

IN THE
Supreme Court of the United States

CHRISTINE MIRE

Applicant,

v.

UNIVERSITY HOSPITAL & CLINICS, INCORPORATED, ET AL.,

Respondents.

**SUPPLEMENTAL APPENDIX
EMERGENCY APPLICATION FOR STAY**

**SUPPLEMENTAL APPENDIX
TABLE OF CONTENTS**

Lower Federal Courts:

U.S. Fifth Circuit Court of Appeal

No Action Letter – Respondents’ Motion for §1927 Sanctions
United States Court of Appeals for the Fifth Circuit,
Case No.: 23-30335 (April 12, 2024) Supp.App. 1

Respondents’ Motion for §1927 Sanctions
United States Court of Appeals for the Fifth Circuit,
Case No.: 23-30335 (April 10, 2024) Supp.App. 2

U.S. District Court Western District of Louisiana Rulings

Electronic Magistrate Order
(Granting Applicant's Motion to Withdraw)
United States District Court for the Western District of Louisiana,
Lafayette Division, Docket No.: 6:19-CV-1027 (April 25, 2024) Supp.App. 18

Order
(Adding Applicant as Respondent and Setting Briefing Deadlines
for Rule 38 Sanctions Against Applicant)
United States District Court for the Western District of Louisiana,
Lafayette Division, Docket No.: 6:19-CV-1027 (April 26, 2024) Supp.App. 20

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

April 12, 2024

Mr. James Huey Gibson
Gibson Law Partners, L.L.C.
2448 Johnston Street
P.O. Box 52124
Lafayette, LA 70505

No. 23-30335 Cordova v. Univ Hosp & Clinics
USDC No. 6:19-CV-1027

Dear Mr. Gibson,

We received your Motion for Sanctions. We are taking no action because the mandate has issued and the case is closed.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Monica R. Washington, Deputy Clerk
504-310-7705

cc: Ms. Stacy N. Kennedy
Ms. Christine M. Mire

CASE NO. 23-30335
IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

J. Cory Cordova,
Plaintiff

Christine M. Mire,
Appellant

v.

University Hospital & Clinics, Incorporated; Lafayette General Medical
Center, Incorporated; Lafayette General Health System, Incorporated,
Defendants - Appellees

On Appeal from the United States District Court for the Western District of
Louisiana, Lafayette Division, Civil Action No. 6:19-cv-1027
Honorable James D. Cain, Jr., presiding

APPELLEES' OPPOSED MOTION FOR SANCTIONS

Respectfully submitted by:
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CASE NO. 23-30335
IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

J. Cory Cordova,
Plaintiff

Christine M. Mire,
Appellant

v.

University Hospital & Clinics, Incorporated; Lafayette General Medical
Center, Incorporated; Lafayette General Health System, Incorporated,
Defendants - Appellees

On Appeal from the United States District Court for the Western District of
Louisiana, Lafayette Division, Civil Action No. 6:19-cv-1027
Hon. James D. Cain, Jr., presiding

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Fifth Circuit Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal:

<u>Plaintiff</u>	<u>Counsel for Plaintiff</u>
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/s James H. Gibson

JAMES H. GIBSON

Attorney of record for Appellees, University Hospital & Clinics, Inc., Lafayette General Medical Center, Inc. and Lafayette General Health System, Inc.

TABLE OF CONTENTS

	Page:
CERTIFICATE OF INTERESTED PERSONS	i
TABLE OF CONTENTS.....	iv
TABLE OF AUTHORITIES	v
INTRODUCTION	1
RELEVANT PROCEDURAL HISTORY	1
LAW AND ARGUMENT	4
CONCLUSION.....	7
CERTIFICATE OF SERVICE	8
CERTIFICATE OF COMPLIANCE.....	9

TABLE OF AUTHORITIES

Statutes:	Page:
<u>28 U.S.C. §1927</u>	<i>passim</i>
<u>Fed. R. Civ. Proc. 11</u>	<i>passim</i>
<u>Fed. R. App. P. 32</u>	9
<u>Fed. R. App. P. 38</u>	4
<u>Fed. R. Civ. Proc. 12</u>	2, 3
<u>Fed. R. Civ. Proc. 60</u>	2, 3
Fifth Circuit Rule 27.4	9
Fifth Circuit Rule 28.2.1	i
 Cases:	
<i>Baulch v. Johns</i> , <u>70 F. 3d 813</u> (5 th Cir. 1995)	5
<i>Browning v. Kramer</i> , <u>931 F.2d 340</u> (5 th Cir.1991)	4
<i>Edwards v. General Motors Corp.</i> , <u>153 F. 3d 242</u> (5 th Cir. 1998)	5
<i>Gonzalez v. Fresenius Medical Care North America</i> , <u>689 F. 3d 470</u> (5 th Cir. 2012)	5
<i>Lindke v. Freed</i> , 601 U.S. ___, <u>144 S.Ct. 756</u> (2024)	5, 6

TABLE OF AUTHORITIES (CONT'D)

	Page:
<i>Ratliff v. Stewart</i> , <u>508 F. 3d 225</u> (5 th Cir. 2007)	6
<i>Religious Technology Center v. Liebreich</i> , <u>98 Fed. Appx. 979</u> (5 th Cir. 2004)	6
<i>Travelers Insurance Co. v. St. Jude Hospital of Kenner, La., Inc.</i> , <u>38 F.3d 1414</u> (5 th Cir.1994)	4
<i>Trinity Gas Corp. v. City Bank & Trust Co. of Natchitoches</i> , <u>54 Fed. Appx. 591</u> (5 th Cir. 2002)	5
<i>United States ex rel. Rafizadeh v. Continental Common, Inc.</i> , <u>553 F.3d 869</u> (5 th Cir. 2008)	5

INTRODUCTION

This case epitomizes unreasonable and vexatious multiplication of proceedings that [28 U.S.C. §1927](#) was enacted to target. Despite dismissal of Plaintiff's claims on summary judgment more than three years ago, Appellees have yet to conclude this matter. Instead, Appellees have had to bear the cost of responding to serial meritless motions and baseless appeals which impugned the integrity of the courts, undersigned counsel, and defendants, and wasted valuable judicial time and resources.

This motion pertains to Appellant's recently filed Motion to Recall Mandate and Stay Proceedings which re-urges the same frivolous argument concerning the identity of Plaintiff's employer that resulted in [Fed. R. Civ. Proc. 11](#) sanctions recently affirmed by this Court. Appellant's bad faith perpetuation of this suit evidences flagrant disregard for the orderly process of justice and justifies imposition of §1927 sanctions. Therefore, Appellees respectfully request §1927 sanctions in the form of attorney fees and costs incurred in defending against Appellant's baseless motion.

RELEVANT PROCEDURAL HISTORY

This Court previously detailed the background of this litigation in *Cordova v. La. State Univ. Agric. & Mech. Coll. Bd. of Supervisors*, No. 22-30548 c/w 22-30732, [2023 WL 2967893](#) (5th Cir. 4/17/23). It will not be reiterated here.

Pertinent to this motion, Appellant first argued Plaintiff's employment status in July 2022 when Plaintiff moved to vacate the final judgment dismissing his claims on summary judgment.¹ The district court denied the motion in August 2022, explaining that employment status was irrelevant given the lack of merit in the underlying causes of action.² This Court affirmed and granted frivolous appeal damages.³

Plaintiff raised the same argument again in opposition to Appellees' sanctions motion brought before the district court.⁴ At the hearing in February 2023, the district court cautioned Appellant about unreasonable attempts to prolong the litigation by emphasizing that the merits were ruled on in the initial summary judgment, re-addressed on a Rule 12(b)(6) motion, and then examined a third time in ruling on the Rule 60(b) motion and yet still did not change its position.⁵ Ultimately, the district court imposed Rule 11 sanctions finding the futility of arguments relating to Appellees' status as employer reflected Appellant's bad faith

¹ [ROA.2895](#).

² [ROA.4953-4954](#).

³ [Cordova v. La. State Univ. Agric. & Mech. Coll. Bd. of Supervisors](#), No. 22-30548 c/w 22-30732, 2023 WL 2967893 (5th Cir. 4/17/23). Plaintiff did not seek further review and eventually paid the frivolous appeal damages assessed by the district court.

⁴ [ROA.4966-4968](#); [ROA.4978-4981](#).

⁵ [ROA.6567](#). Judge Cain questioned whether Appellant had communicated to Plaintiff that the case was over in district court and whether she told him he had lost: "But at some point as an attorney you've got to look at the whole situation and you've got to have a talk with your client, 'Hey, we lost. Okay. There's nothing else I can do for you on this. It's done. The Court didn't see it our way. We've got to move on.' And I feel like either somewhere that has not been communicated that this thing is over in federal court." (Lines 17-25, 1). [ROA.6567-6568](#).

in attempting to make an issue of it.⁶ While the district court declined to sanction Appellant under §1927 at that time, it cautioned her that the standard may be met with further abusive litigation tactics.⁷

In this appeal of the judgment granting Rule 11 sanctions, Appellant characterized her employment status argument twice previously rejected as “colorable and legitimate.”⁸ She asserted that Appellees misled the district court as to Plaintiff’s “true employer” and once again pointed to Louisiana Supreme Court cases previously rejected by the district court on Plaintiff’s Rule 60(b) motion and in opposition to Appellees’ sanctions motion.⁹

In ruling on the previous appeal, this Court found that Plaintiff “has repeatedly refused to heed the district court’s warnings about ‘unreasonable attempts at continuing this litigation’ with an untimely and also meritless Rule 60(b) motion” based in part on the moot issue of Plaintiff’s “true employer.”¹⁰ In this appeal, the Court explained:

... Mire was sanctioned for *continuing* to argue Cordova’s actual employer was the Lafayette General Defendants after the district court repeatedly explained why that possibility would not change the outcome of the case. The district court repeatedly stated that even if the Lafayette General Defendants employed Cordova, either solely or as joint actors with the LSU Defendants, or entered into agreements with Cordova directly, Cordova’s underlying claims still lacked merit. Sanctions were therefore

⁶ [ROA.6265](#).

⁷ [ROA.6266](#).

⁸ Appellant Brief at p. 4.

⁹ *Id.* at pp. 15, 31-33.

¹⁰ [2023 WL 2967893](#) at *3.

imposed on Mire for continuing to press arguments that had clearly been rejected.¹¹ (Emphasis in original).

The opinion was filed on January 31, 2024, and issued as mandate on February 22, 2024. On April 4, 2024, Appellant moved to recall the mandate and stay the case once again arguing the moot issue of state action--the very same argument the district court sanctioned her for under Rule 11 and by this Court under Rule 38.¹²

LAW AND ARGUMENT

Section 1927 provides:

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

Awards under § 1927 are penal in nature, and this statute must be strictly construed.¹³

The language speaks to *excess* costs, expenses and attorneys' fees reasonably incurred due to the offending conduct. However, when the entire course of the proceedings is unwarranted and should neither have been commenced nor persisted in, an award for the entirety of an action's defense can be appropriate.¹⁴

¹¹ *Cordova v. University Hosp. & Clinics, Inc.*, [92 F. 4th 266, 273](#) (5th Cir. 2024).

¹² R. Doc. 74.

¹³ *Browning v. Kramer*, [931 F.2d 340, 344](#) (5th Cir.1991); *Travelers Insurance Co. v. St. Jude Hospital of Kenner, La., Inc.*, [38 F.3d 1414, 1416](#) (5th Cir.1994).

¹⁴ [931 F. 2d at 345](#).

Underpinning §1927 is the acknowledgement that frivolous arguments waste judicial resources and increase the parties' legal fees.¹⁵

Section 1927 requires a finding that the attorney failed to comply with an objective standard of reasonableness along with the additional showing of bad faith, improper motive, or a reckless disregard for the duty owed to the court.¹⁶ An attorney's action is clearly vexatious when it is undertaken primarily for the purpose of harassment or in order to annoy or embarrass.¹⁷ Any reckless disregard of the duty owed to the court can suffice to establish an "improper purpose."¹⁸ Once the vexatiousness requirement is met, at the point when an "improper purpose" could be inferred, all fees thereafter become recoverable.¹⁹

No legitimate justification exists for re-urging a futile argument thrice rejected in the face of explicit warnings from the tribunals. In affirming Rule 11 sanctions, this Court reiterated and agreed with the district court that Appellant's meritless arguments as to Plaintiff's employer so unfounded as to constitute violations of Rule 11(b)(1)-(3). Incredibly, Appellant responded with a motion to recall the mandate solely focused upon a wholly inapplicable case, *Lindke v. Freed*, resting upon the

¹⁵ *Baulch v. Johns*, 70 F. 3d 813, 817 (5th Cir. 1995).

¹⁶ *Gonzalez v. Fresenius Medical Care North America*, 689 F. 3d 470, 479-80 (5th Cir. 2012); *Edwards v. General Motors Corp.*, 153 F. 3d 242, 246 (5th Cir. 1998); *Trinity Gas Corp. v. City Bank & Trust Co. of Natchitoches*, 54 Fed. Appx. 591 (5th Cir. 2002).

¹⁷ *United States ex rel. Rafizadeh v. Continental Common, Inc.*, 553 F.3d 869, 875 (5th Cir. 2008).

¹⁸ *Edwards v. General Motors Corp.*, 153 F. 3d at 246.

¹⁹ *Ratliff v. Stewart*, 508 F.3d at 235.

same erroneous assertions about the identity of Plaintiff's employer.²⁰ For reasons explained to Appellant three times already, Plaintiff's causes of action lacked merit; a finding that stands regardless of who Plaintiff claims employed him. In *Religious Technology Center v. Liebreich*, this Court affirmed §1927 sanctions against counsel for reckless disregard of the duty owed to the court established by "continued engagement in improper motion practice after repeated warnings" by the court.²¹

This Court instructed:

. . . attorneys do a disservice to their clients as well as to the court and the judicial system when they repeatedly file essentially identical motions that do little more than waste their opponent's and the courts' time and resources. Such tactics overburden the courts and frustrate the administration of justice; they simply will not be tolerated.²²

"When an attorney's conduct is so obviously unreasonable that a court can infer an 'improper purpose' from the fact that the attorney persisted in it, it is unnecessary for the court to explain at length why the vexatiousness prong has been met."²³

There can be no reasons for Appellant's repeated assertion of the same rejected futile argument other than harassment and causing Appellees needless increase in costs and fees.²⁴ Therefore, sanctions are warranted under §1927.

²⁰ *Lindke v. Freed*, 601 U.S. ____, 144 S.Ct. 756 (2024).

²¹ 98 Fed. Appx. 979, 984 (5th Cir. 2004).

²² *Id.*

²³ *Ratliff v. Stewart*, 508 F. 3d 225, 234 (5th Cir. 2007).

²⁴ To date, Appellant has not paid the first dollar of sanctions levied against her in this case or in the state court action.

CONCLUSION

Valuable judicial time and resources have been wasted and Appellees' legal fees needlessly increased by Appellant's persistence in the same futile argument. Appellees respectfully request this Court grant sanctions in the form of attorney fees and costs necessitated in defending against Appellant's baseless motion and remand to the district court for fixing of same.

Respectfully submitted by:

s/ James H. Gibson

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Attorneys for Appellees, University Hospital & Clinics, Inc., Lafayette General Medical Center, Inc. and Lafayette General Health System, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of April, 2024, a copy of the above and foregoing brief on behalf of Appellees, UNIVERSITY HOSPITAL & CLINICS, INC., LAFAYETTE GENERAL MEDICAL CENTER, INC. and LAFAYETTE GENERAL HEALTH SYSTEM, INC. was filed electronically with the Clerk of Court.

Notice of this filing is being sent this same day to the following via email and Certified U.S. mail:

Christine M. Mire Attorney at Law 2480 Youngsville Highway, Suite C Youngsville, LA 70592 Phone: 337-573-7254 Fax: 337-205-8699 Email: cmmire@gmail.com	Counsel for Plaintiff, J. Cor Cordova, M.D.
---	--

Lafayette, Louisiana, this 10th day of April, 2024.

s/James H. Gibson
JAMES H. GIBSON

CERTIFICATE OF COMPLIANCE

1. This document complies with the word limit of [FED. R. APP. P. 32\(a\)\(7\)\(b\)](#) because, excluding the parts of the document exempted by [FED. R. APP. P. 32\(f\)](#):

- this document contains 1594 words.

2. This document complies with the typeface requirements of [FED. R. APP. P. 32\(a\)\(5\)](#) and the type-style requirements of [FED. R. APP. P. 32\(a\)\(6\)](#) because:

- this document has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Times New Roman.

Lafayette, Louisiana, this 10th day of April, 2024.

s/James H. Gibson
JAMES H. GIBSON

CERTIFICATE OF CONFERENCE

In accordance with [5th Cir. R. 27.4](#), Appellant, Christine Mire, was contacted via email on April 9, 2024 and advised that Appellees would be filing this Motion. Ms. Mire responded on April 9, 2024 that the Motion would be opposed.

Lafayette, Louisiana, this 10th day of April, 2024.

s/James H. Gibson
JAMES H. GIBSON



Christine Mire <cmm@mirelawfirm.com>

Activity in Case 6:19-cv-01027-JDC-DJA Cordova v. Louisiana State University Health Science Center et al Order on Motion to Withdraw as Attorney

1 message

Reply@lawd.uscourts.gov <Reply@lawd.uscourts.gov>
To: Clerk@lawddb.lawd.gtwy.dcn

Thu, Apr 25, 2024 at 2:18 PM

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U.S. District Court

Western District of Louisiana

Notice of Electronic Filing

The following transaction was entered on 4/25/2024 at 2:18 PM CDT and filed on 4/25/2024

Case Name: Cordova v. Louisiana State University Health Science Center et al

Case Number: 6:19-cv-01027-JDC-DJA

Filer:

WARNING: CASE CLOSED on 04/14/2021

Document Number: 214(No document attached)

Docket Text:

ELECTRONIC ORDER: The Motion to Withdraw (Rec. Doc. [208]) by Christine M Mire, as counsel for J Cory Cordova, M.D., is GRANTED. Attorney Christine M Mire terminated. Any future proceedings to be conducted as a result of the Fifth Circuit's February 22, 2024 Judgment (Rec. Doc. [211]) will take place before the District Judge. Signed by Magistrate Judge David J Ayo on 4/25/2024. (crt,Chicola, C)

6:19-cv-01027-JDC-DJA Notice has been electronically mailed to:

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

J CORY CORDOVA

CASE NO. 6:19-CV-01027

VERSUS

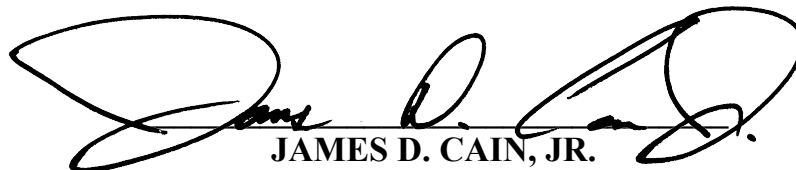
JUDGE JAMES D. CAIN, JR.

LOUISIANA STATE UNIVERSITY HEALTH SCIENCE CENTER ET AL **MAGISTRATE JUDGE DAVID J. AYO**

ORDER

Considering the withdrawal of Ms. Mire from representation of plaintiff and plaintiff's satisfaction of prior sanctions awards, the court hereby **ORDERS** that Ms. Mire be added as a respondent in this matter to the pending sanctions award remanded by the Fifth Circuit for the undersigned's determination. *See* doc. 211. **IT IS FURTHER ORDERED** that the Lafayette General defendants file a brief on the appropriate sanctions award within **21 days** of this order. Ms. Mire will then have **14 days** to file a response and defendants may file a reply within **5 days** thereafter.

THUS DONE AND SIGNED in Chambers on the 26th day of April, 2024.

A handwritten signature in black ink, appearing to read "James D. Cain, Jr.", is written over a horizontal line. The signature is stylized with large loops and a prominent initial "J".

JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE