23 - 6288

Case No. 23-_____

IN THE SUPREME COURT OF THE UNITED STATES

Plaintiff, *Carlos Velasquez, Pro Se*

v.

Hon. Mr. Robert. Baldock (10th Cir.)

Hon. Mr. Dee Benson (Dec.)

Hon. Ms. Allison Eid (10th Cir.)

Hon. Mr. Paul Kelly (10th)

Hon. Mr. Dale Kimball

Hon. Ms. Carolyn McHugh (10th Cir.)

Hon. Ms. Nancy Moritz (10th Cir.)

Hon. Mr. David Nuffer

Hon. Mr. Paul Warner

ON EMERGENCY PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

Pro Se Plaintiff

Carlos Velasquez

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Defendant Counsel

District Court
Abandoned

Composed for the Supreme Court of the United States
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I. QUESTION PRESENTED

Will the Supreme Court of the United States reject Political Fraud, fraud and false statements in official transactions, when expressed by political authorities as United States Judiciary?

Does New Trial timing under Fed. R. Civ. P. 59 ever pre-empt the Court of Appeals discovery of a timely Rule 60(d) case and cause for *extraordinary relief,* including *fraud on the court?* Is it a ruling *incompatible* with a general reading of the Federal Rules of Procedure for United States Courts which prohibits *Discretionary review*?

Does *Judicial Immunity* ever pre-empt or prevent rational discovery and reporting of *fraud on the court,* or *criminal contempt? Civil contempt?*

Does United States recognize a term, 'Judicial Malpractice'?

Do U.S. District Courts respect *fraud on the court* petitions on the Pre-Trial terms of Partial Summary Judgment?

How are United States District Courts expected to recognize and otherwise *safeguard* the civil rights of Plaintiffs with legitimate *fraud on the court* claims for *relief from a judgment?*

Case and Complainant are very critically concerned over a compounding and collateral *fraud on the court* circumstance; in suits at law and civil equity for relief from a Judgment for *fraud on the court* circumstance cit. Fed. R. Civ. P. 60(d)(1) and (3) against several members of U.S. Courts, *if* Judiciary compound and precipitate *fraud on the court* with new and comparable Criminal Contempts, will the whole matter be resolved on the same legal basis in the District Court as Federal Rule of Civil Procedure 60(d), *fraud on the court?*

II. LIST OF ORIGINAL DEFENDANTS

Hon. Mr. Robert Baldock (10th Cir.) - Unrepresented

(*Velasquez v. State of Utah,* **2:20-cv-00255/CA1020-4087**)

Hon. Mr. Dee Benson (dec.) - Unrepresented

(*Velasquez v. State of Utah,* **2:20-cv-00255/CA10: 20-4087)**

Hon. Ms. Allison Eid (10th Cir.) - Unrepresented

(*Velasquez v. State of Utah,* **2:20-cv-00255/CA10: 20-4087)**

Hon. Mr. Paul Kelly (10th Cir.) - Unrepresented

(*Velasquez v. State of Utah,* **2:18-cv-00728/CA10:19-4041)**

Hon. Mr. Dale Kimball - Unrepresented

(*Velasquez v. State of Utah,* **2:20-cv-00255/CA10:20-4087)**

Hon. Ms. Carolyn McHugh (10th Cir.) - Unrepresented

(*Velasquez v. State of Utah,* **2:18-cv-00728/CA10:19-4041)**

Hon. Ms. Nancy Moritz (10th Cir.) - Unrepresented

(*Velasquez v. State of Utah,* **2:18-cv-00728/CA10:19-4041)**

(2:20-cv-00255/CA10:20-4087) - Unrepresented

Hon. Mr. David Nuffer

(*Velasquez v. State of Utah,* **2:18-cv-00728/CA10:19-4041)** - Unrepresented

Hon. Mr. Paul Warner (ret.)

(*Velasquez v. State of Utah,* **2:18-cv-00728/CA10:19-4041**) - Unrepresented

A. JUDICIAL RESPONDENTS THIS PETITION

Hon. Mr. Howard Nielson, District of Utah, Central Division

(*Velasquez v. Baldock et al.,* **2:22-cv-00133/CA10 22-4098)**

Hon. Mr. Jared Bennet, District of Utah, Central Division

(*Velasquez v. Baldock et al.,* **2:22-cv-00133/ CA10 22-4098)**

Hon. Mr. Timothy Tymkovich, Tenth Circuit

(*Velasquez v. Baldock et al.,* **CA10 22-4098)**

Hon. Mr. Robert Bacharach, Tenth Circuit

(*Velasquez v. Baldock et al.,* **CA10 22-4098)**

Hon. Ms. Veronica Rossman, Tenth Circuit

(*Velasquez v. Baldock et al.,* **CA10 22-4098)**

III. CERTIFICATE OF MAILING APPENDED HERE

IV. CASES OF RELEVANCE (U.S. Supr. Ct. R. 14(b)(iii))

1

Velasquez v. State of Utah, et al.

United States Supreme Court Case **No. 19-6263,**

140 S. Ct. 615, 205 L. Ed. 2d 398

United States Court of Appeals Case **No. 19-4041**

United States District Court Case **No. 2:18-cv-00728-DN**

2

Velasquez v. State of Utah, by & Through Utah Legislature incl. the Utah OLRGC, The Utah Department of Human Services, Utah Division of Aging and Adult Services/APS and the Utah Office of Administrative Hearings

United States Supreme Court **Case No. 21-5652**

United States Court of Appeals **Case No. 20-4087**

United States District Court Case **No. 2:20-cv-00205-DB/DK**

V. PROCEDURAL STATEMENTS

Personal and Corporate Disclosure

The Appellant is a citizen of the United States of America but reasonably to greatly educated, is on leave from the University of Utah to pursue litigation, and subsequently is a Private Legal Process Server, self-employed, and does serve documents for cases in the United States Courts and various Courts in the State of Utah.

The Appellant has no other significant stake in any private holding of relevance.

Appellant's Initial: CV

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2. The judicial opinion, the statement of plenitude, does not prejudice "claim preclusion" on false assessments of jurisdiction. The record can prove it, but not if the whole quorum lies, and lies collaterally.

3. The appellant is denied civil claims without being rejected or refuted under the Constitution and the Law, the Rules of Procedure, instead the Judiciary who know "more of the truth" See *U.S. v. Golden,* 34 F.2d 367, 370 (1929) in their own experience are simply committing subrogatory perjury, a low-level perjury, and undermining the integrity of U.S. Court's record of the complaints.

4. It is like rewriting his complaint after filing, using a computer to reassert the submission after heavy mistreatment; it is the most serious offense to defraud a person as the United States.

5. The provocation at Fraud on the Court is not easy, and the liabilities to the malpracticants "are purely incidental thereto." *Golden,* 372. There is no false leap of reasoning required to civil prosecute **Fed. R. Civ. P. 60(d)**.

6. The circumstances of the Pro Se are more sensitive than those of Attorneys; a single case time-commitment cannot afford to suffer *malpractice;* Judicial Malpractice herein punishes the Appellant for his political dignity.

7. When and where did **Rule 60(d)** Fraud of "Claim Preclusion" first accrue? It was under **Supr. Ct. Case No. 19-6263**, prejudice was transferred and further distorted under **No. 21-5652;** the District Court was to have reviewed several questions on this order, but their opinions have polemicized the issue and force the legal case into semantics.

8. As in the case of a claim properly accrued we pray the court has Jurisdiction because the Rules of Procedure direct relevant elements of legal case study, "to ascertain what is wrong and cure it." Golden 376.

9. There is lean discretion to petition the Judiciary to reverse a judgment in *deliberate* and *false declaration.*

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10. The Supreme Court of the United States may have Jurisdiction of an Appeal from a United States Court of Appeals cit. **28 U.S. § 2101(b)** pursuant **28 U.S. § 1253,** after the U.S. Court of Appeals for the Tenth Circuit took up issue under **28 U.S. § 1291** from the United States District Court for the District of Utah cit. **28 U.S. § 1331, 28 U.S. § 1343,** the same Pro Se and Civil Bureaucratic Federalist, Carlos Velasquez, who writes now in the objective case, brings the factual allegation that he has also become the victim of collateral *fraud* and Judicial Malpractice.

11. Non-reply is recognized to be beyond complicity part of an expression intent to *influence* and/or *suborn* the court to further *fraud.*

12. This court granted extension of time to file a Petition for Writ of Certiorari on Friday Oct. 13, 2023, extending that deadline until Dec. 7, 2023.[1]

13. The Petition for Rehearing in the United States Court of Appeals for the Tenth Circuit was disposed on July 10, 2023.[2]

14. Leaving 90 Days to file the petition for Writ of Certiorari; the plaintiff did alternative diligence in the United States Court of Appeals and in the District Court attempting, and suffering denial, to gain audience over questions of Criminal and Civil Contempt.[3]

15. The Circuit Court's Mandate issued August 14, 2023.[4] The Circuit Court expressed no immediacy thereto.

16. Jurisdiction of Discretionary review in a Court of Appeals will be based exclusively in the limits of the application of the Federal Rules of Civil Procedure; i.e. conditions amending a judgment, or in this instance **Fed. R. Civ. P. 60(d)** wherefore the District Court and the Court of Appeals defected a power of *Discretionary Review,* conducted the *official transaction* in *false declaration,* without sua sponte clarification of demonstrated error.

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[1] Appendix A, 003.

[2] Id., 015.

[3] Issue here is ongoing; Please see the Petition to Extend Time to File the Petition for Writ of Certiorari for some details of the extent of that diligence. The subject of the court's Mandate is related. A supplementary brief may be filed on subject of any lower court intervention, or any refusal to do so. Please See Supr. Ct. Dckt. 23A331, Motion to Extend Time to Petition.

[4] App'x. A, 017.

17. See **Fed. R. Civ. P. 60(d)** does not bear a specific timing limit than does compare **Fed. R. Civ. P. 60(c)(1)** "*Timing.* A motion under Rule 60(b) must be made within a reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of judgment or order or the date of the proceeding." Whereas **Rule 60(d)** entertains the scope of *relief from a judgment or order* in an unlimited capacity, "**Other powers to grant relief.** This rule does not limit a court's power to: (1) entertain an independent action to relieve a party from a judgment, order, or proceeding; (3) set aside a judgment for fraud on the court."

18. Whereas Judges in the Circuit Court established a limited *procedural estoppel* cit. **Fed. R. Civ. P. 59(b)** in terms of **Fed. R. App. P. 4(a)(4)(A)** which they claim prevented them from being possessed of Jurisdiction to review inherent **Rule 60(d)** pleadings and petitions, but they have not stated cause for prejudice.

19. The Circuit Court's holding improperly limits the Jurisdiction of the United States Court of Appeals if the power to appeal does not find a showing of direct and even collateral controversy under **United States Supreme Court Rule 10(a)**, which addresses conditions where a United States court of appeals "has so far departed from the accepted and usual course of judicial proceedings, [*and*] sanctioned such a departure by a lower court, as to call for an exercise of this court's supervisory power."

20. On the relevant showing there is grounds for this Petition.

21. The original *test of process* for such an exercise of *supervisory power* culled the record from the two related cases, as cited above, **Case Nos. 19-6263** and

21-5652, entitled by the Clerk of the District Court, "*Velasquez v. State of Utah, et al.*" Courtesy copies of those Certiorari petitions provided to the Justice show *continuity* in the plaintiff's representation of the crisis. See Appendix D, Quartus.

22. Opinions of relevance wherein the circumstances of sua sponte dismissal are shown in the courts below to have improperly stated terms of the Appellant-victim's complaints, insufficiently addressed remedial actions to resist dismissal, and so those members know *misprised* the court of its own Record (Perjury, **18 U.S. § 1621**)[5] in Criminal Contempt **(18 U.S. § 401)** of a *false declaration* **(18 U.S. § 1001),** the most appropriate statutes.[6]

23. *Fraud on the Court* under the rule has no record of circumstantial precedence; so we present that a test of process for such *fraud* as that conducted by a court's membership is sufficient *fraud on the court* where the *false declaration* appears in the *official transaction*, a synthesis of the contempt statute and the statute proscribing against *false declarations* is apt to settle *test of process.*

24. *Fraud* under **Federal Rule of Civil Procedure 60(d)** may precede such argument as *abuse of discretion, abuse of procedures,* or compare

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[5] Appx. A, 097. See also 089, and 099.

[6] "It is the policy of the [Department of Justice] that in those instances in which the United States Attorney (USA) has a choice of statutes, charges normally should be brought pursuant to the more specific statute. In those cases in which special aggravating circumstances exist, the USA retains the discretion to charge a violation of the more serious general statute." *U.S. Department of Justice, Justice Manual, Title 9 Criminal, Section* 42.191. Source: https://www.justice.gov/jm/jm-9-42000-fraud-against-the-government#9-42.191.

circumstances where U.S. Attorney found *cause of action* against a Judicial party, and presented that circumstances of the violation of a *codified misconduct*, e.g. a *false declaration*, and not any kind of error, will also be sufficient to distill such questions as Perjury, Conspiracy of Subornation of Perjury **(18 U.S. §§ 1621, 1622),**[7] Conspiracy to Deprive Civil Rights **(18 U.S. §§ 241, 242),**[8] Conspiracy to Defraud United States **(28 U.S. § 371)**[9] and find submitted those questions for investigation and prosecution by the United States Department of Justice under **28 U.S. § 547** where, "Except as otherwise provided by law, each United States attorney, within his district, shall—(1)prosecute for all offenses against the United States."

25. Therefore, where *observed* **18 U.S. § 401,** "A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as—(2)Misbehavior of any of its officers in their official transactions," we find *misbehaviors* to indicate *crimes*, and so the *Fraud on the court* rule to indicate such *misbehaviors* as a Judge or any member of the court may not claim any *crime* was *ordinary* when the action showed every appearance of a *criminal Obstruction* of the order of the court only possible in written government transactions. **18 U.S. § 1509** affirms, "No injunctive or other

[7] Id., 099.

[8] Id., 079-082.

[9] Id., 087.

civil relief against the conduct made criminal by this section shall be denied on the ground that such a conduct is a crime."[10]

26. *Fraud on the court* rule may even limit the Supreme Court of the United States from Declension because it is not impartial to decline Discretionary Review of a circumstance as judicial fraud. (See Code of Judicial Conduct, Canon 3)

27. The Supreme Court of the United States may have Jurisdiction to discipline and maintain *discretion*, rejecting Opinions in whimsy and malice.

VIII. STATEMENT OF THE CASE

A. BACKGROUND

28. In 2018 the Plaintiff opened a first Federal complaint which misstated the Jurisdiction application to be under the Administrative Procedures Act while his case did not require the APA to evaluate whether **Ut. Code § 62A-3-301,**[11] **et seq.** contained an unconstitutional application-element.

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[10] Id., 095.

[11] The statute has been revised since September 2023, and may require an amended complaint. The subject matter has not been developed to limit Authority under Supr. Ct. Rule 10(a) to punish *fraud on the court;* as well to make new facts known once the district court's jurisdiction is clarified; limiting discretion at terms of the Utah Law will also violate a "Single Subject Rule." Also See Appx. A, Elements of the Record, Opening Complaints, Case No. 2:18-cv-00728, 143-144 (ECF No. 3-2); No. 2:20-cv-00205-DB, 151 (ECF No. 4).

29. The appellant may admit any reason for the technical error, but the judiciary frivolously hardened prejudicial statements of *claim preclusion* under the *Rooker-Feldman* doctrine which the appellant took the time to refute, and was ignored. The result was a *fraud on the court* pleading in the Court of Appeals which was ignored as well.

30. Crime of *fraud on the court* was copied about two years later when immediately after discharge from the United States Supreme Court, **Case No. 19-6263** (Cert. Denied 12/9/2019) the District Court Judge ignored and impliedly denied clarify a legal exception to the ruling, this was the second *fraud* instance **Case No. 21-5652** (Cert. Denied 11/08/2021).

31. Immediately following disposition of the matter we took some few weeks to draft and file this District Court complaint[12] that the court had between 9 U.S. Judges, *four quorums* and *eight and a half opinions* in Criminal and Civil contempt. The complaint established *relief due* from judgments under **Fed. R. Civ. P. 60(d)**.

B. APPELLANT'S DISPOSITION OF 2 FALSE DECLARATIONS AGAINST COURT OF APPEALS

32. FORMAT is a three-part methodology; we depose the District Court for *collateral fraud* in the Argument section.

[12] Appendix C (Courtesy), Appellant Opening Complaint, Case No. 2:22-cv-00133-HCN, 003-124.

33. A—Principle False Claim

> "...because Mr. Velasquez did not file his Notice of Appeal until 138 days after the underlying dismissal order, we lack jurisdiction to review it."[13]

34. B—False Corollary

> "Mr. Velasquez does not demonstrate the district court abused its discretion when it denied his 'Motion for Extraordinary Relief and New Trial.'"[14]

35. C—Clarify

36. Notice of Appeal was *timely* filed on 10/18/22 to the District Court's disposal of a 'Motion for Extraordinary Relief and New Trial'[15] from 08/25/22.

37. The court's implication in stating "138 Days" was to falsely interpose undefined *prejudice* the appellant did not file timely Notice of Appeal. The *result* of refusing a Plaintiff demonstration on a timely 'Petition for Rehearing' *divided* the justiciable pleader from *the record:* (a) **Rule 60** *fraud on the court* is denied audience to favor *abuse of discretion* analysis which was *not* defined to reject *fraud on the court,* and (b) jurisdiction limits were *falsely declared* under color.

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[13] App'x. A, Judgment of the Court of Appeals (Page 3), 007, 009.

[14] Id., 010.

[15] Appendix B (Courtesy), Appellant 'Motion for Extraordinary Relief and New Trial (ECF No. 44),' 080-119.

38. *Vice versa,* had the plaintiff presented there was *abuse of discretion* in the District Court and NOT presented the **Rule 60(d)** pleading, the **Rule 59** estoppel would not have been interposed. This is a fraud allegation.

39. The 'Motion for Extraordinary Relief' was filed within 60 days of the District Court's disposition of the Complaint on 7/29/22.[16] Compare *timing* under **Fed. R. App. P. 4(a)(4)(A)(vi)** providing 28 days time for a Notice of Appeal after a Motion; so both documents were filed *timely* and *reasonably* as defined by **Fed. R. Civ. P. 60(b)**, therefore **Rule 60(d)** *delimits* the court where stated "this rule does not limit a court's power..." So the appellant had it prepared in *reasonable* order as to meet timing per **Fed. R. App. P. 4(a)(B)**, "within 60 days after entry of the judgment or order appealed from if one of the parties is [United States officer]."

40. *More* time was required to write a *fraud on the court* motion than a motion only amending a true judgment. Otherwise the right of appeal in such a *fraud* circumstance was terminated after 28 days, which does not respect the case.

41. The object 'New Trial' was NOT directly pleaded; the District Court disparaged the Motion with a *terse* 'Docket Entry' did not permit understanding of the comprehensive case; the **Rule 59** estoppel has not basis in the direct pleading. A courtesy copy of the Opening Brief was provided. See Appx. C, Tertius.

42. The Appellant was zealous to find the judiciary motivated to vacate a judgment that was in fraudulent error.

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[16] Id. See District Court docketing info. at the Top of the exhibit; alt. See Appx. A, District Court Docket, Case No. 2:22-cv-00133-HCN, 109, 114.

43. The *timely* 'Petition for Rehearing' **(Fed. R. App. P. 40)** clarified how **Rule 59** does not provide justiciable estoppel; "As it happens, the opinion *per curiam* is in procedural error having misread something I maintained in the Jurisdiction statement, and must be vacated. The case is one for *vacation* of a **Rule 59** estoppel which does not *estop* timely **Rule 60** review."[17]

44. "The procedural rule for new trial is always *pursuant* the order amending, vacating, setting aside a judgment; the New Trial element obviously comes *after,* and otherwise does bear not a *conferential* **Rule 60** orientational precedence in timing on Motion Practice. Footnote 4: Precedence at this question has ruled in the past that **Rule 59** tolling period is not proscriptive over legal or equitable remedies; Judge Mellott granted the new trial not of his own initiative under **Rule 59(d)**. *Hunter v. Thomas,* 173 F.2d 810, 812 (1949); We find the interlocutory order from which the appeal is sought determines questions relating to service of process, jurisdiction, and venue; that there is substantial ground for difference of opinion; and that in immediate appeal may materially advance the termination of the litigation. Accordingly, the appeal is allowed. *Houston Fearless Corp. v. Teter,* 313 F.2d 91, 93 (1962); The trial court did not state the reasons for the denial of the request for the subclasses described in Plaintiff's motion. These we need for review. *Quintana v. Harris,* 663 F.2d 78, 82 (1981); Because he raised a non-frivolous argument...we grant his motion. See *Debardeleben v. Quinlan,* 937

[17] App'x. A, Pro Se Appellant's "Motion for Reconsideration: FRAP 40," 167, 178-181 (CA10 . Doc. 010110880684, 12-15).

F.2d 502, 505 (10th Cir. 1991).' *Thayer v. Utah,* 265 F.Appx. 710 (2010)(internal quotes omitted); *conf.* '...his notice of appeal was also timely as measured from the disposition of that motion. *Hilst v. Bowen,* 874 F.2d 725, 727 (1989); 'We review rulings on **59(e)** motions for an abuse of discretion. *Elm Right Expl. Co. v. Engle,* 721 F,3d 1199, 1216 (10th Cir. 2013)...a court might correct the error under Rule 60(a) or Rule 60(d).' *Nelson v. City of Albuquerque,* 921 F.3d 925, 929, 931 (2019).(internal quotes omitted)."[18]

45. General precedence for New Trial in any court in the United States will find a strict temporal limitation under New Trial terms is potentially *incompatible* rational terms for "Extraordinary Relief;" it is one or the other, and only both if the *fraud* motion can be delivered in time of **Rule 59.** It simply is not a pre-emptive discussion in terms of **Rule 60(b)** where Appellate Rule 4 is strict.

46. Evaluate instead an unreasonable error given there are no New Trial, **Rule 59** pleadings within the relevant 'Motion,' it is a narrow discussion *pursuant.* The "set aside" action under **Rule 60** in those two cases are *hostage* under **Supr. Ct. Case Nos. 19-6263** and **21-5652**. The Motion bears 'New Trial' in the title, is intended only persuasively.

47. The error left unremedied appears intentional to collateral compound *fraud on the court*; declarations of precedence were *false declarations* of **Rule 59** estoppel intended to demure to the malpracticants unreviewed in the District Court.

[18] Id., 180-188 (14-22). The argument is reproduced from the Petition for Rehearing.

Any confusion was clarified under **Fed. R. App. P. 40,** just exhibited and demonstrated above.

48. This relevant position *vacates* the entirety of the Court of Appeals holding. The holding was conspicuous to pre-empt **Rule 60(d)** review, and frivolous to affirm the direct misbehavior of the District Court.

C. PRIOR CERTIORARI PETITIONS IN SUPREME COURT

49. In **Case No. 21-5652** we proved there was no legal or constitutional basis for the *transitive* expression of prejudice to **Case No. 21-5652** from **Case No. 19-6263;** the trial judge from the District Court was plausibly improperly motivated by pessimism of personal malady,[19] asserted *forecloture* of the plaintiff claims.

50. Compare Docket Sheets shows Federal Question Jurisdiction of Title 5, and subsequent shows Civil Rights Act questions; authority of the jurists on both District Court statements *delimit* declarations of Prejudicial cloture.[20]

51. The Petition for *Writ of Certiorari* under **No. 21-5652** beyond legal error shows the entirety of the Complaint withstanding Judicial declarations of *claim preclusion.*

52. As shown from the Exhibit, Procedural grammar at this point defined *bypass* of District Court precedence under **Case No. 19-6263** since the jurisdictional

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[19] See Appendix D (Courtesy), Cert. Petition, No. 21-5652, 068 (Page 2), Footnote 9.

[20] App'x. A, Elements, DC Ex. 1, District Court Docket No. 2:22-cv-728-DN, 119; DC Ex. 14, Docket No. 2:20-cv-00205-DAK, 127. App'x. A, 139 forward for critical case elements.

claims were different. Specifically, 'Motion for Reconsideration' was unheeded and was due to have amended the sua sponte judgment, and also amended Jurisdiction of the complaint. Fact Nos. 3 and 4 from the District Court complaint[21] demonstrate from the same 'Motion' the *rational* and *legal* error made by that Judge. Cert. Petition **No. 19-6263** amplified the argument with original citation.[22]

53. Herein the extant fact of differing applications for Jurisdiction in the District Court burdened a lower court to show (a) differing jurisdiction applications; (b) to hear and clarify the new jurisdiction application. Each time the District Court has held trial *de novo* they failed to make an open evaluation of Jurisdiction.

54. Generally Judicial Malpractice will show defect in the Judicial case review, just as it may show from a bad pleading, *insufficiency of process* per **Fed. R. Civ. P. 12(b)(4);** the technical observation should be very easy to make.

55. The Opening Complaint in the District Court unified the two cases in forensic order; specifically the complete "Argument [2] on Law of the Case"[23] regarded opinions in **Case No. 21-5652** "Subsequent" held no statutory basis from which to precedent *claim preclusion*, this is the same problem of a *transitive relation*

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[21] Appx. C, (Courtesy), Appellant's District Court Complaint, 032-046 (ECF No. 1, 15-28). Note on the Complaint: Complaint features facsimiles of the record to emphasize proximity of the Court's record and demonstrate the cause of action.

[22] App'x. D, (Courtesy), Petition for Writ of Certiorari No. 19-6263, 031-034 (21-24).

[23] App'x. C, Appellant's District Court Complaint, 083-101 (ECF No. 1, 66-84).

observed the *Rooker-Feldman* expression misstated the case, and neglected to respect cause to amend the Application for Jurisdiction.[24]

56. The result of this showing, and those timely pre-emptive demonstrations is as argument presented *against* the Appellant, but under forensic view of the record merits Appellant's right to File a remedial petition and disestablishes *estoppel.*

57. "Res judicata, or claim preclusion, precludes a party or its privies from relitigating issues that were or could have been raised in an earlier action, provided that the earlier action proceeded to a final judgment on the merits. *King v. Union Oil Co. of Cal.,* 117 F.3d 443, 445 (10th Cir. 1997). Claim preclusion requires (1) a judgment on the merits in the earlier action; (2) identity of the parties or their privies in both suits; and (3) identity of the cause of action in both suits. *Yapp v. Excel Corp.,* 186 F.3d 1222, 1226 (10th Cir. 1999)."(internal quotes omitted)[25]

58. Note "Footnote" 57 from the *Exhibit* in "(#7)" showing 'Request for Reconsideration' is the pivotal 'Request' which made it legal and constitutional to *amend,* as *relieve* the court in **No. 19-6263.**[26]

59. In **Case No. 21-5652** the facts of the Jurisdictional claim per **No. 19-6263** are in open dispute. Another Federal Court had resolved this question; "A Federal Court lacks jurisdiction only if (1) the federal plaintiff lost in state court;

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[24] App'x. D, Docket No. 19-6263, Petition for Writ of Certiorari, Part b, 024-029 (22-27).

[25] App'x. C, Appellant's District Court Complaint, (#7), 064-068 (ECF No. 1, 47-51).

[26] Id., Facts (#4), 036-045 (34-43). Note: The complaint cross-references and synthesizes the two cases to prove there was fraud.

(2) the plaintiff complains of injuries caused by the state-court judgment; (3) the judgment was rendered before the federal suit was filed; and the plaintiff is inviting the district court to review and reject the state court judgment." *In re Phil. Entm't. Partners v. The Commonwealth of Pennsylvania Dept. of Revenue,*569 B.R. 394 (E.D. Pa. 2017), citing *Great Western Mining & Mineral Co., v. Fox Rothschild LLP,* 615 F.3d 159, 166 (3d. Ct. 2010) cit. Exhibit 30 at Page 32.[27]

60. Rel. to the current presentation, Fact #9 in the Opening Brief showed a direct facsimile of the record of the "Motion for Extraordinary Relief and New Trial" on Jurisdictional reasoning intent to remove the Rooker-Feldman blockade; Jurisdiction per se, "Preclusion is not a jurisdictional matter. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 293, 125 S.Ct. 1517, 161 L.Ed. 2d 454 (2005). While preclusion may be an appropriate defense to be raised under **Rule 12(b)(6)** or **Rule 56,** a court cannot grant a **Rule 12(h)(3)** dismissal under the doctrine of *res judicata*. See *Hatton v. Alexander,* No. 6:06cv271, 2007 WL 1007599, at *6(E.D. Tex. Mar. 30, 2007)." *AFP West LLC v. Cox,* 528 B.R. 446, 449 (2015)(D. Utah).[28] This construction can precedent a NEW TRIAL motion.

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[27] *In re Phil. Entmt. Partners* is a case where a State court refused to grant return of a million dollar licensing fee to a gaming company. The plaintiffs repaired to U.S. Courts and made a showing the statute not returning their fee was unconstitutional, were vindicated and were later returned the fee. See App'x. D, Certiorari Petition, Case No. 21-5652, 085-092 (19-26).

[28] See App'x. B, Appellant's "Motion for Extraordinary Relief and New Trial," 079, 116 (ECF No. 44, 40).

61. We can begin to summarize all three cases here: the Malpracticants' repeated claims of non-jurisdiction are repeatedly not applicable. Anti-fraud actions are *allowed* and yet we could not gain *bypass* from APA-styled *Rooker-Feldman* "divestment/forecloture" of jurisdiction, and could not clarify how United States Courts resolves *false declarations* are impeachable based in the record.

62. The District Court therefore cannot read the Complaint and have maintained an implied prejudice; the level of this allegation is higher.

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63. A major subject in the District Court is **cryptolect;** the appellant presents it is an *institutional rule* now, a showing in the District Court characteristic of Judicial Malpractice: *fraud on the court does not exist,* and that illicit *rule* avoids and divests proper Discretionary Review under **Fed. R. Civ. P. 60(d)**.

64. No Judicial Opinion of record deposes the procedural question to resolve a party petitioning the court with conviction.

65. A Judgement *under fraud* does not have absolute merits standing; it is unresolved, *insufficient in its process,* because it is designed to protect a Government official from a real liability, or it is criminally designed to prevent a certain political voice from achieving Supremacy in a United States Court.

IX. ARGUMENT AMPLIFYING

A. DEPOSITION OF THE DISTRICT COURT

Magistrate Judge

66. NEW *Fraud on the court* precedence began with a three-part written tirade falsely deposing the Appellant's "Emergency" pre-trial Motion and resulted in a Report and Recommendation to entirely dismiss from the Pre-trial phase; a defamation which affected every subsequent written representation.

Emergency Motion defining *Fraud on the Court*

67. Beginning with *read and review* conditions refusing to acknowledge **Fed. R. Civ. P. 6** *timing* as conditional to *ex parte* questions and so *emergencies,*[29] incl. conditions which define *fraud on the court* based in a complete case record.

68. An order *striking* a Pre-trial "Motion for emergency relief setting aside a judgment for fraud on the court"[30] expressed the Appellant-victim *collateral* and *dispositive* prejudice and went unreviewed on Appeal:

> "First, the court strikes Mr. Velasquez's 'Motion for Emergency relief Setting Aside a Judgment for Fraud on the Court' because it far exceeds the word limit of **DUCivR 7-1(a)(4)(D)(i)**."

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[29] Rule 6(c)(1)(A) states "*In General.* A written motion and notice of the hearing must be served at least 14 days before the time specified for the hearing, with the following exceptions: (A) when the motion may be heard ex parte."

[30] App'x. C, Motion for Emergency Relief, 129 (ECF No. 19).

69. The magistrate's corollary argument,

> "That rule provides that for all motions not filed under **Fed. R. Civ. P. 56(a)** 'a motion may not exceed 10 pages or 3100 words.' Because Mr. Velasquez's motion is not brought under any of the federal rules specified above, it is required to comply."[31]

70. And finally, precipitating this extensive process, a *false declaration* disavowing *exigency* circumstances; hence we said the rules treatment was inflexible,

> "Footnote 5: Furthermore, even if the court had not stricken Mr. Velasquez's 'Motion for Emergency Relief Setting Aside a Judgment for Fraud on the Court,' the court would not grant Mr. Velasquez's request for an ex parte hearing because the Federal Rules of Civil Procedure do not permit the court to hold such a hearing under the circumstances presented here."[32]

71. The Motion was pleaded at **Fed. R. Civ. P. 52(c)**;[33] a non-prejudicial Motion for Reconsideration clarified rational interpretation of **Fed. R. Civ. P. 52,** "**Fed. R. Civ. P. 52(a)(1)** defines in *general* how findings and conclusions may appear separately on the docket, or within an opinion, maintaining *Judgment* comes under **[Fed. R. Civ. P. 58]**."[34]

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[31] App'x. A, Magistrate Order, 059 (ECF No. 25).

[32] Id., 060.

[33] App'x. C, Apellant's Motion for Emergency Relief, 135-6 (ECF No. 19, 7-8).

[34] App'x. A, Motion for Relief from Order Striking, 215, 219 (ECF No. 27, 5).

72. "**Fed. R. Civ. P. 52(a)(3)** defined '*for a motion* the court is not required to state findings or conclusions when ruling on a motion under **Rule 56**, or, unless these rules provide otherwise, on any other motion.'"[35]

73. "The Motion for Emergency Relief states how defined **Fed. Rs. Civ. P. 52(c)** and **60(d)(1)** and **(3)** are relevant. Cit. UTD Docket #19 at Page 8. These conditions are not exclusive of **Fed. R. Civ. P. 56**; the court will recognize a Summary Judgment on Partial terms without reliance upon exclusive conditions of **Rule 58**, the conditions apparently striking the motion."[36]

74. "The court may admit the Motion under **Fed. R. Civ. P. 56** for terms of Partial Summary Judgment, and not under the **Fed. R. Civ. P. 52** terms for Partial Judgment...It was this party's interest to recognize how an early dispositive motion under **Rule 52(c)** respected **Rule 56**."[37]

75. Partial Summary Judgment cannot rationally derive or have structured such a usage as 'Partial' without construction of **Rule 52; Rule 52(c)** states, "If a party has been fully heard on an issue during a nonjury trial and the court finds against the party on that issue, the court may enter judgment against the party on a claim or defense that, under the controlling law, can be maintained or defeated only with a favorable finding on that issue."

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[35] Id.

[36] Id.

[37] Id., 220 (6).

76. Emergency Relief from *Fraud*: A Judge sued in capacity on decisions made in the course of a previous trial has been *fully heard* on record; there is no other rational construction to bear the intent of Discretionary Review, including *prejudicial pre-trial dismissal*, and it is implausible the Magistrate failed to see that the first time.

77. Plaintiff furthered, "Because **Rules 52** and **56** are not mutually exclusive of the terminology of Partial findings, the Motion for Emergency Relief must not be STRICKEN."

78. The Magistrate replied and did not clarify the *exigency* conditions whatsoever, not in Procedural terms and not in terms of the substantivity of the declaration, out of view of the court's *intent.*[38]

> "First, the court was not required to construe Mr. Velasquez's prior motion as being brought under **Rule 56(a).** Indeed, nowhere in that motion did Mr. Velasquez reference **Rule 56(a)**. Second...the Court cannot grant summary judgment against parties who have not yet responded to a plaintiff's complaint or otherwise appeared in a case." Cit. *Great Lakes Packers, Inc. v. P.K. Produce, Inc.*, 542 F.Supp. 3d 685, 710 (N.D. Ohio 2021).[39]

79. If the Magistrate held an objection to retroactive **Rule 52(c)** applications the Magistrate could have lodged the motion, and reassured the plaintiff.

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[38] The intent of any court may be *Justice*, while its form must be *the Petition.*

[39] App'x. A, Magistrate's Order Denying Relief, 053, 055 (ECF No. 31, 3).

Reassignment of Magistrate

80. Once the Magistrate had refused to recognize the *terms of the case* the Appellant sensed the Magistrate was *deliberating* and strategically *telegraphing* intent to commit Perjury. An indicator for Judicial Malpractice is a decision which ignores the written statements presented and arrives at unnecessary conclusions.[40]

81. The current presentation defines how Judicial Malpractice develops an *abstract relief* which manipulates any party's political dignity and subsequent rights as an *abstract* and *volatile* memory of the case; it is a baseline for technical Judicial Corruption in any motive, and any type of action. Whereas Malpractice may be the direct *abuse of procedures.*

82. *Collateral fraud* actually *targets* ad hominem an *abstract relief* against the law, like a *scoreboard,* and the Malpracticants, the contemnors, they each take turns rendering pseudo-merits *spin* on the manner and structure of prejudice; we believe they expect the Supreme Court of the United States lauds and engages the same implied expression on the Certiorari review. It is a *pillory,* ridicule *res publica.*

83. Consider how the Magistrate was remanded from the Judge a Motion for his own *reassignment,* as if challenging the scope of their shared dishonor.[41]

84. The magistrate refused to recuse and insensibly overwhelmed the written petition,

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[40] In other petitions, and in the Court of Appeals and under Case Nos. 19-6263 and 21-5652 we discussed this as *avoision,* avoidances in the act of *read and review*.

[41] App'x. A, Docket Sheet 2:22-cv-00133-HCN, See Item No. 35, 109, 113. Not also the Chief Judge declined to intervene on "honorific" terms. Id., 041-3 (ECF No. 53).

> "Mr. Velasquez's motion fails for two reasons. First, the motion is motivated by adverse rulings from the undersigned, which is not a ground for disqualification...."[42]

85. And,

> Second, Mr. Velasquez's unsupported, irrational, and speculative assertions about the undersigned's impartiality are nothing more than 'unsubstantiated suggestions of personal bias or prejudice..."[43]

86. At reassignment we noted the Magistrate had misrepresented the recent *exigency* motion; "The magistrate has not recognized an emergency status is declared...cit. 'Exigency exception applies when circumstances pose a significant risk to the safety of a police officer or third party." *U.S. v. Najar,* 451 F.3d 710, 717 (10th Cir. 2006) "The test for exigent circumstances 'is now two-fold, whether (1) the officers have an objectively reasonable basis to believe there is an immediate need to protect the lives and safety of themselves or others, and (2) the manner and scope of the search is reasonable."[44]

87. The motion pleaded how *Najar* may define *the report* of a crime is reasonable basis for investigation; "A Federal officer may recognize an exigent circumstance on reasonability alone; a crime apparent..."[45]

88. The magistrate had intentionally neglected *civil exigency,* exaggerated prejudice of *disinterest* of **Rule 52(c)** and refused allow the Appellant duly "flip the

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[42] Id., Order Denying to Recuse, 047, 050.

[43] Id., 051.

[44] App'x. B, Appellant's Emergency Mtn. for Reconsideration, 003, 013-015 (ECF No. 33,11-13). [45] Id., 014 (¶23).

script" on prejudicial pre-trial case screening, the result is two years delay and vague issues-standing.

Magistrate's Report and Judicial Review

89. On this same Motion we had pleaded under **Fed. R. Civ. P. 72(b)(3)**, "The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions."

90. At issue of the Magistrate's Report and Recommendations,[46] the Appellant filed a paper of objections entitled, "Legal Request to Disregard Magistrate Recommendations as Hostile to the Court," the Motion complied with **Rule 72.**[47]

91. The magistrate *falsely declared* the *nature of the case;* subsequently the Appellant was treated as a vexatious or political threat, allowed less and less audience while the claims on the complaint went unreviewed:

> "Before discussing the facts in the instant action, the court discusses some necessary background information related to two prior actions that pro se Plaintiff Carlos Velasquez ("Mr. Velasquez") filed in this court..."[48]

[46] App'x. A, 027-036 (ECF No. 37).

[47] App'x. B, 049-074 (ECF No. 38).

[48] See Note 46, 027 (25).

92. The Magistrate goes on to paraphrase the conclusions in a "First" and "Second" action with cursory and errorous summary:

> "...Mr. Velasquez is, in essence, inviting this court to review or reconsider the decisions of the Supreme Court. Mr. Velasquez fails to cite to any authority that would provide this court with any jurisdiction...Cit.*Goforth v. U.S.*, No.18-507C, 2019 WL 994574, at 2(Fed.Cl.Mar.1, 2019)"[49]

93. No part of the Appellant's original case sought to review Certiorari directly; the magistrate was telegraphing an illicit command. In fact, this Petition is the only such opportunity. The magistrate is taking action advertently hostile to U.S. Constitution and Public Law. Magistrate insinuation happens to be *false* and illegal. Please review the original complaint.[50]

94. Further perjuring the case record, the Magistrate also made the following *false declaration,*

> "Mr Velasquez's claims against Defendants should be dismissed under Rule 12(b)(6) because (A) there are not private rights of action under any of the statutes Mr. Velasquez relies upon; and (B) Defendants are entitled to absolute judicial immunity. The court addresses each reason supporting dismissal below."[51]

95. The magistrate is in political denial. **Fed. R. Civ. P. 60(d)(1)** and **(3)** wherein the terms of Public Law are proscriptive against forms of Perjury and

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[49] App'x. A, 031 (5).

[50] App'x. C, Appellant's Opening Complaint to Vindicate, 003.

[51] App'x. A, Mag. Report and Recommendation (Part II), 033 (ECF No. 32, 7).

Conspiracy; Note how from his report he shows from the Plaintiff's Complaint only at Pages 12-13, 104-107, and 121.[52]

96. Verbatim from the complaint, "*Fraud on the Court*—Both opinions are *set aside* for *fraud* to compare *Criminal Contempt;* the effect of *set aside* will be comparable to that vacating an opinion, and thus relieve the rel. case from immediate prejudice."[53]

97. The *false declaration in the official transaction* was intended to be the final discussion on 'Motion,' the complaint briefs facts of the **Case Nos. 19-6263** and **No. 21-5652,** and only briefs the intent of such a Motion. The magistrate's disfavor was *incomprehensible*—an ex parte hearing would have clarified limits.

98. Verbatim from the Motion stricken, "It was *Fraud on the Court* because the legal reasoning was prejudiced in error on judicial mistakes which are not feasible and not plausible, and because the decision not to amend and limit the prejudice expressed, or to encourage a more brief motion against misrepresentation, represents *deliberative misprision,* a destructive and illegal strategy in *read and review* which *reads* but does not *conduct synthesis* and produces the same effect as any open *perjury*."[54]

99. In the court of appeals we took the time to clarify even more succinctly, it is the *false declaration in the official transaction*. Civil plaintiffs finding *Judicial*

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[52] Id., Footnotes 12, 14, 15, and 16.

[53] App'x. C, Appellant's Opening Complaint to Vindicate, 106-107 (104-105).

[54] Id., Motion for Emergency Relief, 129, 150-154, (ECF No. 19, 22-26).

Fraud are not restricted from reviewing terms of Criminal Law, **18 U.S. § 1001** is otherwise a clarifying statute under **Rule 60(d)** review. Restricting that is selective and imperious.

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100. In the District Court, *Collateral fraud* culminated in a general declaration of 'Absolute Judicial Immunity' which dismissed the case apparent.[55]

101. *Judicial Immunity* and the term "absolute" would require more clarification if not for the procedural imposition, the law of Judicial Malpractice and *fraud on the court* per **Fed. R. Civ. P. 60(d)(1)** and **(3).**

102. In **Federalist No. 81** the subject of *sovereign immunity* is taken up to compare Separation of Powers from the Legislative against the Judicial Branch it was stated, "It may in the last place be observed that the supposed danger of judiciary encroachments on the legislative authority, which has been upon many occasions reiterated, is in reality a phantom. Particular misconstructions and contraventions of the will of the legislature may now and then happen; but they can never be so extensive as to amount to an inconvenience, or in any sensible degree to affect the order of the political system...There never can be danger that the judges, by a series of deliberate usurpations on the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body

[55] App'x. A, Mag. Report and Recommendation (Part II, B), 034 (ECF No. 32, 8).

was possessed of the means of punishing their presumption, by degrading them from their stations..."

103. Circumstances of *fraud on the court* exceed the basis of the Federalist's declaration of a mandatorily limited Judiciary, **Federalist No. 81** discusses *state sovereignty* under the same presumption and the basis for that presumption has been shown versus *states* to have been from time to time dissolved and the government made amerciated the state. Many of the precedents cited under Case **Nos. 19-6263** and **21-5652** waived *qualified immunity* resp. the Civil Rights Act.

104. Recall as **Federalist No. 78** presented, "According to the plan of the convention, all judges who may be appointed by the United States are to hold their offices DURING GOOD BEHAVIOR...it may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments."

105. "To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules and precedents, which serve to define and point out their duty in every particular case that comes before them... Upon the whole, there can be no room to doubt that the convention acted wisely in copying from the models of those constitutions which have established GOOD BEHAVIOR as the tenure of their judicial offices, in point of duration."

106. Thereby, we present the Civil Rights Act renders "absolute judicial immunity" reviewable on *qualified terms,* in this instance it is literally whether a Judge made *false declarations in the official transaction,* as *fraud on the court.*

107. The imposition of the doctrinal immunity did not protect the civil rights of the pleader, and so "absolute" terms were not defined, meaning the judge elected NOT to hear the case, and authentically issued a *false declaration in the official transaction,* while this is an action "in judicial capacity" See *Harris v. Harvey,* 605 F.2d 330 (7th Cir. 1979) conf. *Stump v. Sparkman,* 435 U.S. 349 (1978) it is not fundamentally solvent for courts in Law and Equity. It is bad behavior *in the official transaction,* not bad behavior *aside.*

108. More generally, "In reference to **18 U.S. § 1623**, the U.S. Supreme Court has stated 'Thus to ensure that a legislature speaks with special clarity when marking boundaries of criminal conduct, courts must decline to impose punishment for action that are not 'plainly and unmistakably' proscribed.' *Dunn v. United States,* 442 U.S. 100, 60 L.Ed. 2d 743, 99 S.Ct. 2190 (1979)(J.Marshall) cit. *United States v. Gradwell,* 240 U.S. 476, 485 (1917).

109. *Dunn* may be true for **18 U.S. § 1001;** these are conditions for **Rule 60(d)** review. An extensive facts relief was neglected in the District Court;[56] the plaintiff was able to synthesize both cases on a basis compare *Conspiracy* over *Judicial Fraud,* and that complaint has not been evaluated: *Judicature* was *insufficient* **(Fed. R. Civ. P. 12(b)(4)** to the Spirit of the Laws.

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[56] App'x. C, Appellant's Opening Complaint to Vindicate, 028-079 (ECF No. 1, 26-77).

110. Analysis on **cryptolect;** the Circuit Judges presiding hold an improper delineation between the Judge and Magistrate:

> "The court has carefully reviewed the Complaint, the Report and Recommendation, and the Plaintiff's objections. Although it is not persuaded that it lacks subject matter jurisdiction over Plaintiff's claims, it has little difficulty concluding that Plaintiff's claims are frivolous for multiple reason [including], but by no means limited to, those identified by [Magistrate's Report and Recommendations]..."[57]

111. The subtlety of their disagreement is telling of the **whimsical** nature of the crime, and implicates the partial concurrence in the Court of Appeals who improperly averted its gaze to *false* **Rule 59** semantic; that prejudice may be rooted in simple distrust of the Pro Se, but when we look at any Judge individual declarations of limitation at Pro Se complaints those limitations do not substantively extend to the integrity of the legal position. It is more like a personal and political barrier in wrong discrimination.

112. To bear out deception the Judge *framed* the Complaint as one seeking damages and relief from a judgment on terms "Judicial Adversity" vis a vis *Glass v. Pfeffer,* 849 F.2d 1261, 1268 (10th Cir. 1988): "...adverse rulings do not provide grounds for recusal."[58]

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[57] App'x. A, Judge Docket Entry and Accompanying Order, 023-025 (ECF Nos. 42, 43).

[58] Id., Judge Docket Entry Denying ECF No. 44 Motion For Extraordinary Relief/New Trial, 021 (ECF No. 51).

113. Not a different kind of misbehavior from a procedural "interposition" for an undefined or illegal judicial estoppel. We could observe a term of Judicial Malpractice to compare a "Cat's Paw" of the Supreme Court, "Blockade." The court does not guarantee review.

114. It is an overwhelming *encrypted command*, the illicit rule: *there is no fraud on the court* rule; recall, the Magistrate was without any direct grounds to dismiss.[59]

B. JUDICIAL INDEPENDENCE FORBIDS DEATHKNELL MALPRACTICE

115. Here, as "Judicial Malpractice" we also recognize some limits of "Political Fraud" under a Constitution for *illicit rule*; *Reconstruction era* illustration for the question *fraud on the court* anticipating general conference: a contemporary terminology should formally offer the term *'seditious resolution'* since *criminal exceptionalism* ignores public and political standing generally, and such *official transactions* can abridge general political standing against the U.S. Constitution, unconstitutional results and issues could abound.

116. Held limits at Jurisdiction did not compel the Jurists to respect the *nature of the case*, but mistreated the matter, as illustrated below, malpracticants found *syndical* exception under a conflicted parameter of *custodia legis*.

117. Recall *bypass* was averted in **No. 21-5652** failed to respect Jurisdictional law per se when ignored an *exception* from the *Rooker-Feldman* holding under the Administrative Procedures Act; the Circuit Court failing to review and thwart the

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[59] See Note 54.

new *privity-based foreclosure* element *knew* "then as now" (*Nunc pro tunc*) the express Federal Jurisdiction was not limited and so lit upon features uncanny to the actual case and perjured the record under *Velasquez v. State of Utah, et al.*

118. Malpracticants falsely conducted a *test of process*; *framed* the matter as *false certiorari review, judicial adversity,* and implied *immunity*. Three Docket Entries[60] are entirely without confidence of the Plaintiff's factual demonstrations of *fraud on the court:* the jurisdictional holdings in these two genesis cases have *not been reviewed, and have not shown the available Jurisdiction question* inherent to a *fraud on the court* case and claim of two prior opinions which neglected it.

119. Characteristic to malpractice: Judicial authority is presumptive over 'government standing' without upholding the law, political "anti-fraud" positions under United States Constitution are *not in practice.* Compare organized rights *cession,* "The syndic, under the insolvent law of 1855, is directed to sell the property absolutely, and to distribute it according to the priorities. The curator of a decedant's estate is required to sell the property and distribute it in the same manner. In *Robinson v. McCay, Curator,* 8 Martin, N.S. 106, the curator removed the goods from the leased premises, and then, in opposition to the lessor's privilege, set up that he had not asserted his claim by seizure of the goods. The court said: The representatives of an estate can do nothing which will destroy or impair a claim existing on the deceased's person or property at the moment of his decease....The

[60] Id., Docket Entries Ordering Dismissal, 021, 023, 039 (ECF Nos. 51, 42, 63). (The latter Docket Entry unjustly bars filings privileges).

want of power in the lessor to seize prevented the prescription from running against him." *Holdane v. Sumner,* 82 U.S. 600, 15 Wall. 600, 21 L.Ed. 254 (1872).(internal quotes omitted)

120. *Sumner* attempted to *precede* the most plain dictums of ante-Bellum law in the State of Louisiana to unjustly assert *cessio bonorum*; Judicial Malpractice in the manner of an organized directive-biased or encrypted conspiracy *precedes* the authority of the Pro Se pleader's civil right incl. written content of a petition.

121. It is attempted *rights cession* against Civil Rights in manner we can repeatedly characterize respects the *personal jurisdiction* of the jurist: each declaration in *malpractice* states it cannot have "Jurisdiction." Such is **cryptolect:** *syndical* code for precession and cession of illicit power and so right to conduct political and criminal abuse from the bench. In a contract law it can afford this term: *absconsion,* and *breach of confidence.*

122. There is no *institutional rule* which provides for, or even allows, *actual misrepresentation* of the issue by the Judge,[61] but is as *syndical,* subrogatory, or private. The *stare decisis* takes not subjective precedence for *fraud on the court*

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[61] Comparing *District of Columbia Ct. of Appeals v. Feldman,* 460 U.S. 462 (1983) primarily for persuasive effect; the position *Feldman* was made to appeal was that of an imprescriptible *institutional rule* which could, on authority to compare an *appeal by permission*, within D.C. Court of Appeals Bar association have granted the application; the Supreme Court of the United Stats could never guarantee jurisdiction of such a mandatory exception. Doing so would continuously provoke questions of authority and persuasion, favoritism and partiality, and yes, even corruption.

rulings, and so they avail themselves in imitation of *political disinterest*; *Fraud on the court* is a violation of oath.

123. "[Fraud on the Court] is indisputable that *stare decisis* is a basic self-governing principle within the Judicial Branch, which is entrusted with the sensitive and difficult task of fashioning and preserving a jurisprudential system that is not based upon 'an arbitrary discretion.' **Federalist No. 78** p.490 (H. Lodge Ed. 1888) (A. Hamilton)." "A district court undoubtedly has discretion to sanction a party for failing to prosecute or defend a case, or for failing to comply with local or federal procedural rules. *Reed v. Bennet,* 312 F.3d 1190, 1195 (10th Cir. 2002), cit. *LaFleur v. Teen Help,* 342 F.3d 1145, 1151 (2003). In this instance we claim judiciary has coerced failure, and failed to uphold essential expression of *stare decisis*."[62] Also see *Ute Indian Tribe v. Utah,* 935 F. Supp. 1473, 1508 (1996)[63]

124. "The District Court certainly has the jurisdiction to adjudicate a question on standing of State agency statutes in view of relevant Federal Law and Civil Rights." *Conf. LaFleur* at 1153 cit. *Steel Co. v. Citizens for a Better Envmt.,* 523 U.S. 83, 89, 118 S. Ct. 1003, 140 L.Ed. 2d 210 (1988).[64]

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[62] App'x. C, Appellant's Motion for Emergency Relief, 129, 154 (ECF No. 19, 26).

[63] *Ute Indian Tribe* is used to compare as *"syndical"* non-competent applications *stare decisis* on a decision of major importance.

[64] See Note 61: "A Judgment is not void merely because it is or may be erroneous." *V.T.A., Inc. v. Airco, Inc.,* 597 F.2d 220, 224 (10th Cir. 1979), on a question of the "power to adjudicate the case." *Steel.* A judgment may be for fraud on the court. See. **Fed. R. Civ. P. 60(d).**

125. The *volatile* political standing of any party presenting the true petition or pleading in *closed* read and review is technically vulnerable to abstract manipulation of its written standards as *violating* a maximal *stare decisis et non quieta movere*; Judicial Malpractice as such constitutes a "Death Knell," an undue motion and action for the termination of procedural or statutory rights of the claimant.

126. Judicial Malpractice interposes the malice declaration *juris legis* in manner "*en seditio*" intent even to precede the Public Law which authentically prohibits *false declarations in the official transaction.* (alternatively, *res seditiones)*

127. It amounts to a covert *institutional rule*, complete with encrypted commands, which may be motivated to destroy an individual, a class of petitioners, or conduct *political* and *cultural cleansing* based in partisan differences, or even parliamentary favor. It may be intended a political boon or favor, *"bonorum."*

128. Therefore we have extended the ethical pragmatism of several cases to show cause for new precedence: the new Malpracticants improperly confused standing of government authority *"custodia legis"* with standing judicial authority *"juris legis,"* violated the law in aggressive precession of presumption to *manipulate* the political rights, standing, and interests of another person and is so patently abusive as to call for the **Supervisory discretion** of the Supreme Court of the United States under **Supr. Ct. R. 10(a)**.

129. *Collateral fraud* and Judicial Malpractice are all improper in every respect. Below we observe it violates the IXth Amendment.

130. Elements of Kansas tort law served defined Attorney and so Judicial Malpractice.

131. Judicial Malpractice defined in the Opening Brief for the United States Court of Appeals, "Breach of confidence on Judicial authority finds the instant tort rel. res judicata is valid on an actual occurrence of Judicial Fraud, and is thereby limited, '(1)The occurrence rule—the statute begins to run at the occurrence of the lawyer's negligent omission; (2)The damage rule—the client does not accrue a cause of action for malpractice until he suffers appreciable harm or actual damage of his lawyer's conduct; (3)The discovery rule—the statute does not begin to run until the client discovers, or reasonably should have discovered, the material facts essential to his cause of action against the attorney; the continuous representation rule—the client's cause of action does not accrue until the attorney-client relationship is terminated.' *Pancake House, Inc. v. Redmond ex rel. Redmond,* 239 Kan. 83, 716 P.2d 575 (1975)."[65]

132. "Res judicata is bound against a [judicial form] of *continuous representation* on a basis for *actual occurrence,* a Judge in United States is more or less totally obligated to represent the legal authority of a petitioner and failing to represent that authority under the law violates the most critical proscriptions of **U.S. Const. Art. III** and **VI.** The judge will not ever cease to represent the people

[65] Restated from the Appellant's Opening Complaint in the U.S. Court of Appeals for the Tenth Circuit, not demonstrated. (CA10 Docket No. 22-4098, Doc.010110776531. R.87.)

included to the terms of a final decision: any court must be prejudiced to *reject* Judicial Malpractice on civil terms, Fraud on the Court."

133. "[Rejecting] the federal anti-fraud remedy may characterize seditious resolution, *res seditiones*...A Judge is obviously sued under the Civil Rights Act if he commits a demonstrable crime on his written opinion."[66]

134. We sought afford Circuit Judges prejudicial error, but it may constitute a Political form of Fraud and/or Breach of Confidence to *omit* or *neglect* some pleadings if the act doing could accrue an actual *fraud on the court* citation.

135. The above argument was improperly avoided under a False Declaration of **Fed. R. Civ. P. 59**.

C. CIVIL RIGHTS VIOLATIONS CHARACTERISTIC TO FRAUD ON THE COURT

136. Civil rights torts characteristic to *Fraud on the Court* and Judicial Malpractice recognizes several violations may *define* the misbehavior;

A. **U.S. Const. Amend. I;**

B. **U.S. Const. Amend. V;**

C. **U.S. Const. Amend. IX;**

137. **U.S. Const. Amend. I** may be violated wherein any government officer has taken the petition filed, and either directly altered the text of the filing, *or* altered what we have described as the "abstract" or "volatile" standing of such a complaint, the right to petition for redress of grievances appreciates precision, logic,

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[66] Id.

and rationality and rejects any form of *fraud* to meddle with that party's personal and public standing.

138. **U.S. Const. Amend. V** is a guarantor for Due Process, where the Plaintiff has shown the court was conducted with insufficient process under **Fed. R. Civ. P. 12(b)(6),** while the case made issue under a misstatement actively demonstrated, we can have defined an *abuse of procedures* and a violation of a Right to Due Process of law.

139. **U.S. Const. Amend IX,**[67] the Judiciary interposes *personal authority* over *jurisdiction,* and effectively *deposes* the public withstanding (**Preamble** and **U.S. Const. Art. VI),** one for all; they also happen to reflect on the state's rights **(U.S. Const. Amend. X)** to have responded to the subject in the now volatile case fundamentally damaged by Judicial Malpractice, those courts *en seditio* not to review *fraud on the court.*

140. Reversion to *abuse of discretion* terms runs contrary to the language **42 U.S. § 1988** where sufficient procedures "are adapted" to the cause; the Court of Appeals literally has presented a new cause of action for the anti-fraud Pro Se.

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[67] U.S. Const. Amends. IX and X have not been openly debated; so we prefer at this stage of litigation only to restate the general methodology of the Civil Bureaucratic Federalist and choose not imperil questions of Constitutional *legitimacy* and avoid *setting aside* the Constitution; from Preamble to Article VI, we find it is very persuasive to state the Constitution after the Connecticut Compromise is intended to find a comprehensive Public Standing doctrine to define every discretion; without exception.

141. *Fraud on the Court* simplifies the *civil rights violation* query.

X. THE CIVIL INDICTMENT at CONCLUSION

142. On the prospect of declension, we proffer this: in certain circumstances it may be violation of IXth Amendment as the nature of fraud exploits inaction, disinterest of this court is designed upon by the Malpracticants and declension *formulates* collusion without *safeguard*, the standing of the Judiciary for the people, we have shown Malpractice *refused* to act, invented perjury instead.

143. We say that a violation of the Civil Rights of the Plaintiff in this way does compare infatuation with legislature and parliament, and is criminal: Under the District Court's holding, the judiciary can issue any statement versus Pro Se.

144. Counts of *false declarations* in the *official transaction* are based *in dispositive civil issue* and are not computed for any other reason than *fraud on the court.*

145. **(1 Count)** The Judgment of the Magistrate is *set aside* for *false declarations* in *general* denial of **Rule 60(d)** capacity, the Report and Recommendations.

146. **(3 Counts)** The three Docket Entries of the Judge presiding appear to have misprised the case for terms of *Judicial Adversity* and failed to resolve whether there was Fraud on the Court of any kind, violated **Fed. R. Civ. P. 72(b)**.

147. The plaintiff and his District Court complaint are released from the current disposition, cited **Fed. R. Civ. P. 60(d)(1)** and **(3)** and setting aside those judgments.

148. A Judgment of TRIPLE COSTS incl. Costs for Delay under **28 U.S. § 1920** is sought against the Magistrate and Judge in the District Court.

149. Appellant may file a timely NEW TRIAL motion, or new complaint.

150. The jurists who have presided are DISQUALIFIED from presiding on a NEW TRIAL under **28 U.S. § 455,** for *fraud on the court.*

151. The Judgment of U.S. Court of Appeals, incl. its Denial for Rehearing for the Tenth Circuit is vacated for the appearance of gross prejudicial error to compare Judicial Malpractice of *fraud on the court.* (2 Counts)

152. Judgment of TRIPLE COSTS plus Costs for Delays against the three CIRCUIT JUDGES for affirming *fraud on the court.* **(28 U.S. § 1920)**

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153. All citizens have a public and political right to be free from a criminal misconduct, to petition reject any criminal application from Judgment.

A. **18 U.S. § 401(2),** Criminal Contempt;

B. **18 U.S. § 1001,** False Declarations;

154. Indictment may include interrogatory CIVIL and CRIMINAL does not limit: **18 U.S. §§ 1622, 1623,** Conspiracy of Subornation of Perjury;**18 U.S. §§ 241, 242,** Conspiracy to Deprive Civil Rights; **18 U.S. § 371,** Conspiracy to Defraud United States; **18 U.S. § 1509,** Obstruction of court order.

SIGNATURE

155. MAY WE FIND U.S. COURTS IN FAVOR OF THE FEDERAL CONSTITUTION. s/Carlos Velasquez, Pro Se, Civil Bureaucratic Federalist CV