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App.1a

**APPENDIX A  
ORDER, U.S. COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT  
(JUNE 20, 2024)**

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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

TERESITA A. CANUTO,

*Appellant,*

v.

UNITED STATES DEPARTMENT OF JUSTICE  
AND UNITED STATES ATTORNEY'S OFFICE,

*Appellees.*

---

No. 24-5068

1:22-cv-03538-DLF

Before: KATSAS, RAO, and CHILDS,  
Circuit Judges.

---

**ORDER**

Upon consideration of the motion for summary affirmance, the oppositions thereto, and the reply, it is

ORDERED that the motion for summary affirmance be granted. The merits of the parties' positions are so clear as to warrant summary action. *See*

*Taxpayers Watchdog, Inc. v. Stanley*, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). First, appellant does not address on appeal the district court's conclusion that her Federal Tort Claims Act ("FTCA") claims are barred by the discretionary-function exception to the FTCA's waiver of sovereign immunity, and she has therefore forfeited any challenge to that conclusion. See *United States ex rel. Totten v. Bombardier Corp.*, 380 F.3d 488, 497 (D.C. Cir. 2004). Next, appellant has not shown that a March 2014 complaint she allegedly filed with the Federal Bureau of Investigation—a complaint that predates the alleged conduct forming the basis of her current negligence claims—satisfies the FTCA's presentment requirement. See 28 U.S.C. § 2675(a). Finally, appellant's contention that the district court improperly added a defendant in the underlying cases is belied by the record and, in any event, does not provide a basis for disturbing the district court's conclusion that it lacked jurisdiction to consider appellant's claims.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

**APPENDIX B  
ORDER, U.S. DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA  
(FEBRUARY 9, 2024)**

---

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

TERESITA A. CANUTO,

*Plaintiff,*

v.

UNITED STATES DEPARTMENT OF  
JUSTICE, ET AL.,

*Defendants.*

---

No. 1:22-cv-03538 (DLF)

Before: Dabney L. FRIEDRICH,  
United States District Judge.

---

**ORDER**

In this action, Teresita A. Canuto alleges that the Department of Justice and the United States Attorney's Office for the District of Columbia negligently failed to act after Canuto suffered a series of batteries. Before the Court is the defendants' Motion to Dismiss under Rule 12(b)(1) of the Federal Rules of Civil Procedure. Dkt. 10. For three independent reasons, the Court finds that it lacks the jurisdiction to hear this

action. Thus, it will grant the defendants' motion to dismiss and deny all other pending motions as moot.

## I. Background

Allegedly, over a period of several years, members of the United States military stalked Canuto, broke into her home, and sexually assaulted her in retaliation for her decision to bring a lawsuit against vaccine manufacturers. Compl. at 5, 11-12, Dkt. 1; see Ex. 1 at 3, Dkt. 1-1; see Compl. at 11, Dkt. 1, No. 1:23-cv-1798. In 2022, Canuto filed a pro se negligence action under the Federal Tort Claims Act, 28 U.S.C. § 2671 *et seq.*, that sought \$60 million in damages from the Department of Justice and the United States Attorney's Office for "not act[ing] to battery"—that is, failing to prosecute the members of the military for their behavior in 2014 and 2015. Compl. at 5. In 2023, she filed a nearly identical action in this Court that sought \$380 million from the Department of Justice for failing to prosecute military members for similar behavior between 2014 and 2020. Compl. at 5, 16, Dkt. 1, 1:23-cv-1798. This Court consolidated the two actions.

The defendants now move to dismiss on the grounds that (1) they are improper defendants under the Federal Tort Claims Act; (2) Canuto failed to exhaust her administrative remedies; and (3) the Federal Tort Claims Act's discretionary-function exception bars her claim. See Mot. to Dismiss at 8-12. After Canuto responded to the motion and the defendants replied to her response, Canuto filed a Motion to Dismiss Defendants' Motion to Dismiss Plaintiffs Complaint, see Dkt. 15. The Court construed the filing as a sur-reply. *Id.* Thereafter, Canuto moved for leave

to file her sur-reply, Dkt. 16, followed by a motion for judgment on the pleadings, Dkt. 18, a motion for leave to file the motion for judgment on the pleadings, Dkt. 19, a motion for leave to file another sur-reply, Dkt. 23, and a motion for leave to move for summary judgment, Dkt. 25.

## II. Standards of Review

Rule 12(b)(1) of the Federal Rules of Civil Procedure allows a defendant to move to dismiss an action for lack of subject-matter jurisdiction. Fed. R. Civ. P. 12(b)(1). The burden is on the plaintiff to establish subject-matter jurisdiction. *Arpaio v. Obama*, 797 F.3d 11, 19 (D.C. Cir. 2015). When deciding a Rule 12(b)(1) motion, the Court must “assume the truth of all material factual allegations in the complaint and construe the complaint liberally, granting plaintiff the benefit of all inferences that can be derived from the facts alleged, and upon such facts determine [the] jurisdictional questions.” *Am. Nat. Ins. Co. v. FDIC*, 642 F.3d 1137, 1139 (D.C. Cir. 2011) (internal quotation marks omitted). A court that lacks jurisdiction must dismiss the action. Fed. R. Civ. P. 12(b)(1), 12(h)(3).

## III. Analysis

The Court lacks jurisdiction over Canuto’s action for three reasons.

First, Canuto sued the improper defendants. “The United States of America is the only proper defendant in a suit under the FTCA.” *Chandler v. Fed. Bureau of Prisons*, 226 F.Supp.3d 1, 5 n.3 (D.D.C. 2016); see also *Al-Dahir v. F.B.I.*, 454 F.App’x 238, 243 (5th Cir. 2011); *Jackson v. Kotter*, 541 F.3d 688, 693

(7th Cir. 2008); *Smith v. United States*, 561 F.3d 1090, 1099 (10th Cir. 2009); *Kucera v. Cent. Intel. Agency*, 347 F.Supp.3d 653, 660 (D.N.M. 2018) (“[A] federal agency like the CIA is not a proper defendant in an FTCA action.”). Canuto sued two agencies, the Department of Justice and the United States Attorney’s Office, instead of the United States in its own name. Because the Federal Tort Claims Act does not provide a cause of action for suit against these two agencies, the Court lacks jurisdiction over the lawsuit in its current state.

Second, Canuto has not shown that she exhausted her administrative remedies. The Federal Tort Claims Act requires a plaintiff to “present[] the claim to the appropriate Federal agency and . . . be[] finally denied by the agency in writing” before she may file a lawsuit on her claim. 28 U.S.C. § 2675(a). “[E]xhaustion is a jurisdictional requirement,” *Mensaw-Yawson v. Raden*, 170 F.Supp.3d 222, 233 (D.D.C. 2016) (citing *GAF Corp. v United States*, 818 F.2d 901, 917-20 (D.C. Cir. 1987)), and “a plaintiff’s failure to heed that clear statutory command warrants dismissal,” *id.* (citing *McNeil v. United States*, 508 U.S. 106, 113 (1993) (quotation marks omitted)). Canuto’s pleadings and response to the motion to dismiss do not address her satisfaction of the Act’s exhaustion requirement. *See generally* Compl.; Pl. Resp. to Mot. to Dismiss, Dkt. 11. In contrast, in an exhibit attached to the defendants’ motion to dismiss, the defendants’ declarant swears that “there is no record of an administrative claim being presented by Teresita A. Canuto” to the Department of Justice. Jenkins Decl. at ¶ 3, Dkt. 10-1; *cf. Rashad v. D.C. Cent. Det. Facility*, 570 F.Supp.2d 20, 24 (D.D.C. 2008) (looking to a declaration attached to



a motion to dismiss to support dismissal for failure to exhaust); *Mensah-Yawson*, 170 F.Supp.3d at 233 (same). Because Canuto has neither alleged nor demonstrated that she satisfied this prerequisite to the filing of a Federal Tort Claims Act lawsuit, the Court lacks jurisdiction to proceed with it.

Third, and perhaps most definitively, the government's alleged negligence falls within the discretionary function exception to the Federal Tort Claims Act. The Act's waiver of sovereign immunity does not extend to claims "based upon the exercise . . . or the failure to exercise . . . a discretionary function or duty on the part of a federal agency . . . , whether or not the discretion involved was abused." 28 U.S.C. § 2680(a). Canuto's chief complaint stems from the Department of Justice's decision not to "act" on a "battery" that members of the military allegedly inflicted on her following her decision to "opt out" of the vaccination program and bring a lawsuit against vaccine manufacturers. Compl. at 4-12. Canuto's precise claim is unclear, but she appears to allege unlawful inaction by government attorneys who failed to prosecute or take other action against military officials. *See, e.g., id.* at 10-11. It is well-settled that prosecutorial discretion and supervisory decisions go to the heart of the discretionary function exception. *Moore v. Valder*, 65 F.3d 189, 197 (D.C. Cir. 1995) ("Deciding whether to prosecute . . . [is] quintessentially discretionary."); *see also Gray v. Bell*, 712 F.2d 490, 513-14 (D.C. Cir. 1983) ("The discretion of the Attorney General in choosing whether to prosecute or not to prosecute . . . is absolute." (citation omitted)); *Chappell v. Wallace*, 462 U.S. 296, 305 (1983) ("[C]ourts are ill-equipped to determine the impact upon discipline that any particular

intrusion upon military authority might have.” (citation omitted)). “The discretionary function exception is a barrier to subject matter jurisdiction.” *Loughlin v. United States*, 393 F.3d 155, 162 (D.C. Cir. 2004). Because the Court lacks jurisdiction over Canuto’s claims, it will dismiss her complaint without prejudice. *See Norton v. United States*, 530 F.Supp.3d 1, 8 (D.D.C. 2021).

Finally, the Court will deny as moot Canuto’s remaining motions, *see* Dkt. 16, Dkt. 18, Dkt. 19, Dkt. 23, Dkt. 25, because none of them remedy the jurisdictional issues in the complaint. “[O]nce a court determines that it lacks subject matter jurisdiction, it can proceed no further.” *Simpkins v. D.C. Gov’t*, 108 F.3d 366, 371 (D.C. Cir. 1997).

Accordingly, it is

ORDERED that the defendants’ motion to dismiss, Dkt. 10, *see* Fed. R. Civ. P. 12(b)(1), is GRANTED, and the complaint, Dkt. 1, is DISMISSED without prejudice; it is further

ORDERED that the plaintiffs remaining motions, Dkt. 16, Dkt. 18, Dkt. 19, Dkt. 23, Dkt. 25, are DENIED AS MOOT.

The Clerk of Court is directed to close the case.

/s/ Dabney L. Friedrich  
United States District Judge

February 9, 2024

App.9a

**APPENDIX C  
ORDER, U.S. COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT  
(MARCH 27, 2024)**

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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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TERESITA A. CANUTO,

*Appellant,*

v.

UNITED STATES DEPARTMENT OF JUSTICE  
AND UNITED STATES ATTORNEY'S OFFICE,

*Appellees.*

---

No. 24-5068

1:22-cv-03538-DLF

---

**ORDER**

The notice of appeal was filed on March 18, 2024, and docketed in this court on March 27, 2024. It is, on the court's own motion,

ORDERED that appellant submit the documents listed below by the dates indicated.

Certificate as to Parties, Rulings, and Related Cases	April 26, 2024
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App.10a

Docketing Statement Form	April 26, 2024
Entry of Appearance Form	April 26, 2024
Procedural Motions, if any	April 26, 2024
Statement of Intent to Utilize Deferred Joint Appendix	April 26, 2024
Statement of Issues to be Raised	April 26, 2024
Transcript Status Report	April 26, 2024
Underlying Decision from Which Appeal or Petition Arises	April 26, 2024
Dispositive Motions, if any	May 13, 2024

A request for appointment of counsel does not relieve appellant of the obligation to file responses to any motion filed by appellees or to comply with any order issued by the court, including a briefing schedule. Failure by appellant to respond to a dispositive motion or comply with any order of the court, including this order, may result in dismissal of the case for lack of prosecution. *See* D.C. Cir. Rule 38.

It is

FURTHER ORDERED that appellees submit the documents listed below by the dates indicated.

App.11a

Certificate as to Parties, Rulings, and Related Cases	April 26, 2024
Entry of Appearance Form	April 26, 2024
Procedural Motions, if any	April 26, 2024
Dispositive Motions, if any	May 13, 2024

It is

FURTHER ORDERED that appellant submit a transcript status report every 30 days after the filing of the initial report, until all transcripts have been received. Within three days of receipt of all transcripts, appellant is directed to file a Final Status Report indicating the date the complete transcript was received. All reports must be served on the parties and each reporter. It is

FURTHER ORDERED that briefing in this case be deferred pending further order of the court.

The Clerk is directed to send a copy of this order to appellant by certified mail, return receipt requested, and by first class mail.

FOR THE COURT:

/s/ Mark J. Langer  
Clerk

BY:

/s/ Emily K. Campbell  
Deputy Clerk

**United States Court of Appeals  
District of Columbia Circuit**

E. Barrett Prettyman  
United States Courthouse  
333 Constitution Avenue N.W.  
Washington, D.C. 20001-2866

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**MEMORANDUM CONCERNING  
SELF-REPRESENTATION**

The records of this Court indicate you are litigating this appeal in a pro se capacity. That is, you are not represented by an attorney and will be personally preparing papers for submission to the Court.

Decisions of the Supreme Court of the United States and of this Court have held that individuals representing themselves who are not attorneys are entitled to have their pleadings viewed in a less restrictive manner than pleadings submitted by attorneys. Accordingly, you will be allowed to present your case in your own written words without strict adherence to technical requirements, as is expected of attorneys.

In one regard, however, you will be strictly held to the requirements of the Federal Rules of Appellate Procedure and the Circuit Rules of this Court, as if you were an attorney. This is in the area of timeliness of your filings. For example, your brief must be placed in the mail by the date established in the scheduling order issued by the Court. Another example is in responding to a motion filed by the party opposing you. You have ten calendar days within which to respond to a motion, plus an additional three calendar days if the motion was served on you by mail. You will be expected to adhere to these time requirements and all

App.13a

others in the previously mentioned rules. If any submission of yours is not made in a timely manner it will not be filed. If you believe you have good reason for not adhering to the time requirements, you may submit your pleading along with a second filing entitled Motion For Leave To File Out Of Time. In this second filing you should set forth your reasons for not having met the time requirements and ask the court to file your pleading nevertheless. You should be aware, however, that these motions are not routinely granted, but are read and evaluated on an individual basis.

Failure to comply with court orders, respond to dispositive motions by another party, or file your brief will result in dismissal of the appeal for lack of prosecution. See D.C. Cir. Rule 38.

**APPENDIX D  
ORDER DENYING PETITION FOR  
REHEARING, U.S. COURT OF APPEALS FOR  
THE DISTRICT OF COLUMBIA CIRCUIT  
(JULY 17, 2024)**

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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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TERESITA A. CANUTO,

*Appellant,*

v.

UNITED STATES DEPARTMENT OF JUSTICE  
AND UNITED STATES ATTORNEY'S OFFICE,

*Appellees.*

---

No. 24-5068

1:22-cv-03538-DLF

Before: SRINIVASAN, Chief Judge, and  
HENDERSON, MILLET, PILLARD, WILKINS,  
KATSAS, RAO, WALKER, CHILDS, PAN, and  
GARCIA, Circuit Judges.

---

**ORDER**

Upon consideration of the petition for rehearing  
en banc, and the absence of a request by any member  
of the court for a vote, it is



App.15a

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:

/s/ Mark J. Langer

Clerk

BY:

/s/ Daniel J. Reidy

Deputy Clerk

App.16a

**APPENDIX D.1  
MANDATE, U.S. COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT  
(JULY 17, 2024)**

---

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

TERESITA A. CANUTO,  
*Appellant,*

v.

UNITED STATES DEPARTMENT OF JUSTICE  
AND UNITED STATES ATTORNEY'S OFFICE,  
*Appellees.*

---

No. 24-5068  
1:22-cv-03538-DLF

---

**MANDATE**

In accordance with the order of June 20, 2024,  
and pursuant to Federal Rule of Appellate Procedure  
41, this constitutes the formal mandate of this court.

FOR THE COURT:

/s/ Mark J. Langer  
Clerk

BY:

/s/ Daniel J. Reidy  
Deputy Clerk

App.17a

**APPENDIX E  
OPINION AND ORDER,  
U.S. COURT OF FEDERAL CLAIMS,  
CASE NO. 15-410C  
(APRIL 27, 2015)**

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NOT TO BE PUBLISHED

IN THE UNITED STATES COURT  
OF FEDERAL CLAIMS

---

TERESITA A. CANUTO,

*Plaintiff,*

v.

UNITED STATES,

*Defendant.*

---

No. 15-410C

Before: LETTOW, Judge

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**OPINION AND ORDER**

Plaintiff Teresita Canuto, has filed a complaint seeking relief for personal injuries that allegedly resulted from wrongful acts committed by employees of the government and Department of Defense acting within the scope of their employment. Also pending before the court is Ms. Canuto's application to proceed *in forma pauperis*.

### BACKGROUND

Ms. Canuto is a nurse employed by a firm providing home health care. Compl. at 1. She claims that in October 2014, while caring for a patient in his townhouse in North Hills, California, she was assaulted by one or multiple members of the United States Army and Navy who served *as* tenants occupying a spare room within her patient's home. *See* Compl. at 3-10. Specifically, Ms. Canuto alleges that in October 2014 she noticed a painful u-shaped wound of unknown origin while bathing her patient and later developed a bruise "at the anterior lower libia of [her] right leg," Compl. at 4-6. In November 2014, Ms. Canuto reports that she also lost her appetite, had difficulty sleeping through the night, and, after examining herself, noticed additional injuries. Compl. at 6-7. While Ms. Canuto alleges no recollection of any specific attack in her complaint, she claims that she "was subjected to . . . the incision . . . of [her] big 8 forefinger of [her] left foot" and "[t]he light lower lumia of [her] leg was hit hard by a hard object.

[...]

App.19a

**APPENDIX F  
ORDER DENYING REIMBURSEMENT OF  
FEES, U.S. COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT,  
CASE NO. 2016-1605**

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Note: This order is nonprecedential  
UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

---

TERESITA A. CANUTO,

*Plaintiff-Appellant,*

v.

UNITED STATES,

*Defendant-Appellee.*

---

2016-1605

Appeal from the United States Court  
of Federal Claims in No. 1:15-cv-00821-EDK,  
Judge Elaine Kaplan.

---

**ON MOTION**

---

PER CURIAM.

**ORDER**

Appellant Teresita A. Canuto moves for reimbursement of the \$505 filing fee.

App.20a

Upon consideration thereof,

IT IS ORDERED THAT:

The motion is denied.

/s/ Peter R. Marksteiner

Clerk of Court

December 14, 2016

App.21a

**APPENDIX G  
D.C. CIRCUIT COURT DOCKET, EXCERPT  
APRIL 09, 2024 TO APRIL 29, 2024**

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**General Docket  
United States Court of Appeals for  
District of Columbia Circuit**

**Court of Appeals Docket #:** 24-5068  
**Docketed:** 03/27/2024      **Termed:** 06/20/2024  
**Nature of Suit:** 2360 Other Personal Injury  
Teresita Canuto v. DOJ, et al  
**Appeal From:** United States District Court for the  
District of Columbia  
**Fee Status:** Fee Paid

**Case Type Information:**

- 1) Civil US
- 2) United States
- 3)

**Originating Court Information:**

**District:** 0090-1: 1:22-cv-03538-DLF  
**Trial Judge:** Dabney L. Friedrich, U.S. District Judge  
**Lead:** 1 :22-cv-03538-DLF  
**Date Filed:** 11/16/2022  
**Date Order/Judgment:** 02/09/2024  
**Date NOA Filed:** 03/18/2024

**Prior Cases:**      None

**Current Cases:** None

App.22a

<b>Panel Assignment:</b> None
-------------------------------

Terasita A. Canuto  
Plaintiff-Appellant

Teresita A. Canuto  
Direct: 747-235-7111  
[NTC Pro Se]  
8101 Langdon Avenue  
#30  
Van Nuys, CA 91406

v.

United States Department of Justice  
Defendant - Appellee

Jane M. Lyons, Assistant U.S. Attorney  
Email: jane.lyons@usdoj.gov  
[COR LD NTC Gvt US Attorney]  
U.S. Attorney's Office  
(USA) Civil Division  
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Johnny Hillary Walker, 111,  
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App.23a

601 D Street, NW  
Washington, DC 20530

Jane M. Lyons, Assistant U.S. Atty  
[COR LD NTC Gvt US Attorney]  
(see above)

Johnny Hillary Walker, Ill,  
Assistant U.S. Attorney  
[COR LD NTC Gvt US Attorney]  
(see above)

United States Attorney's Office  
Defendant-Appellee

Teresita A. Canuto,  
Plaintiff – Appellant

v.

United States Department of Justice;  
United States Attorney's Office,  
Defendants - Appellees

04/09/2024

TRANSCRIPT STATUS REPORT [2049050] filed  
by Teresita A. Canuto [Service Date: 04/10/2024].  
Status of Transcripts: Final - No transcripts are  
needed for the appeal. [24-5068] [Entered:  
04/10/2024 03:25 PM]

04/22/2024

NOTICE [2051300] of corrected filings filed by  
Teresita A. Canuto [Service Date: 04/25/2024]  
[24-5068] [Entered: 04/25/2024 09:13 AM]

04/22/2024

CORRECTED APPELLANT BRIEF [2051364]  
filed by Teresita A. Canuto [Service Date:

App.24a

04/20/2024] Length of Brief: 26 pages. [24-5068]  
[Entered: 04/25/2024 11:56 AM]

04/22/2024

CORRECTED APPENDIX [2051367] filed by  
Teresita A. Canuto [Volumes: 1] [Service Date:  
04/20/2024] [24-5068] [Entered: 04/25/2024 11:57  
AM]

04/26/2024

ENTRY OF APPEARANCE [2051575] filed by  
Johnny H. Walker and co-counsel Jane M. Lyons  
on behalf of Appellees DOJ and United States  
Attorney's Office. [24-5068] (Walker, Johnny)  
[Entered: 04/26/2024 02:56 PM]

04/26/2024

CERTIFICATE AS TO PARTIES, RULINGS  
AND RELATED CASES [2051576] filed by DOJ  
and United States Attorney's Office [Service Date:  
04/26/2024] [24-5068] (Walker, Johnny) [Entered:  
04/26/2024 02:56 PM]

04/26/2024

NOTICE [2051640] of corrected filing filed by  
Teresita A. Canuto [Service Date: 04/25/2024]  
[24-5068] [Entered: 04/29/2024 08:53 AM]

04/26/2024

NOTICE [2051641] of corrected filing filed by  
Teresita A. Canuto [Service Date: 04/25/2024]  
[24-5068] [Entered: 04/29/2024 08:56 AM]

04/29/2024

NOTICE [2051881] of corrected filing filed by  
Teresita A. Canuto [Service Date: 04/26/2024]  
[24-5068] [Entered: 04/30/2024 08:00 AM]

04/29/2024

App.25a

NOTICE [2051895] of filing corrections to date of notice of appeal in appellant's brief, appellants corrected brief and civil docketing statement filed by Teresita A. Canuto [Service Date: 04/27/2024] [24-5068] [Entered: 04/30/2024 08:36 AM]

05/13/2024

NOTICE [2054222] of corrected filing filed by Teresita A. Canuto [Service Date: 05/11/2024] [24-5068] [Entered: 05/14/2024 08:49 AM]

05/13/2024

NOTICE [2054227] of corrected filing filed by Teresita A. Canuto [Service Date: 05/11/2024] [24-5068] [Entered: 05/14/2024 08:53 AM]

05/16/2024

NOTICE [2054862] received from the Clerk of the U.S. District Court to supplement record: corrected filing [24-5068] [Entered: 05/16/2024 12:28 PM]

05/20/2024

RESPONSE IN OPPOSITION [2055638] to motion for summary affirmance [2054144-2] filed by Teresita A. Canuto [Service Date: 05/16/2024 by US Mail] Length Certification: 13 pages. [24-5068] [Entered: 05/22/2024 09:43 AM]

05/21/2024

MOTION [2056063] for leave to file a corrected filing filed by Teresita A. Canuto (Service Date: 05/20/2024 by US Mail) Length Certification: 2 pages. [24-5068] [Entered: 05/23/2024 03:16 PM]

05/21/2024

RESPONSE IN OPPOSITION [2056065] to motion for summary affirmance [2054144-2]

App.26a

lodged by Teresita A. Canuto [Service Date: 05/20/2024 by US Mail] Length Certification: 15 pages. [24-5068] [Entered: 05/23/2024 03:19 PM]

05/23/2024

REPLY [2055980] filed by DOJ and United States Attorney's Office to response [2055638-2] [Service Date: 05/23/2024 by US Mail] Length Certification: 440 words. [24-5068] (Walker, Johnny) [Entered: 05/23/2024 12:03 PM]

05/29/2024

RESPONSE IN OPPOSITION [2056812] to motion for summary affirmance styled as motion to dismiss [2054144-2] filed by Teresita A. Canuto [Service Date: 05/28/2024 by US Mail] Length Certification: 9 pages. [24-5068] [Entered: 05/29/2024 03:52 PM]

06/05/2024

CLERK'S ORDER [2058007] filed granting motion for other relief [2056063-2]; The Clerk is directed to file response [2056065-2] [24-5068] [Entered: 06/05/2024 12:24 PM]

06/05/2024

PER ABOVE ORDER lodged response [2056065-2] is filed [24-5068] [Entered: 06/05/2024 12:28 PM]

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**APPENDIX H  
D.C. DISTRICT COURT DOCKET, EXCERPT  
CASE NO. 1:22-CV-03538-DLF**

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**U.S. District Court  
District of Columbia (Washington, DC)  
Civil Docket For Case #: 1:22-cv-03538-DLF**

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**CANUTO v. UNITED STATES DEPARTMENT OF  
JUSTICE ET AL.**

**Date Filed:** 11/16/2022

**Date Terminated:** 02/09/2024

**Jury Demand:** Plaintiff

**Nature of Suit:** 360 P.I.: Other

**Jurisdiction:** U.S. Government Defendant

**Assigned to:** Judge Dabney L. Friedrich

**Case in other court:** USCA, 24-05068

**Cause:** 28: 1331

**Fed. Question:** Personal Injury

**Plaintiff**

**TERESITA A. CANUTO**  
represented by TERESITA A. CANUTO  
8101 Langdon Avenue #30  
Van Nuys, CA 31406  
(747) 235-7111 PRO SE

v.

**Defendant**

**UNITED STATES DEPARTMENT OF JUSTICE**

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represented by **Patricia K. McBride**  
U.S. ATTORNEY'S OFFICE FOR THE DISTRICT  
OF COLUMBIA  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-7123  
Fax: (202) 252-2599  
Email: patricia.mcbride@usdoj.gov  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**UNITED STATES ATTORNEY'S OFFICE**  
represented by **Patricia K. McBride**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

11/16/2022

- 1 COMPLAINT against UNITED STATES ATTORNEYS OFFICE, UNITED STATES DEPARTMENT OF JUSTICE (Filing fee \$ 402, receipt number 203491) with Jury Demand filed by TERESITA A. CANUTO. (Attachments: # 1 Exhibits, # 2 Civil Cover Sheet)(zed) (Entered: 11/23/2022)

10/27/2023

- 22 REPLY to opposition to motion re 19 MOTION for Leave to File filed by TERESITA A. CANUTO. (mg) (Entered: 10/31/2023)

10/27/2023

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23 MOTION for Leave to File by TERESITAA.  
CANUTO. (mg) (Entered: 10/31/2023)

10/30/2023

24 SUPPLEMENTAL MEMORANDUM to re 21  
Notice (Other) filed by TERESITA A. CANUTO.  
(mg) (Entered: 11/03/2023)

10/31/2023

MINUTE ORDER granting plaintiffs 23 Motion for  
Leave to File. The plaintiff shall file any response  
in the light of defendant's 19 Notice on or before  
November 19, 2023. So Ordered by Judge Dabney  
L. Friedrich on October 31, 2023. (lcldf3) (Entered:  
10/31/2023)

11/01/2023

25 MOTION for Leave to File Summary Judgment  
by TERESITA A. CANUTO. (mg) (Entered:  
11/03/2023)

11/03/2023

26 ERRATA by TERESITA A. CANUTO re 25 Motion  
for Leave to File. (mg) (Entered: 11/03/2023)

02/09/2024

27 ORDER. See text for details. The Clerk of Court  
is directed to close this case. Signed by Judge  
Dabney L. Friedrich on February 9, 2024. (lcldf3)  
(Entered: 02/09/2024)

03/18/2024

28 NOTICE OF APPEAL TO DC CIRCUIT COURT  
as to 27 Order on Motion to Dismiss by TERESITA  
A. CANUTO. Filing fee \$ 605, receipt number  
206947. Fee Status: Fee Paid. Parties have been

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notified. (Attachments: # 1 Exhibit)(mg) (Entered: 03/27/2024)

03/27/2024

- 29 Transmission of the Notice of Appeal, Order Appealed (Memorandum Opinion), and Docket Sheet to US Court of Appeals. The Court of Appeals fee was paid re 28 Notice of Appeal to DC Circuit Court. (mg) (Entered: 03/27/2024)

03/27/2024

USCA Case Number 24-5068 for 28 Notice of Appeal to DC Circuit Court filed by I TERESITAA. CANUTO. (znmw) (Entered: 03/27/2024)



**APPENDIX I  
PETITIONER'S CLAIM AGAINST FBI FILED  
IN THE D.C. DISTRICT COURT,  
RELEVANT EXCERPTS  
(NOVEMBER 15, 2022)**

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**CLAIMS III**

Plaintiff seeks damages and is entitled to damages against Defendant United States Department of Justice due to negligence under 28 U.S. Code and 1605. Defendant United States Department of Justice is not immune from the jurisdiction of the court of the United States because Defendant waived its immunity caused by negligence when the attorneys of the Commercial Litigation Branch, Civil Division of United States Department of Justice, WA, DC did not act to battery inflicted to Plaintiff caused by negligence while acting within the scope of their office or employment namely Daniel S. Herzfeld, Elizabeth M. Hosford, Robert E. Kirschman, Jr., Benjamin C. Mizer, Kristin McGrory and Daborah A Bynum. The Defendant is being sued for negligence under 28 U.S. Code & 1605\_ (Ex. IV)

**CLAIMS IV**

Plaintiff seeks damages and is entitled to damages against Defendant United States Department of Justice due to negligence under 28 U.S. Code & 2675, 28 U.S. Code & 1346 and 28 U.S. Code 1605. One of Defendant's subsidiaries the Federal Bureau of Investigation (FBI) in WA, DC did not act to Plaintiff's complaint of trespass or unreasonable intrusion to Plaintiff's private property and stalking to Plaintiff by un-

known civilians caused by negligence of FBI while acting within the scope of their office or employment.

1. That on March 11, 2014 Plaintiff mailed a letter of complaint to the Federal Bureau of Investigation (FBI) in Washington, DC due to stalking to Plaintiff by unknown civilians, frequent break-in, intrusion to private dwelling of Plaintiff which resulted to loss or private papers and records, photographs.

2. That the letter of complaint address to FBI in WA, DC was mailed via FedEx Kinkos located at 9000 Tampa Ave., Northridge, CA 91324. Plaintiff emailed the FBI in WA, DC and submitted the complaint. The FBI did not responded to Plaintiff's letter or email on 2014. On October 2014 members of the U.S. Navy and U.S. Army began the assault to Plaintiff.

#### **RELIEF**

Plaintiff Teresita A. Canuto requesting this Court that the Defendant United States Department of Justice pay for damages as a relief to Plaintiff in the amount of SIXTY MILLION DOLLARS (\$60,000,000.00). The following are the breakdown of the specific amount of damages against Defendant United States Department of Justice:

\$20,000,000.00 - For negligence caused by Defendant did not act to battery (Case no. 2016-1605)

\$20,000,000.00 - For negligence caused by Defendant did not act to battery (Case no. 2015-5085)

\$20,000,000.00 - For negligence caused by FBI did not act to stalking, trespass/unreasonable intrusion to Plaintiff's dwelling later resulted to battery of Plaintiff on October 2014.

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\$60,000,000.00	Total
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I declare or certify under the penalty of perjury  
that the foregoing is true and correct.

Date: November 15. 2022

/s/ Teresita A. Canuto

Pro se

8101 Langdon Ave. #30

Van Nuys, CA 91406

**APPENDIX J**  
**COMPLAINT FOR A CIVIL CASE FILED IN**  
**THE U.S. DISTRICT AND BANKRUPTCY**  
**COURTS FOR THE DISTRICT OF COLUMBIA**  
**(NOVEMBER 16, 2022)**

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UNITED STATES DISTRICT AND BANKRUPTCY  
COURTS FOR THE DISTRICT OF COLUMBIA

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TERESITA A. CANUTO  
8101 Langdon Avenue #30,  
Van Nuys, CA 91406

v.

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Civil Action No.  
Jury Trial Yes

UNITED STATES DEPARTMENT OF JUSTICE

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**COMPLAINT**

Plaintiff Teresita A. Canuto files this complaint against United States Department of Justice in Washington, DC due to negligence caused by attorneys of the Commercial Litigation Branch, Civil Division, United States Department of Justice, WA, DC who did not act to battery inflicted to Teresita A. Canuto caused by negligence while acting within the scope of their office or employment namely Daniel S. Herzfeld, Elizabeth M. Hosford, Robert E. Kirschman, Jr., Benjamin C. Mizer, Kristin McGrory and Deborah A. Bynum. The Defendant United States Department of Justice is being sued for negligence under 28 U.S. Code &

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2675, 28 U.S. Code & 1346 (b) and 28 U.S. Code & 1605. Plaintiff is requesting that the Defendant pay for damages as a relief to Plaintiff in the amount of SIXTY MILLION DOLLARS (\$60,000,000.00) and requesting for a trial by jury.

Date: November 15, 2022

/s/ Teresita A. Canuto

Pro se

8101 Langdon Ave #30

Van Nuys, CA 91406

Received Nov 16 2022 Clerk of Court US District Court of District of Columbia
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**COMPLAINT FOR A CIVIL CASE,  
U.S. DISTRICT COURT FOR THE  
DISTRICT OF COLUMBIA  
(NOVEMBER 16, 2022)**

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UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLUMBIA

Case: 1:22-cv-03538 JURY DEMAND

Assigned to: Friedrich, Dabney L.

Assign. Date: 11/16/2022

Description: Pro Se Gen. Civ (E-DECK)

Jury Trial Yes

Received: Nov 16 2022

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TERESITA A. CANUTO  
*Plaintiff(s),*

v.

UNITED STATES DEPARTMENT OF JUSTICE  
*Defendant(s),*

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## COMPLAINT FOR A CIVIL CASE

### I. The Parties to This Complaint

#### A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Teresita A. Canuto
Street Address	8101 Langdon Avenue. #30
City and County	Van. Nuys
State and Zip Code	California 91406
Telephone Number	(747) 235-7111
E-mail Address	tsscanuto@gmail.com

#### B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

**APPENDIX K  
APPEAL TO THE US COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT IN 2015-5085 IN  
THE JUDGMENT OF U.S. COURT OF  
FEDERAL CLAIMS IN NO. 1:15-CV-00410-CFL,  
JUDGE CHARLES F. LETTOW, EXCERPT  
(SEPTEMBER 14, 2015)**

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Note: This disposition is non-precedential

UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

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TERESITA A. CANUTO

*Plaintiff-Appellant,*

v.

UNITED STATES

*Defendant-Appellee,*

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2015-5085

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Appeal from the United States Court of Federal  
Claims in No. 1:15-cv-00410-CFL,  
Judge Charles F. Lettow.

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Decided: September 14, 2015

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Teresita A. Canuto, Panorama City, CA pro se.

Kristin McGrory, Commercial Litigation Branch,  
Civil Division, United States Department of Justice,  
Washington, DC, for defendant-appellee. Also  
represented by Benjamin C. Mizer, Robert E.  
Kirschman, Jr., Deborah A. Bynum.

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**APPENDIX L  
NOTICE OF ENTRY OF JUDGMENT  
ACCOMPANIED BY OPINION  
(SEPTEMBER 14, 2015)**

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UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

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TERESITA A. CANUTO

*Plaintiff-Appellant,*

v.

UNITED STATES

*Defendant-Appellee,*

---

2015-5085

Appeal from the United States Court of Federal  
Claims in No. 1:15-cv-00410-CFL,  
Judge Charles F. Lettow.

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**NOTICE OF ENTRY OF JUDGMENT  
ACCOMPANIED BY OPINION**

OPINION FILED AND JUDGMENT ENTERED:  
09/14/2015

The attached opinion announcing the judgment of  
the court in your case was filed and judgment was  
entered on the date indicated above. The mandate will  
be issued in due course.

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Information is also provided about petitions for rehearing and suggestions for rehearing en banc. The questions and answers are those frequently asked and answered by the Clerk's Office.

No costs were taxed in this appeal.

Regarding exhibits and visual aids: Your attention is directed Fed. R. App. P. 34(g) which states that the clerk may destroy or dispose of the exhibits if counsel does not reclaim them within a reasonable time after the clerk gives notice to remove them. (The clerk deems a reasonable time to be 15 days from the date the final mandate is issued.)

FOR THE COURT

/s/ Daniel E. O'Toole

Clerk of Court

cc: Teresita A. Canuto

Kristin McGrory

15-5085 - Canuto v. US

United States Court of Federal Claims,

Case No. 1 :15-cv-00410-CFL

**APPENDIX M  
APPELLANT'S BRIEF - MOTION TO DISMISS  
THE APPELLEES' MOTION FOR  
SUMMARY AFFIRMANCE, EXCERPT  
(MAY 28, 2024)**

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UNITED STATES COURT OF APPEALS FOR THE  
DISTRICT OF COLUMBIA CIRCUIT

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TERESITA A. CANUTO

*Appellant,*

v.

No. 24-5068

Date Filed: May 28, 2024

DEPARTMENT OF JUSTICE, ET AL.,

*Appellees,*

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**MOTION TO DISMISS THE APPELLEES'  
MOTION FOR SUMMARY AFFIRMANCE**

Comes now Teresita A. Canuto, Appellant in the above-captioned cause., and respectfully moves that this Court dismiss the Appellees' Motion for Summary Affirmance with prejudiced for the reasons stated as follows:

1. Appellee United States Attorney's Office was in a wrong lawsuit because there was only one Defendant in Appellant's lawsuit which is the Department of Justice. Appellee United States Attorney's Office was in a lawsuit that has two Defendants, the

Department of Justice and United States Attorney's Office (DOJ, et al.) caused by the District Court's excessive number of Defendants it put in to the case no. 1:22-cv-03538 of the Appellant's lawsuit that clearly stated in the Complaint of Appellant that the only Defendant is the Department of Justice. Technically, the Appellee: United States Attorney's Office was in the wrong lawsuit. If Appellant put in the name of the Appellee United States Attorney's Office in page 2, it's because Appellant followed the Fed.R.Civ.P. that requires the United States Attorney's Office must be given with summons/complaint and Appellant unintentionally committed a mistake of putting the Appellee United States Attorney's Office in page 2, but actually the Appellee was not included in the lawsuit and only the Defendant sued was the Department of Justice as evident in the Complaint of Appellant that shows no name of the Appellee United States Attorney's Office was mentioned in the Complaint of Appellant.

[...]