-Montin-Greer Drilling Corp., 2015-NMCA-004, cert. Granted, 2014-NCMERT-012.

The Petitioner's purposes to the Court, the 10th Circuit Court of Appeals did not "resonate" Petitioner's evidence in light of its favor, due to not holding a Discovery conference. The Court of the 10th Circuit Court of Appeals "Errored" in conducting a "Bad Faith" judgment against Cedric Mack. See. Tolan v. Cotton 572 U.S. 650 (2014). (per curiam). Also, see. Hovey v. Elliott, 167 U.S. 409 (1897). The petitioner established a prima facie case of discrimination and introduced significant evidence for any reasonable jury to side with Cedric Mack. JMS and FWS had intentionally discriminated against and withheld evidence. Cedric Mack applied several different tactics in order to pinch FWM and JMS for discovery information, this included telephone calls and emails. Whereas, JMS and FWM made it difficult for the Petitioner to receive any valuable information needed. JMS and FWM refused to comply with the Petitioner when it was clear it was concerning reliable information factoring in Rule 37. See Hovey v. Elliott, 167 U.S. 409 (1897). Also, see. Roth v. Paramount Pictures Distributing Corp., 8 F.R.D. 31. It concerns the Petitioner how JMS was able to conduct something very heinous such as withholding shreds of evidence. JMS is obligated by "law" to turn over any evidence to the

Petitioner. JMS had possession of the Petitioner's unemployment records before moving for summary judgment, check the mailing dates the unemployment records were mailed to JMS. Cedric Mack did not receive a copy of his unemployment records until the Petitioner filed a reply motion. Cedric Mack's unemployment records were roughly 85 pages or more. Whereas, this is quite concerning, Cedric Mack never had any respectable time to fulfill his obligations by examining his unemployment records. See. Campbell v. Johnson, 101 F. Supp. 705 (S.D.N.Y. 1951). Id.

Furthermore, JMS and FWM are liable based on their own actions and inappropriate misconduct. See. Article 10–Kansas Acts Against Discrimination 44-1032 Responsibility for and review of compliance with act; subpoena, access to premises, oaths and depositions, failure to obey court order, effect immunity, of witness from prosecutions. Whereas, the District Court used JMS and FWM deposition but did not hold a hearing for Cedric Mack's objections pertaining to the questions in the deposition, asked by JMS and FWM. See. Subject to K.S.A. 60-47, and amendments thereto, evidence that a person committed a crime or civil wrong on a specified occasion, is inadmissible to prove such person's disposition to commit a crime or civil wrong as the basis for an inference that the person committed another crime or civil wrong on another specified occasion. See. Subject to K.S.A. 60-445 and 60-448 and amendments thereto, such evidence is admissible when relevant to prove some other material fact including motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. See. Palmer v. Hoffman, 318 U.S. 109 (1943) No. 300, 2–1-1943.318 U.S. 109. Id. pg. 14. Furthermore, in light of the undisputed "facts" Petitioner should be granted judgment under applicable law. FWM and JMS had a legal duty to protect the Petitioner, as the contract between the "trio" conforms their actions to a particular standard. Furthermore, JMS and FWM failed to

meet the standard of care required. The Petitioner corresponded with JMS and FWM in regard to potential evidence such as video surveillance, audio recording, and telephone records. FWM and JMS replied, "None of the above is available." Furthermore, the materials Cedric Mack requested were indeed available, but JMS and FWM knew this would establish grounds for Cedric Mack and did not comply. See. Rule 4:1 Truthfulness in Statements to Others Comment. A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. Misrepresentation also can occur by partially true and misleading statements or omissions that are the equivalent of affirmative false statements. Under Rule 1.2 Scope of Representation & Allocation of Authority Between Client & Lawyer1.2 (d) a lawyer is prohibited from counseling or assisting a client in conduct that the lawyer knows is criminal or fraudulent. Paragraph (b) states a specific application of the principle set forth in Rule 1.2 (d) and addresses the situation where a client's crime or fraud takes the form of a lie or misrepresentation. Ordinarily, a lawyer can avoid assisting a client's crime or fraud by withdrawing from the representation. Camille Roe or JMS attorney needed to give notice of the fact of withdrawal and to disaffirm an opinion, document, affirmation, or the like. Whereas, JMS committed fraudulent behavior due to withholding reliable evidence and refusing to hand over employee names, and surveillance video. FWM likewise, factoring in Chelsea Swaggerty committed perjury throughout the "whole" investigation, and signed oaths. Interrogatory question, 39, 40, 41, 60,61, 62, 78, 79, 83, 88, 92, and 78, (Interrogatory No.20). FWM turned in a false time card. FWM turned in a time card associated with JMS/Big Heart. Whereas, the questions presented by the Petitioner were straightforward, or easy to comprehend. Furthermore, Cedric Mack's questions presented to JMS and FWM were not "ambiguous", but "concise" to the matter. See. Societe Internationale v. Rogers, 357 U.S. 197 (1958). See. United States v.

Dunnigan, 507 U.S. 87 (1993). See. United States v. Havens, 446 U.S. 620 (1980). Also, see. State v. Robertson No.86,103. In the Court Of Appeals Of The State Of Kansas. Whereas, JMS and FWM have not established the basic facts on which their flawed argument relies. Furthermore, JMS and FWM lengthy summary judgment of undisputed facts did not disprove Cedric Mack's claims. The records that were established prove JMS and FWM had culpable men's rea under either the purpose or knowledge standards. See. Supra Section IVA. But if so not true JMS and FWM would be liable See. Drummond 2010 WL, 9450019. At *11 n.24. Therefore, it is "well within the mainstream of aiding and abetting liability" to hold a respondent liable based only on the "general awareness of his role as part of an overall illegal activity, and the respondent knowing and substantial assistance to the principal violation" regardless of whether a respondent even knew the existence of a specific victim. See. Linde v. Arab Bank, PLC. 384 F. Supp. 2d 571, 584, (E.D.N.Y.2005). See. Rice v. Paladin Enters. Inc. 128 F.3d. 233, 255, (4th Cir. 1997). FWM and JMS practice these methods precisely to instill fear, despair, race discrimination, and humiliation against the Petitioner. See. Id. Also, see. In re S. African Apartheid Litig. 617 F. Supp. 2d. 228, 258, (S.D.N.Y. 2009). Thereto, JMS, and FWM argue that neither had a "substantial effect" on the racial discrimination of Petitioner is contradicted by the records. See. Id. However, in any event, "substantial assistance" does not broadly require a showing of but-for causation. Rather, a respondent may be found liable even if the crimes could have been carried out through different means or with the assistance of another. See. S. African Apartheid. 617. F. Supp. 2d. at. 257–58. Rule 37 (c) provides a sanction of costs only when there are no good reasons for failure to admit. On the other hand, a request to admit may be "voluminous and so framed that the answering party finds the task of identifying what is in dispute and what is not unduly burdensome. If so the responding party may obtain a protective

order under Rule 26 (c). See. Syracuse Corp. Newhouse, 271, F. 2d 910. Also, see Palmer v. Hoffman, 318 U.S. 109, (1943). Furthermore, the rule as revised adopts the majority view, in keeping with a basic principle of the discovery rules that a reasonable burden may imposed on the "subjects" when their discharge will facilitate preparation for trial and ease the trial process. It has been argued against this view that one side should not have the burden of "proving" the other side's case. The revised rule requires only that the answering party make reasonable inquiries and secure such knowledge and information as are readily obtainable by him. See Id. Whereas, the District Court never reviewed FWM and JMS deposition obtained from the Petitioner. If so the District Court would have addressed the Petitioners' "Obejetions" to questions. Whereas, JMS and FWM hired separate attorneys for the matter, meaning JMS and FWM should of both sent out a hearing for deposition letter. JMS sent out the information advising the Petitioner JMS wanted to conduct a deposition hearing. Rule 30. Depositions by Oral Examination. (d) (1). Duration. Unless otherwise stipulated or ordered by the court, a deposition is limited to 1 day of 7 hours. (2). Sanction. The court may impose an appropriate sanction–including the reasonable expenses and attorney's fees incurred by any party–on a person who impedes, delays or frustrates the fair examination of the deponent. The Petitioner had no prior knowledge of FWM present to conduct a deposition. Whereas, it is unfair to frustrate and ambush a Petitioner. See. Coy v. Superior Court, S.F. No. 20976. In Bank. July 19, 1962. FWM also conducted a deposition on Cedric Mack without his knowledge, FWM did not have authorization to accompany the hearing. See. Kansas Statute 2019, 60-230. (1) (a) (2) (b) (c). 60-243, and amendments thereto. Under subsection (b) (3) (A). (2) Objections. An objection at the time of the examination, whether to evidence…etc. Under subsection (d)(3). Furthermore, the District Court never ruled on the Petitioners' objections made during the deposition, therefore it's

a default on FWM and JMS. Furthermore, the District Court granted FWM and JMS summary judgment without proper review of the Petitioner's objections or unemployment records.The District Court is indeed in violation of Rule 103. Rulings on Evidence: (a) (1) (2) (b) (c) (e). Subdivision (a) states the law as generally accepted today. Rulings on evidence cannot be assigned as an error unless (1) a substantial right is affected, and (2) the nature of the error was called to the proper course of action and enabled opposing counsel to take proper corrective measures. The objection and the offer of proof are the techniques for accomplishing these objectives. For similar provisions see Uniform Rules 4 and 5; California Evidence Code **353 and 354; Kansas Code of Civil Procedure **60–404 and 60-405. The rules do not purport to change the law with respect to harmless error. See. 28 U.S.C. *2111, F.R.Civ.P. 61, F.R. Crim..P. 52, and decisions construing them. The statutes of constitutional error as harmless or not is treated in Chapman v. California, 386 U.S. 18, 87 S. Ct. 824, 17 L.Ed.2d 705 (1967), reh. Denied id. 987, 87 S. Ct. 1283, 18 L.Ed.2d 241.Subdivision (b). The first sentence is the third sentence of Rule 43(c) of the Federal Rules of Civil Procedure virtually verbatim. Its purpose is to reproduce, a true reflection of what occurred in the trial court. The second sentence is in part derived from the final sentence of Rule 43(c). It is designed to resolve doubts as to what testimony the witness would have in fact given, and in non-jury cases, to provide the appellate court with material for a possible final disposition of the case in the event of a reversal of a ruling that excluded evidence. See 5 Moore's Federal Practice *43.11 (2d ed. 1968). Application is made discretionary in view of the practical impossibility of formulating a satisfactory rule in mandatory terms. Neither the District Court, nor the 10th Cir. of Appeals viewed the Petitioners, unemployment records, and relevant preponderance evidence. Rule 30. Depositions by Oral Examination: (c). Examination And Cross-Examination; record of the examination; objections;

written questions. (1) (2). Whereas, a provision is made for the withdrawal or amendment of an admission. The provision emphasizes the importance of having the action resolved on the merits, while at the same time assuming each party that justified reliance on admission in preparation for trial will not operate to his prejudice Cf. Moosman v. Joseph P. Blitz. Inc. 358 F 2d. 686 (2d Cir. 1966). The sanction for failure of a party to inform himself before he answers lies in the award costs after trial, as provided in Rule 37 (c). Giving a defective answer to the automatic effect of admission may cause an unfair surprise. A responding respondent who purported to deny or to be unable to admit or deny will for the first time at trial confront the contention that he has made a binding admission. Since it is not always easy to know whether a denial is "specific" or an explanation is "in detail" neither party can know how the court will rule at trial and whether proof must be prepared. See. Wood v. Stewart, 172 F. 2d 544 (5th Cir. 1948). Seib's Hatcheries, Inc. v. Lindley, 13 F.R.D. 113 (W.D. Ark. 1952). Whereas, a provision is made for withdrawal or amendment of an admission, this provision emphasizes the importance of having the action resolved on the merits, while at the same time assuring each party that justified reliance on admission in preparation for trial will not operate to his prejudice. See. Cf. Moosman v. Joseph P. Blitz, Inc. 358 F. 2d. 686 (2d. Cir. 1966). Furthermore, Rule 37. Failure to Make Disclosures or to Cooperate in Discovery, Sanctions. (a) (1). In General, on notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action. The Petitioner contacted FWM and JMS several times for valuable information pertaining to the case, which the respondents refused to comply. See. Kramer v. Superior Court, Civ. No. 29729. Second Dist., Div. Two. Oct. 29, 1965. Also, see. Greyhound Corp. v. Superior

Court, Sac. No. 7274. In Bank. Aug. 3, 1961. F.R.C.P. Rule 37. (b). Failure to Make Disclosures or to Cooperate in Discovery; Sanctions. (iv). A party fails to produce documents or fails to respond that inspection will be permitted–or fails to permit inspection–as requested under Rule 34. Evasive or incomplete Disclosure, Answer, or Response. For the purpose of this subdivision (a). Answer or response must be treated as a failure to disclose, answer, or respond. Failure to Admit. If a party fails to admit what is requested under Rule 36 and if the requesting party later proves a document to be genuine or the matter true. The Petitioner sought answers, documents, and witnesses for his civil case the Respondents, or JMS, and FWM refused to comply. See. Pember v. Superior Court L.A. No. 29266. In Bank. May 5, 1967. Id. The requesting party may move that the party who failed to admit pay the reasonable expenses. Including the attorney's fees incurred in making that proof. Id. (A). Motion Grounds for Sanctions: The court where the action is pending may, on motion order sanctions if: (e). FAILURE TO PRESERVE ELECTRONICALLY STORED INFORMATION. If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the court. Only upon finding that the party acted with the "intent" to deprive the party of the information's use in the litigation may: instruct the jury that it may or must presume the information was unfavorable to the party or–dismiss the action or enter default judgment. Furthermore, the provisions of this rule authorizing orders establishing facts or excluding evidence or striking pleadings, or authorizing judgment of dismissal or default, for refusal to answer questions or permit inspection or otherwise make a discovery, is in accord with Hammond Packing Co. v. Arkansas, 212 U.S. 322 (1909). Also see. McGugart v. Brumback, 77 Wn.2d 441 (1969). 463 P.2d 140. Which distinguishes between the justifiable use of such

measures as a means of compelling the production of evidence, and their unjustifiable use, as in Hovey v. Elliott, 167 U.S. 409 (1897), for the mere purpose of punishing for contempt. Rule 37 sometimes refers to a "failure" to afford discovery and at other times to a "refusal" to do so. Taking note of the duel terminology, courts have imported into "refusal" a requirement of "willfulness." See. Roth v. Paramount Pictures Corp. 8 F.R.D. 31 (W.D. Pa. 1948); Campbell v. Johnson, 101 F. Supp. 705, 707 (S.D.N.Y. 1951). In Societe Internationale v. Rogers, 357 U. S. 197 (1958), the Supreme Court concluded that the rather random use of these two terms in Rule 37 showed no design to use them with consistently distinctive meanings, that "refused" in Rule 37 (b) (2). Whereas, JMS and FWM are in violation of all of the above. See. Durham v. United States, 214 F. 2d. 862 (D.C. Cir. 1954). Whereas, the 10th Cir. court alleges the Petitioner failed to certify in "good faith" or establish grounds with Respondents. It's not "null" because the Petitioner corresponded with the courts, and respondents mainly via email text, it will not establish a record that this form of contact was permitted by the District Court. Furthermore, the Petitioner contacted both Respondent and held a telephone discovery conference with the judge. See. Records. See. Nix v. Williams, 467 U.S. 431 (1984). See. Linde v. Arab Bank, PLC, No. 16-2119 (2d Cir. 2018). See. Hickman v. Taylor, 329 U.S. 495 (1947). Also see. Palmer v. Hoffman, 318 U.S. 109, 318 U.S. 111. Furthermore, the District Court abused its discretion by not allowing an important witness to testify, the "supervisor" of FWM Sharon or Shannon, showing bias, ruling on evidence that Cedric Mack did not have a chance to present his story. Furthermore, the 10th Cir. of Appeals, and the District Court are in violation of Substantial evidence, and de novo standards. Furthermore, the failure to identify a witness or document in a disclosure statement would be admissible under the Federal Rules of Evidence under the same principles that allow a respondent's interrogatory answers to be offered against it. The

amendment rule explicitly adds failure to comply with Rule 26 (e) (2) as a ground for sanctions under Rule (c) (1), including exclusions of withheld materials, even if the failure was not substantially justified the Petitioner should be allowed to use the material that was disclosed if the lack of earlier notice was harmless. See. Best et al v. James et al, No. 3:2020cv00299-No.89 (W.D. Ky. 2022). Furthermore, FWM and JMS affidavits and declarations were submitted in bad faith to the District Court. The very mission of the summary judgment procedure is to pierce the pleadings and to assess the proof in order to see whether there is a genuine need for trial. The Third Circuit doctrine which permits the pleadings themselves to stand in the way of granting an otherwise justified summary judgment, is incompatible with the basic purpose of the rule See. Moores's Federal Practice 2069 (2d ed. 1953). Id. Under federal law, employers cannot discriminate on the basis of race, color, national origin, religion, sex, age, or disability. Cedric Mack is an African American a member of a protected class, congress has extended protections to specific groups who have historically faced hardships in obtaining employment, housing, and etc. Furthermore, the McDonnell Douglas model fits the criteria in Petitioners' claim against FWM and JMS. Mcdonnell Douglas model is also applicable to discriminatory treatment claims See. Rasimas v. Michigan Dept of Mental Health, 714 F. 2d 614 (6th Cir. 1983). Cert. denied 466 U.S. 950, 104 S. Ct. 2151, 80 L. Ed. 2d. 537. Whereas, the Supreme Court described a burden-shifting framework by which employees can prove their employers engaged in unlawful discrimination under Title VII without any "direct" evidence of discriminatory intent. See. McDonnell Douglas Corporation v. Green, 411 U.S. 792 (1973). Also, see. Colorado v. New Mexico, 467 U.S. 310 (1984). The Petitioner has a right to "Due process" of law and the equal protection of the laws. As he has established there is a genuine question of matter of law. See. Brown v. Board of Education of Topeka, 347 U.S. 483 (1954). See. Griswold v. Connecticut 381

U.S. 479 (1965). See. Loving v. Virginia 388 U.S. 1 (1967). See. Lawrence v. Texas 539 U.S. 558 (2003). See. Obergefell v. Hodges, 576 U.S. (2015). See. Timbs v. Indiana, 586 U.S. No. 17-1091 (2019). Also, see. Goldberg v. Kelly, 397 U.S. 254 No. 62 (1970). See. Faragher v. City of Boca Raton, 524 U.S. 775 (1998). See. Vance v. Ball State University, 133 S. Ct. 2434. (2013). See. Adair v. United States, 208 U.S. 161 (1908). See. Cook v. Bounds, 518 F. 2d 779 780 (1975). Whereas, the Court ruled that the Amendment requires trial by jury in civil actions to determine liability for civil penalties under the Clean Water Act. However, a jury need not invariably determine the remedy in a trial which must determine liability. Because the court viewed the assessment of the amount of penalty as involving neither the "substance" nor a "fundamental element" of a common law right to trial by jury, it held permissible the Act's assignment of the task to the trial judge. Later, the Court relied on the broadening concept of "public rights" to define the limits of congressional power to assign causes of action to tribunals in which jury trials are unavailable. Congress declared that Congress "lacks the power to strip parties contesting matters of a private right constitutional right to a trial by jury." The Seventh Amendment test, the Court indicated, is the same as the Article III test for whether Congress may assign adjudication of a claim to a non-Article III tribunal. As a general matter, "public rights" involve "the relationship between the government and persons subject to its authority." whereas "private rights" relate to "the liability of one individual to another." Although finding room for "some debate," the Court determined that a bankruptcy trustee's right to recover for fraudulent conveyance "is more accurately characterized as a private rather than public right," at least when the defendant had not submitted a claim against the bankruptcy estate. See. United States v. Tull 481 U.S. 412 (1987). See. Granfinanciera, S.A. v. Nordberg, 492 U.S. 33 (1989), See. Shields v. Thomas, 59 U.S. (18 How.). 253, 262 (1856). See. Parsons v. Bedford, 28 U.S. (3 Pet).433, 447

(1830). Also, see. Barton v. Barbour, 104 U.S. 126, 133 (1881). Legal claims must be tried before equitable ones. See. Dairy Queen v. Wood. 369 U.S. 469 (1962). Also. See. Pernell v. Southhall Realty Co. 416 U.S. 363 (1974). In a suit against a union for back pay for breach of duty of fair representation in a suit for compensatory damages, the plaintiff is entitled to a jury trial. See, Chauffers, Teamsters and Helpers Local 391 v. Terry, 494 U.S. 558 (1990). A similar suit against the union for money damages claim. See. Wooddell v. International Bhd. of Electrical Workers Local 71, 502 U.S. 93 (1991). A jury trial is required for copyright action with a close analogous common law, even though the relief sought is not actual damages but statutory damages based on what is just. See. Feitner v. Columbia Pictures Television, 523 U.S. 340 (1998). The Petitioner is entitled to a jury trial based on the grounds above. See. Brown v. Board of Education of Topeka, 347 U.S. 483 (1954). Whereas, Cedric Mack had the profound grounds to file sur-replies on his behalf due to the condition of new evidence. The District Court and the 10th Cir Courts of Appeals ruled on a motion to strike-sur-replies while refusing admissions of unemployment records for review, nor any of the phone records Factoring the question of hire where FWM alleged the Petitioner returned back to work, which stopped his unemployment. As stated in the Decision of Appeals Tribunal: "The claimant told his supervisor of the incident and informed the supervisor he was quitting, as the employer had not addressed his previous complaints regarding the ongoing offense behavior." This statement contradicts FWM and JMS that the petitioner did not let anyone know he was resigning. "The burden to prove good cause rests on the claimant .. " Contractors Supply Company v. Labor and Indus. Relations Comm'n. 614 S.W. .2d 563, 564 (Mo.App W.D. 1981). After the claimant's coworkers had displayed offensive and racially insensitive behavior on multiple occasions, the claimant attempted to get the employer to address his concerns. Although the claimant quit after the final

incident before giving the employer an opportunity to address that incident, the claimant reasonably concluded that the employer would not address his concerns, based on their failure to do so on previous occasions. It is concluded that the claimant's decision to quit after multiple incidents of offensive behavior among his coworkers, which were not addressed by the employer, was the response of a reasonable employee. Accordingly, the claimant has established "good cause" to quit pursuant to Section 288.050.1 (1), RSMo. Factoring in The employer did not participate in offering evidence contrary to the claimant's credible testimony. See. unemployment Records. JMS or FWM was entitled to summary judgment. FWM did not participate in the hearing because Cedric Mack holds merit. JMS claims Cedric Mack lacks job search efforts for mitigating damages on the contrary the Petitioner has provided the courts with unemployment logins which was the only way the Petitioner could receive funds through job searches. The prima facia has been established. See. Humphrey v. Tuck, Supreme Court Case No. 20S-CT-54809-08-2020. Sep. 8, 2020. Also, see. Cardali v. Cardali, A-25-22: 087340. August 8, 2023.The Petitioner lost his unemployment wages from September 26, 2020–to October 10, 2020, due to retaliation from FWM, the Petitioner provides evidence that conduct attributed to FWM stemmed from racial animus. Cedric Mack corroborated allegations are true, not egregious, numerous, and concentrated, and add up to a campaign of harassment from JMS and FWM. The prima facie has been established. Id. Pending Issues-New Hire Questionnaire states: The Division of Employment Security (DES) received information indicating you returned to work on September 25, 2020, with Focus Workforce Management, Inc. You continued to file weekly requests for payment for unemployment benefits after that date. The DES must confirm your employment status to determine eligibility for unemployment benefits. If you continue to work and claim benefits, you are required to report earnings during the week

in which the work was performed regardless of when the earnings are paid. FWM's sole purpose was to get the Petitioner in legal issues with the Federal government. See. Records. Also, see. Israel v. Univ. of Utah, No. 2:15-CV-741 TS PMW (D. Utah Jun. 19, 2018). Rule 34. Oral argument should have been granted considering the evidence presented by the Petitioner. If so it would have allowed the Petitioner to go in-depth into reliable unemployment records and interrogatories. The appeal was not frivolous, the dispositive issues or issues have not been authoritatively properly decided. A dispositive fact is a fact that, if proven with necessary certainty, resolves a legal dispute on its own. The 10th Cir. of Appeals Court has not been established for JMS or FWM. The facts and legal arguments are adequately presented in the briefs and records, as it is said "records" if the 10th Cir. appeal court reviewed all records in briefs the courts would have in fact, come to the conclusion of the process needed to be significantly aided by oral argument. The 10th Cir. of Appeals Court decision is misleading as a whole, it does not present an actual fact of why the oral argument is unnecessary. Subdivision (a). Currently, subdivision (a) says that oral argument must be permitted unless, applying a local rule, a panel of three judges unanimously agrees that oral argument is not necessary.Whereas, their criteria hold no applicable bearing on the local rule requirements. See. Poller v. Columbia Broadcasting System, Inc. 368 U.S. 464 (1962). Also, see. Allen v. Milligan, 599 U.S. 1: No.21-1086 (2023). Whereas, the tenth Cir. Court of Appeals and the District Court of Kansas allege the Petitioner did not engage in a reasonable request for a discovery conference, indeed Cedric Mack engaged in a motion discovery conference with the judge of the District Courts. The Petitioner has provided emails and records to prove otherwise. Furthermore, the Petitioner asked FWM and JMS for discoverable information in order to support his claims and stretch his hand to email the judge and file a motion to get the information he had the right to. Whereas,

620. See also Commentary, Summary Judgment as to Damages (1944) 7 Fed. Rules Serv. 974; Madeirense Do Brasil S/A v. Stulman-Emrick Lumber Co. (C.C.A.2d, 1945)147 F. (2d) 399, cert. Den. (1945) 325 U.S. 861. Interpretation of the rule has been invoked on behalf of Petitioner's probative evidence to be challenged in a jury trial. Whereas, Ryan Hickey of Division of Employment Security signed a sworn Business Records Affidavit on June 13th, 2022, following JMS and FWM filing Summary Judgment on July 25th, 2022 proof of withholding evidence See. records.

CONCLUSION

The Petitioner asks the Supreme Court in good faith to overturn the last decision for the following above-stated reasons, and whatever the courts deem to be just.

The petition For a writ of Certiorari Should be granted

Respectfully Submitted,

Cedric Mc

Date: October 16, 2023