ORIGINAL

No. 24-5749

IN THE

SUPREME COURT OF THE UNITED STATES

Noel Vincent Thomas — PETITIONER
(Your Name)

vs.

NCMLIC, et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

NOEL VINCENT THOMAS
(Your Name)

14004 NEPHI PLACE, APT 103
(Address)

TAMPA, FLORIDA 33613
(City, State, Zip Code)

813-817-7667
(Phone Number)

QUESTION PRESENTED

1) WHETHER THE TRIAL COURT ERRED AS A MATTER OF LAW BY AFFIRMING THE LOWER COURT DECISION BASED ON THE ASSERTIONS OF FAILURE TO STATE A CLAIM, FAILURE TO COMPLY WITH FEDERAL RULES, SOVEREIGN IMMUNITY AND ACTION BEING BARRED BY RES JUDICATA?
2) WHETHER THE TRIAL COURT ABUSED ITS DISCRETION BY REFUSING TO EXAMINE OR REVIEW THE COMPLAINT AND THE SUPPORTING EXHIBITS WITHIN THE FOUR CORNER LIMITS OF THE PLEADINGS AND THE DENIAL OF THE MOTION TO PROCEED IN FORMA PAUPERIS?

PARTIES TO PROCEEDINGS AND RELATED CASES

Petitioner, Noel Vincent Thomas, was the Plaintiff in the U.S. District Court for the Eastern District of North Carolina and the Appellant in the U.S. Court of Appeals for the Fourth Circuit proceedings.

Respondents, North Carolina Mutual Life Insurance Company, Michael L. Lawrence, North Carolina Department of Insurance, John Hoomani, Alabama Department of insurance and James Finn, was Defendants in the U.S. District Court for the Eastern District of North Carolina and the Appellees in the U.S. Court of Appeals for the fourth Circuit proceedings.

Below are all the past and present cases of other courts that are directly related to this action:

Noel Thomas vs. North Carolina Mutual Life Insurance Company, et al, No. *1:18-cv-00445-TFM-N*, U.S. District Court for the Southern District of Alabama, judgment entered on January 17, 2020.

Noel Thomas vs. North Carolina Mutual Life Insurance Company, et al, No. 20-10318, U.S. Court of Appeals for the Eleventh Circuit, judgment entered on April 15, 2020.

Noel Vincent Thomas vs. North Carolina Mutual Life Insurance Company, et al, No. 20-CC-043897, Florida Hillsborough County Small Claims Court, judgment entered on May 4, 2021.

Noel Vincent Thomas vs. North Carolina Mutual Life Insurance Company, et al, No. 2D21-1346, Florida Second District Court of Appeals, judgment entered on December 15, 2021.

Noel Vincent Thomas vs. North Carolina Mutual Life Insurance Company, et al, No. 1:22-cv-00011-TFM-N, U.S. District Court for the Southern District of Alabama, judgment entered on June 28, 2023.

Noel Vincent Thomas vs. North Carolina Mutual Life Insurance Company, et al, No. 23-12428, U.S. Court of Appeals for the Eleventh Circuit, judgment entered on February 26, 2024.

Noel Vincent Thomas vs. North Carolina Mutual Life Insurance Company, et al, No. 23-CC-127014, Florida, Hillsborough County Circuit Court, case still pending.

TABLE OF CONTENTS

TABLE OF APPENDICES

TABLE OF CITATIONS

PETITION FOR WRIT OF CERTIORARI

Petitioner, Noel Vincent Thomas, respectfully request the issuance of a writ of certiorari to review the judgment of the U.S. Court of Appeals for the fourth Circuit.

OPINION BELOW

The unpublished order from the U.S. Court of Appeals for the Fourth Circuit, denying Petitioner's petition for rehearing en banc, reprinted at, ***Pet. (App. A, 1a)***. An unpublished order by the U.S. Court Of Appeals for the Fourth Circuit affirming the decision of U.S. District Court reprinted at, ***Pet. (App. B, 2a-4a)***. An unpublished order by the U.S. District Court for the Eastern District of North Carolina denying Petitioner's motion for new trial, reproduced at, ***Pet. (App. C, 5a-8a)***. Unpublished order by the U.S. District Court for the Eastern District of North Carolina adopting the U.S. Magistrate Judge's memorandum and recommendation reprinted at, ***Pet. (App. D, 9a-11a)***. The unpublished order and memorandum and recommendation

from the U.S. District Court for the Eastern District of North Carolina, granting Petitioner's motion to proceed in forma pauperis and the recommendation for the dismissal of the complaint, reprinted at, ***Pet. (App. E, 12a-23a)***.

JURISDICTION

Noel Vincent Thomas, the Petitioner was denied access to the court by the denial of his petition for rehearing en banc by the U.S. Court of Appeals for the fourth Circuit on July 26, 2024, ***(See Pet. App. A 1a)***. The Petitioner invokes this Court's jurisdiction under ***28 U.S.C. § 1257***, having timely filed this petition for writ of certiorari within the (90) ninety days of the U.S. Court of Appeals for the fourth Circuit's judgment.

STATEMENT OF CASE AND FACTS

In February of 2018, Petitioner's-Appellant's sister passed away and upon going through her legal documentation a letter from North Carolina Mutual Life Insurance Company was discovered dated January 4, 2018, and it indicated a loan payment, the current loan balance, and accruing interest that was due on policy number 0184560N, which belonged to Willie A. sullen "previous policy owner" ***(See E-1, compl.).*** In that letter the Respondents-Appellees stated that the death benefits would be reduced by the amount of the loan balance and that they encouraged the policy owner to pay the loan balance in full, in order that the beneficiary may receive the complete payment upon death, and this very act alone, by NCMLIC, is fraud, extortion and embezzlement, due to the fact that the Respondents-Appellees have failed to produce or provide documented proof to Petitioner-Appellant, his family or the courts, that the loan currently or in past

times ever existed. Also, that letter and all other loan payment statements were sent to Petitioner's-Appellant's family members, and not to the previous policy owner who was incarcerated at that time and the Respondents-Appellees know that to be true because they sent him a letter while in prison, dated July 2, 2018, which instructed the previous policy owner to send them a notarized document with all his requests for information and documentation, ***(See E-2, compl.),*** and the date of that particular document and the above-mentioned January 4, 2018, letter confirms that the previous policy owner had no knowledge or involvement in the fictitious loan scheme. Due to the previous policy owner being incarcerated at the time of the discovery of the above-stated January 4, 2018, document Petitioner-Appellant immediately sent him a letter inquiring information on whether he knew anything about the loan issue and he responded by writing a letter stating he never gave permission to anyone to access his policy information. Once that fact was established, Petitioner-Appellant informed the previous policy owner to write a letter to North Carolina Mutual Life Insurance Company (NCMLIC), explaining what changes to the policy he was requesting and all pertinent information related to the fraudulent loan taken out on his policy and to attach a certificate of service to that letter ***(See E-3, compl.),*** then forward those documents to Petitioner-Appellant, so that he could mail those documents to NCMLIC, customer service department, along with a letter written by Petitioner-Appellant requesting information and the proper procedures to follow to gain the necessary authorization to make policy decisions and he, also provided all the supporting documentation to help facilitate the matter. On June 15, 2018, Petitioner-Appellant sent to NCMLIC, all the above-mentioned information and notified NCMLIC, that the previous policy owner was incarcerated and unable to effectively communicate with them in

a personal manner, he then provided the previous policy owner's contact information to NCMLIC, so that they could forward to him the proper documents to transfer the policy over to Petitioner-Appellant and receive the requested information. The previous policy owner (Willie A Sullen) received a letter from NCMLIC, dated July 2, 2018, at the contact address that Petitioner-Appellant provided, and that letter informed the previous policy owner of the necessary actions that was required of him to make the changes to his policy and to get access to the requested documentation, which was to send NCMLIC, a signed and dated notarized letter ***(See E-2, compl.).*** Petitioner-Appellant mailed certified letters to NCMLIC, CEO, Michael L Lawrence and their customer service department, over a period of time throughout the dates of July 20, 2018, and June 11, 2020, ***(See E-4,5,6,7, compl.),*** also accompanying one of those certified letters was an information request letter from Petitioner-Appellant and a notarized document from the previous owner of the policy, dated July 11, 2018, requesting a history of all transactions and the necessary forms to make changes to his policy ***(See E-8, compl.),*** in which, NCMLIC, refused to comply to his demand. And if this Court would examine both letters from the previous policy owner ***(See E-3,8, compl.),*** it probably would concluded, that NCMLIC, was given ample opportunity to make the requested changes to the policy and provide the Petitioner-Appellant and the previous policy owner with all the loan related information and report the criminal matter to the proper authority before litigation started, but they failed to perform their duties before and after the fact as required by Alabama law ***(See E-9, compl.).*** Petitioner-Appellant received a letter from NCMLIC, dated August 7, 2018, claiming that their company was prohibited from sharing information about the previous owner's insurance policy or make changes without the appropriate

legal documents authorizing a non-owner to act on behalf of the owner ***(See E-10, compl.).*** But NCMLIC, ignored the fact that Petitioner-Appellant provided legal documentation from the previous policy owner on two separate occasions giving him authority over the policy, and they also refused the previous policy owner's request for information concerning the illegal fraudulent loan obtained by an unidentified person, with their possible assistance or make the requested changes to the policy. Due to NCMLIC, continuous effort to deny Petitioner-Appellant and the previous policy owner access to basic information about the insurance policy, Petitioner-Appellant was forced to take several different civil routes to seek redress for the policy violation issues perpetrated by NCMLIC. In the letter to Petitioner-Appellant from NCMLIC, dated August 7, 2018, they stated that he needed durable power of attorney or letters of conservatorship from a court, yet they say a loan was given to an unknown and unidentified individual without any of the above-mentioned documents or a notarized letter or consent from the previous policy owner. The refusal of NCMLIC, to provide the necessary information to Petitioner-Appellant and the previous policy owner (Willie A Sullen), which would have allowed them to determine the real value of the policy because at that point, there was an outstanding debt that was due on the policy, which was produced by the fraudulent loan illegally obtained, that is, if it did exist and the documents could be produced to prove its validity. By the actions of NCMLIC, to deny Petitioner-Appellant and the previous policy owner requested documentation they were committing the crimes of conspiracy, fraud, and extortion because Petitioner-Appellant pay the premium on the policy and without the proper documents, there was no way to know if he was making a bad investment, so here, NCMLIC, actions amount to breach of contract. Petitioner-Appellant became the new owner

of the policy in question, on December 12, 2019, ***(See E-11, compl.),*** and he discovered that the fictitious loan was supposedly granted on July 22, 2002, in the amount of $262.33, in which NCMLIC, claims the loan predated their acquisition of the company responsible for the loan and that NCMLIC, did not have the original loan documents in their possession, but they continued to extort money from Petitioner's-Appellant's family for years, without providing any proof that the loan ever existed ***(See E-12, compl.).*** And in fact, in the Respondents-Appellees answer brief from the Florida Appeals Court, on page 8, they stated that NCMLIC, did not have original loan documentation in their records and could not provide a copy to Petitioner-Appellant, then on page 14, NCMLIC, asserted that they were unable to produce at trial the policy loan documents, as it had never received them from the acquired business and therefore was not entitled to enforce the policy loan ***(See E-13,14, compl.).*** Yet, none of the Lower Courts forced NCMLIC, to produce the loan documents by way of discovery or an evidentiary hearing and thereby assisted them in criminal activities by dismissing the fraud, conspiracy and negligence causes of action while at the same time NCMLIC, claimed that they were not entitled to enforce the policy loan, but for years NCMLIC, had been extorting money from Petitioner's-Appellant's family by way of using the false loan to force them to pay the loan balance or lose the policy, by reduction of the death benefits. And by NCMLIC, failure to comply to the laws or the demands of the previous policy owners, it forced Petitioner-Appellant to write and send certified letters to the following entities: Alabama Department of Insurance, National Insurance Crime Bureau, Alabama Commissioner of Insurance, and Alabama and Florida Attorney Generals, ***(See E-15, 16, 17, 18, 19, 20, 21, compl.).*** Plaintiff received an e-mail response from Alabama Department of

Insurance (ALDOI), Fraud Division, dated August 15, 2018, stating that they were referring the fraud claim to their consumer services division, even after Petitioner-Appellant provided clear proof that a crime had been committed against his insurance policy ***(See E-22, compl.).*** Once Petitioner-Appellant and the previous owner of the policy informed NCMLIC, that there was a possible act of fraud against the insurance policy, their duty, based upon the Code of Alabama mandatory reporting requirements, was to notify Alabama and North Carolina Department of Insurance or the Commissioner of Insurance, which they never did, because they were part of the conspiracy to illegally confiscate funds from the policy in question ***(See E-9, compl.).*** In the above-mentioned e-mail dated August 15, 2018, the investigator claimed that the process begins with the ALDOI, Consumer Services Division, even though Petitioner-Appellant provided documentation proving a crime had been committed and that NCMLIC, failed to report fraud allegations to their agency, therefore violating legal protocols. Petitioner-Appellant then received an e-mail from the ALDOI, Consumer Services Division, dated August 24, 2018, containing the exact words of the letter that was sent to him by NCMLIC, but the e-mail failed to address any of the crimes or allegations reported to that agency ***(See E-23, 29, compl.).*** First, ALDOI, Consumer Services Division, failed to address the fact that, NCMLIC, did not report Petitioner-Appellant and the previous policy owner fraud claims, although we provided all the documentation to them proving that this crime occurred, but still ALDOI, refused to even conduct a real investigation into that problem area. Then after Petitioner-Appellant provided ALDOI, with letters and notarized documents from the previous policy owner, clearly giving him authority over his policy and then forwarded to ALDOI, a letter from NCMLIC, that was sent to the

previous policy owner which outlined the required documents that were necessary to authorize Petitioner-Appellant to access the requested information, still ALDOI, rejected those documents and refused to perform it is sworn duties to investigate criminal activities. ALDOI, e-mail shows complete corruption within the system because the consumer specialist did not even bother to do a minimum investigation, he just copied words from the same letter sent to Petitioner-Appellant verbatim but totally ignored all the evidence he provided ***(See E-23, 29, compl.).*** The key issues here are NCMLIC, conspired to cover up fraud violations, that they were illegally a part of, due to them providing a said loan to unknown persons, without the proper authorization or documentation and then refused to allow the previous policy owner to make legal decisions regarding his own policy. And once Petitioner-Appellant and the previous owner of the policy brought the fraud incident to NCMLIC, attention they became hostile toward the people who had a legitimate right to the policy information and funds but were rejected from accessing the requested documentation. And by NCMLIC, refusal to report the crime of fraud and provide the requested information to Petitioner-Appellant and the previous policy owner, it only proves that they have been involved in some illegal activities pertaining to all insurance policies in their possession. And ADOI, willfully and knowingly assisted NCMLIC, in a conspiracy to cover up the crime of fraud by refusing and ignoring factual information that was presented to them and then refused to promptly and properly act upon the documents that Petitioner-Appellant provided to multiple officials within that agency. Due to NCMLIC, failure to resolve the loan issue, Petitioner-Appellant was forced to file a lawsuit in the Federal Court System in October of 2018, and the only asserted issue that the Court could find with his complaint was that they claimed that he did not have

standing, due to NCMLIC, refusal to make the ordered changes to the policy in question, but in December of 2019, Petitioner-Appellant gained complete authorization over the insurance policy ***(See E-11, 12, compl.),*** and in January of 2020, the Federal District Court illegally dismissed Petitioner's-Appellant's civil action without allowing the Respondents-Appellees the opportunity to respond and after the fact that he had obtained legal standing in the case. Petitioner-Appellant immediately appealed the Lower Federal Court decision, only to encounter the same opposition in the United States Appeals Court, which was to deny and dismiss every motion filed in that Court by Petitioner-Appellant which the Appeals Court follow suit by dismissing his complaint for failure to pay the filing fees after denying his forma pauperis motion. In December of 2019, NCMLIC, mailed Petitioner-Appellant a package with general policy information attached but failed to include any documentation related to the presumed loan that was borrowed by an unknown person and without providing him with any legal documents that authorized such an action, and as of this date, Petitioner-Appellant has yet to receive any proof that the fictitious loan in question actually existed. Petitioner-Appellant is quite convinced that both NCMLIC, and Booker T Washington Insurance Company (BTWIC), place tremendous pressure on his family to repay the false loan and its accruing interest and due to the previous policy owner being incarcerated, Petitioner's-Appellant's family was concerned about his wellbeing, so they paid the loan and its accruing interest without questioning the legitimacy of the loan situation, due to the fact that they were unable to afford a lawyer and just wanted to cover funeral expenses in case something happens to the insured and NCMLIC, knew that fact and took advantage of his family and forced them to pay the loan and its interest or cause the reduction of the death benefits or lose the

policy completely. On July 1, 2020, Petitioner-Appellant received a letter from NCMLIC, informing him that the company was placed in rehabilitation on December 3, 2018, by order of Wake County Superior Court, North Carolina, with the consent of the Board of Directors of NCMLIC ***(See E-24, compl.).*** And according to that document, the order was confidential and sealed by the court and was unsealed on February 1, 2019, which means they have placed a freeze on all assets, including insurance policies and they sent Petitioner-Appellant a request for hardship form to be completed as soon as possible, so that NCMLIC, could determine whether he qualify for such relief. The problem with that concept is that Petitioner-Appellant and the previous policy owner attempted to force NCMLIC, to make changes to the policy, provide the true value of the policy, provide loan and interest information and to allow the possibility of cancellation of such, so it was not an option for NCMLIC, to conclude whether he was eligible for hardship because they forfeit their rights to make any legal decision concerning the policy in question, due to the fact that NCMLIC, failed to provide the previous policy owners with the proper information in a timely manner and refused to make the necessary requested changes that would have allowed Petitioner-Appellant the ability to take the proper action. Petitioner-Appellant started to communicate with NCMLIC, in February of 2018, concerning the loan, first by way of telephone then by certified letters and Finally, the filing of his federal lawsuit in October of 2018, and soon following that action, the rehabilitation orders was issued on December 3, 2018, so the Respondents-Appellees had almost a year to rectify Appellant's-Plaintiff's loan problem before their company went into bankruptcy status and now, they are trying to punish him for errors and crimes they committed throughout this process by refusing to compensate him for damages and cost

inflicted upon him without legal or logical reasons. After experiencing great difficulty in the Federal Courts, Petitioner-Appellant decided to file an action in the Florida Small Claims Court (FSCC) to achieve several objectives and on July 29, 2020, he filed a civil complaint and attached to that action, a seven-page statement of claim with fifty-three pages of exhibits, which supported and confirmed all his allegations and causes of action. NCMLIC, never filed a single document with the clerk of FSCC, to defend themselves, in the above-mentioned action, for almost one year, yet the FSCC refused to enter default judgment against NCMLIC, in turn, aided and abetted them in a conspiracy to cover up fraudulent behavior. Petitioner-Appellant received an e-mail from North Carolina Department of Insurance (NCDOI), fraud division, dated November 5, 2020, and in that letter, the General Counsel for that agency was attempting to negotiate some type of deal that would have alleviated the criminal liability of NCMLIC, ***(See E-25, compl.),*** and because NCDOI, is supposed to be an investigative body that search out the matter of insurance fraud, but in that instance, NCDOI, was defending criminals from the repercussion of their illegal actions. In that e-mail NCDOI, acknowledge the fact that Petitioner-Appellant had held conversations with officials from NCMLIC, prior to his e-mail, concerning the possible resolution to the problem, but failed because NCMLIC, refused to compensate him for all the damages and cost stemming from their misconduct. The phone conferences held between Petitioner-Appellant and NCMLIC, top officials and the desire of the General Counsel for NCDOI, to meet with him is proof positive that serious crimes had been committed not just against just his policy but against thousands of other policy holders from NCMLIC, who was forced to pay fake loans off, that did not exist. The death benefits payment on Petitioner's-Appellant's insurance policy is minimum and did

not warrant the involvement of the key officials in both NCMLIC, and NCDOI, unless there were some critical legal issues pending, that was costlier than money because NCMLIC, is spending tens of thousands of dollars in legal fees for representation, in which they could have easily given that money to him but they know that's only part of the solution, the other part is criminal liability, so suppression and cover ups are to be utilized to cease any information or documentation that exposes the reality that NCMLIC, have been extorting and embezzling money from possibly thousands of policy holders, in the same manner of his situation. Then on December 8, 2020, Petitioner-Appellant received and confirmed mediation with the Respondents-Appellees, which lasted for about four hours ***(See E-26, compl.),*** and ended with NCMLIC, offering to place the insurance policy back into its original state, which only benefitted the Respondents-Appellees because it relieved them of criminal liability, by returning all stolen loan payments and the accruing interest to Petitioner-Appellant, but refusing to compensate for all the damages caused by their negligent and fraudulent actions. Then on February 9, 2021, NCMLIC, legal counsel e-mailed Petitioner-Appellant a group of falsified and fabricated exhibits with a letter of explanation attached, claiming that those documents would be used at the scheduled February 11, 2021, first final hearing ***(See E-27, compl.),*** then, FSCC, conducted Petitioner's-Appellant's first final hearing, which was set for February 11, 2021, and in that hearing, he was denied due process and access to the court, by the FSCC, action of putting him on mute for the duration of the hearing, which disallowed him the ability to have any input into the FSCC, decision to reschedule the hearing for March 31, 2021, which gave the Respondents-Appellees an illegal and unrequested extension of time and due to the fact that NCMLIC, had just hired

their legal representation, therefore, FSCC, assisted them with the necessary time for them to prepare some type of legal defense, which is aiding and abetting the Respondents-Appellees in criminal activities. Now NCMLIC, legal counsel refused to file or present the above-mentioned false documents with the clerk of the FSCC, during the February 11, 2021, first final hearing, because they knew the penalty for committing fraud against the court, so on February 16, 2021, Petitioner-Appellant filed a seven-page additional statement of claim along with fifty pages of exhibits, which had been sent to him by NCMLIC, legal counsel on February 9, 2021. And on February 22, 2021, the second final hearing was scheduled for March 31, 2021, wherein, the FSCC, abused their discretion by introducing known false evidence into court records, which had been e-mailed to the court, by the Respondents-Appellees, who failed to filed any documents, pleadings or responses to the complaint with the FSCC, for about one year or without going through the proper procedures or channels to present the documentation and in the second final hearing on March 31, 2021, the FSCC, admitted in the court records (transcript), that sending the false documents to the FSCC, Judge's e-mail was not the proper channel to receive evidence, but still the Court submitted those false exhibits into the court records. Among the exhibits emailed to Petitioner-Appellant on February 9, 2021, by NCMLIC, legal counsel were the following documents: **(1)** An application for the insurance policy in question, printed on the original BTWIC, letterhead form ***(See E-28, compl.),*** which is over thirty years old and is the only true and correct document filed in the FSCC, by both parties and yet NCMLIC, failed to produce a single exhibit on BTWIC, letterhead forms, to show and prove the fictitious loan existed, which was supposed to be only twenty years old and the FSCC, failed to order NCMLIC, to provide such information since the loan was the

core issue of Petitioner's-Appellant's complaint. Another exhibit emailed to Petitioner-Appellant on February 9, 2021, and was e-mailed to the FSCC, Judge on March 31, 2021, **(2)** Was a false and fabricated document that NCMLIC, sent to ALDOI, on August 24, 2018, trying to justify their criminal behavior ***(See E-29, compl.),*** and in that letter NCMLIC, was making all kind of false assertions, such as, the policy and loan in question was issued by BTWIC, and that NCMLIC, only assumed that company on April 29, 2010, and only relied on electronic data to prove the loan existed but failed to produce any evidence to support that theory and the FSCC, refused to order an evidentiary hearing to get access to that information. NCMLIC, further asserted that they were unable to make changes to the policy or release information to Petitioner-Appellant without consent from the previous policy owner, when in reality he provided NCMLIC, with letters from the previous policy owner ***(See E-3,8, compl.),*** that clearly requested forms to make changes to the policy, the history of the policy, and loan information, but NCMLIC, refused to comply due to the fact that they knew the previous policy owner was incarcerated and did not want to turn the policy over to Petitioner-Appellant because they assumed legal action would eventually follow. NCMLIC, continued providing false information to ALDOI, by stating that it was not evidence that a policy loan was fraudulently taken out by a party other than the previous policy owner and that the previous policy owner's letters were not signed and that NCMLIC, does not have any documentation from BTWIC, indicating that any fraud occurred on the policy ***(See E-3,8,29, compl.).*** First, Petitioner-Appellant provided NCMLIC, and the FSCC, with evidence that fraud had been committed against the policy, which were certified and notarized letters from the previous policy owner, asserting that he never gave permission to anyone to access his policy and that the loan was

fraudulent and that he wanted all information related to the policy and the loan ***(See E-3,8, compl.).*** The above-mentioned NCMLIC, false and fabricated letter sent to ALDOI, in August of 2018, was claiming that the previous policy owner's letters were not signed, but that is an untrue statement and both letters prove so, ***(See E-3,8, compl.)*** therefore, NCMLIC, was insinuating the allegations of fraud could not be officially investigated, due to the unsigned documents and yet this same falsified exhibit was e-mailed to the FSCC, Judge on March 31, 2021, to be used as evidence, which meant NCMLIC, lied to a government investigative body "ALDOI" and then committed perjury in the FSCC, and knowingly and willingly submitted false documents to both the afore-mentioned government authorities and allowed this information to be continuously circulated without performing its due diligence of investigating Petitioner's-Appellant's fraud allegations. In the March 31, 2021, second final hearing, the FSCC, erroneously dismissed the causes of action for fraud, conspiracy, and negligence without applying the standard required by the Florida Rules of Civil Procedure, when fraud was alleged, and purposefully ignored all the supporting evidence provided by Petitioner-Appellant, which proved such crimes were committed. And even in the FSCC, final judgment, in which Petitioner-Appellant was the prevailing party, the admission of guilt of the three above-mentioned causes of action was pronounced when the Court stated that the Respondents-Appellees did not produce at trial the original documents to prove the policy loan, that was at issue ***(See E-30, compl.),*** and to clarify the FSCC, instructions to the Respondents-Appellees, is the fact they did not produce any documents to confirm the existence of the loan, yet at the same time the FSCC, refused to order discovery or an evidentiary hearing. Petitioner-Appellant filed in the FSCC, a statement of claim along with fifty-three pages of exhibits on July 29,

2020, and on February 16, 2021, he filed an additional statement of claim with fifty pages of exhibits and NCMLIC, never filed any pleadings, motions, responses, exhibits or presented a defense throughout duration of the civil proceedings, yet the FSCC, found favor for the Respondents-Appellees by dismissing the causes of action for conspiracy, fraud and negligence, after taking false testimony at trial, so what evidence did the Court rely upon? Since all documents was provided by Petitioner-Appellant and supported his causes of action and allegations and the Respondents-Appellees never presented to the Court any documents or defense to prove their innocence. The FSCC, stated in the final judgment that the Court finds for Petitioner's-Appellant, inasmuch as the Respondents-Appellees did not produce at trial the original documents to prove the policy loan that is at issue, but here the FSCC, failed to clarify and identify the breach of contract because the loan was not part of the contract between any of the parties involved in the agreement and since NCMLIC, claims that BTWIC, initiated the loan and that they were not responsible for it and the Petitioner-Appellant and the previous policy owner alleged they never gave authorization for the issuance of the loan, then this shows the fictitious loan cannot be a breach of contract but rather a breach of the federal and state criminal laws and it was the responsibility of the FSCC, to do a thorough investigation into the loan to prove a breach of contract existed. The meaning of breach is as follows: an act of breaking or failing to observe a law, agreement, or code of conduct; this explanation clearly proves that the FSCC, abused its discretion by dismissing the causes of action for fraud, conspiracy and negligence, because the court refused to hold an evidentiary hearing or discovery to determine if the loan did or didn't exist, which was the only process available to the court to utilize to establish a breach of contract but the refusal of the Respondents-

Appellees to provide evidence of the loan to the FSCC, is surely a violation of the law because if the loan does not exist the Respondents-Appellees have committed fraud, conspiracy and negligence. Once the FSCC, refused to comply with the law Petitioner-Appellant filed a civil action in the U.S. District Court on August 2, 2022, and on August 18, 2022, the U.S. Magistrate Judge issued an order to correct deficiencies in Petitioner's-Appellant's motion for leave to proceed in forma pauperis and on August 23, 2022, that issue was rectified. Then on September 2, 2022, the U.S. Magistrate Judge issued an order and memorandum and recommendation (OMR) to falsely grant Petitioner-Appellant's application to proceed in forma pauperis pursuant to ***28 U.S.C. § 1915 (a)(1)***, while at the same time recommending that Petitioner's-Appellant's claim be dismissed for failure to state a claim pursuant to ***28 U.S.C. § 1915(e)(2)***, which is a direct contradiction to the requirements for granting forma pauperis status, under the above stated statute, which is as follows: (A) the allegations of poverty are untrue, or (B) the notice or appeal – (i) is frivolous or malicious; (ii) failed to state a claim on which relief may be granted; or (iii) seeks money relief against a defendant who is immune from such relief, so here its clearly states that forma pauperis status cannot be granted until the complaint has been thoroughly examined for the afore-mentioned deficiencies. And on May 2, 2024, the U.S. District Judge adopted the OMR and dismissed the action and on May 26, 2023, Petitioner-Appellant filed a motion for a new trial. Then on October 12, 2024, the U.S. District Court denied Petitioner's-Appellant's motion for new trial and on October 20, 2024, Petitioner-Appellant file an appeal into the U.S. Court of Appeals for the fourth Circuit and on April 1, 2024, the U.S. Court of Appeals affirmed the lower Court decision and on April

12, 2024, Petitioner-Appellant filed a petition for rehearing en banc, and on July 26, 2024, the Fourth Circuit denied Petitioner's-Appellant's petition.

ARGUMENT

1. **Whether the Trial Court erred as a matter of law by dismissing the complaint based upon the assertions that Petitioner's failed to state a claim, failed to comply with federal rules, res judicata and sovereign immunity?**

Petitioner's alleged failure to comply with FRCP 8(a)(1)(2).

The Trial Court asserted in its September 2, 2022, order and memorandum and recommendation (OMR), that pro se litigant complaints are entitled to a more liberal treatment than pleadings drafted by attorneys, and further, the court must read the complaint carefully to determine if the plaintiff has alleged facts sufficient to support the claim. *See, White v. White, 886 F.2d 721-724 (4th Cir. 1989).* The court is permitted to pierce the veil of the complaint's factual allegations and dismiss those claims whose contentions are clearly baseless. *See, Neitzke v. Williams, 490 U.S. 327 (1989.* The complaint must contain enough facts to state a claim to relief that is plausible on its face. *See, Bell Atlantic Corp. v. Twombly, 550 U.S. 570 (2007).* Short and plain statement of the claim showing that the pleader is entitled to relief. The Trial Court asserted in the September 2, 2022, OMR that the above stated rule required the statement to give a defendant fair notice of what the claims are and the grounds upon which they rest, yet the statement must be short and plain. Petitioner-Appellant filed a 26-page complaint with 30 complex and supportive exhibits into the Trial Court on August 2, 2022, and if the Appeals

Court would examine the complaint on page 1 paragraph 2,3,4 under the heading of ***jurisdiction and venue*** and this Court would discover that Petitioner-Appellant was in full compliance with ***FRCP 8(a)(1)***, by outlining the Court's jurisdictional authority in three short and plain statements. And further on page 1 paragraph 1 under the titled of, ***complaint with demand for jury*** it displays a short and plain statement of the claim showing that the pleader is entitled to relief, and it demonstrates why the action is being brought, who the criminal perpetrators are and what violations were committed, so that statement met the requirements of ***FRCP 8(a)(2)***. And by the Trial Court maliciously and illegally attempting to utilize the above-stated rule, it is clearly violating Petitioner's-Appellant's ***U.S. Constitutional 1st Amendment Right***, which asserts, or abridging the freedom of speech or to petition the government for redress of grievances. And further the action of the trial Court in holding Petitioner's-Appellant's complaint to a more stringent standard than those drafted by attorneys violates the ***U.S. Constitution 5th and 14th Amendments***, which violates due process of law. Since ***FRCP 8(a)***, only deals with a small aspect of the total contents of the complaint and has no relevance to the factual allegations or causes of action, therefore any such violation by pro se litigant should not result in the dismissal of the lawsuit, so the Trial Court erred in judgment by arguing moot points. The Trial Court failed to explain why was ***FRCP 8(a)(1)(2)***, associated with failure to state a claim, res judicata and sovereign immunity, since the Trial Court never really raised any jurisdiction issues and the complaint was in full compliance with the rule and The Trial Court decided to dismiss the complaint in its entirety utilizing all procedure issues without identifying one single defect in the substantive matter of the complaint, while at the same time alleging that Petitioner-Appellant failed to state a claim.

Petitioner-Appellant filed a 26-page factual complaint with 30 supportive exhibits into the Trial Court and on September 2, 2022, that Court recommended that the complaint be dismissed in its entirety, which means, the Trial Court believes that none of the evidence filed in that Court to be true and accurate, so if the complaint is frivolous then all the exhibits are illegitimate also since all those documents are directly linked together and support and prove all the allegations or causes of action. By the Trial Court rejecting all Petitioner's-Appellant's evidence presented to the Court, it now has the responsibility to show and prove the assertions made in its OMR, so the burden of proof has shifted to the Trial Court for them to demonstrate that Petitioner-Appellant intent is to harass, delay or embarrass the opposition.

Petitioner's alleged failure to state the basis for the Court jurisdiction.

The Trial Court asserted that Petitioner-Appellant initiated his action by bringing the claims fraud, conspiracy, negligence, violation of privacy, equal protection and due process laws, and that Petitioner-Appellant invoked ***42 U.S.C. §1983***, titled, civil action for deprivation of rights and ***42 U.S.C. §1985(1)(2)(3)***, titled, conspiracy to interfere with civil rights, along with several federal criminal statutes, which the Trial Court alleged had no relevance to the case or the supporting documentation. In the Trial Court September 2, 2022, OMR, it asserted that Petitioner's-Appellant's complaint failed to demonstrate the following: (1) failed to allege facts that would tend to show facial plausibility; (2) have not alleged any required factors of ***18 U.S.C. § 1030***; (3) have not alleged any facts that support a cause of action under ***18 U.S.C. § 1038***; (4) failed to plausibly allege any deprivation of constitutional rights by the state actors; and (5) alleged no facts

tending to show that any of the state defendants deprived him of a cognizable property interest and that the procedures implemented by the state actors to cause deprivation were constitutionally inadequate. All the above listed alleged procedural defects are insufficient reasons or grounds for the dismissal of Petitioner's-Appellant's complaint because the Trial Court Knows that Petitioner-Appellant is not a certified attorney and is capable of legal errors, but the fact of the matter is that the complaint within itself, gave total jurisdiction to the Trial Court and the following information will support that assertion: Pursuant to ***28 U.S.C. §1331***, titled, federal question, which asserts, the district court shall have original jurisdiction of all civil actions arising under the Constitution, laws, and treaties of the United States. Based upon the above statute the Trial Court had original jurisdiction over this action because the Respondents-Appellees conspired with other government agencies to fabricate and falsify government and private documents and send that information via U.S. mail and electronic mail (email) to Petitioner-Appellant, the Courts, government and private entities, which violated ***18 U.S.C. § 241***, titled, conspiracy of rights; ***18 U.S.C. § 1037***, titled, fraud and related activity in connection with electronic mail; ***18 U.S.C. § 1038***, titled, false information and hoaxes; ***18 U.S.C. § 1341***, titled, fraud and swindles; and ***18 U.S.C. § 1349***, titled, attempts and conspiracy. The federal question was clearly answered in all the above federal violations because the Respondents-Appellees deprived Petitioner-Appellant of his constitutional rights and privileges guaranteed by the ***U.S. Constitution 5th Amendment***, which states, no be deprived of life liberty, or property without due process of law and the ***U.S. Const. 14th Amendment***, which asserts, no state shall make or enforce any law which shall abridge the privileges; or immunities of a citizen of the United States, nor shall any

state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the law. Petitioner-Appellant have been forced to litigate this action for about four years in multiple courts and jurisdictions and have provided all those courts with overwhelming evidence that the Respondents-Appellees have committed fraud by manufacturing false government and private document and have committed crimes in several jurisdictions, through a conspiratorial enterprise, but the courts failed to ensure Petitioner-Appellant received equal protection of the law. This means that the Respondents-Appellees have violated Petitioner's-Appellant's constitutional rights and federally protected privileges and the Trial Court has aided and abetted them in their criminal enterprise by refusing to hold a fair hearing or trial and report the violations to the proper authorities as require by ***18 U.S.C. § 4***, titled, misprision of felony; and thereby denying Petitioner-Appellant access to the court and due process of law.

The legal argument against the use of res judicata.

The Trial Court attempted to use the principle of *res judicata* as a means to dismiss this action, by quoting case law that stated, that a prior judgment between the same parties can preclude subsequent litigation on those matters actually and necessarily resolved in the first adjudication. First the above concept is not a law, but rather it's a theory, rooted in the ***U.S. Constitution 7th Amendment*** and since the concept of res judicata originated in the above stated U.S. law and is mostly utilized in federal bankruptcy courts, then the question must be asked how can the res judicata principle be feasibly applicable in county and state courts due to these governing bodies having their own codes, rules, laws and statutes, which ofttimes

conflict with one another and this is the purpose and function of higher courts, which is to seek to appeal those opposing opinions for resolution? The Trial Court continued to assert in its OMR, that Petitioner-Appellant was attempting to bring an action regarding the same transaction or occurrence that formed the basis of his FSCC, case that he prosecuted. And here the Trial Court is insinuating that the lower court decision is the finality of the process, when in fact the Trial Court knows that the FSCC, is a special court, which is not designed for extensive legal argument and that is one of the reasons that Petitioner-Appellant was not allowed legal representation and evidentiary hearings or discovery are rarely used due to the time factors involved in the process, so how can a court with those types of limitations render a proper and competent judgment? The Trial Court further asserted that the claims that Petitioner's-Appellant's raised in his action are barred by res judicata, yet the Court knows for a fact that this lawsuit is not identical to the complaint filed in the FSCC, because first NCMLIC, was the only defendant in that action and it was only a seven-page claim but this lawsuit contain 26 pages of information and 30 exhibits, with several new defendants added. According to the OMR, the Trial Court has failed to list one single word or sentence from Petitioner's-Appellant's complaint in which it has found any deficiencies in argument or lack of factual contents in the allegations or causes of actions, yet the Trial Court continue to allege that Petitioner's-Appellant's claim are subject to dismissal as frivolous, failed to state a claim and barred by the eleventh amendment.

Failure by the Trial Court to prove res judicata applies to this case.

The Trial Court has failed to demonstrate or explain how the concept of res

judicata applies to county and state courts because that principle originated from the ***7th Amendment of the U.S. Constitution***, which clearly declared that no facts tried by jury, shall be otherwise reexamined in any court in the United States, Therefore, res judicata cannot be utilized due to the lack of a jury final decision and there being different transactions, occurrence, defendants and evidence. The first prerequisite for res judicata states, (1) a judicial decision by a proficient court or tribunal; yet the FSCC, was not a forum for legal argument but rather it relied on documentation instead of law and further Petitioner-Appellant was not allowed legal counsel, therefore the FSCC, is not a proficient court to render final judgment. And further the Trial Court does not have in their possession the records of the lower tribunal, so it is impossible for the Trial Court to determine whether the lower court decision is final or binding, or the decision was made on the merits of the case, or if it was a fair trial but the fact remains that the Trial Court has no legal authority to try and implement a theoretical concept that has no real basis in constitutional law. The question must be asked, why is the Trial Court maliciously alleging that Petitioner's-Appellant's complaint is barred by res judicata and failed to state a claim when the Court has never ruled on the merits of the claim nor has it reviewed or examine the complaint, which in reality, is sufficient evidence within itself and plausible on its face to force the trial Court to proceed with a jury trial? And if the Trial Court would have reviewed the 30 supporting exhibits, it would not be claiming that Petitioner-Appellant failed to meet the pleading requirements because those documents established and supported a counterclaim against the three main requirements for failure to state a claim.

Requirements for Failure to State a Claim

The Trial Court had in their possession not only sufficient facts but moreover, it had overwhelming and irrefutable false and fabricated documents in the form of exhibits, which showed and proved, that the Respondents-Appellees had committed serious crimes, yet the Trial Court refused to acknowledge the existence or validity of such documents and even if Petitioner-Appellant did not file those exhibits with the Court, the complaint within itself is sufficient to pass the plausibility test. Petitioner-Appellant filed a 26-page complaint with 30 supporting exhibits and within a month period of time the Trial Court determined that Petitioner's-Appellant's complaint was frivolous and failed to meet the pleading requirements standard and therefore, the action failed to state a claim and based upon the Trial Court decision it proves that the Court was not an impartial arbiter because it refused to hold Petitioner's-Appellant's pleadings to a less stringent standard than pleadings drafted by attorneys. The plausibility test is less than the probability requirements and it does not necessitate much evidence to persuade the Court into mere belief, but the Trial Court refused to dissect, examine or analyze the complaint's allegations or causes of action thereby violating the same law or principle, in which the Trial Court was attempting to employ to dismiss this action. And moreover, the Trial Court has been loosely using the term failed to state a claim without proof of such an assertion because the Trial Court filed an OMR on September 2, 2022, and nowhere in that judgment does the Court quote one word or sentence from Petitioner's-Appellant's complaint where the Court can argumentatively find deficiencies in the allegation to support the Trial Court's theory that the action failed to state a claim, and that issue within itself produces serious problems in the Court's final decision. And furthermore, the stated position

or stance by the Trial Court totally defeats the Court's assertion of failure to state a claim, because most of the alleged deficiencies are based on procedural violations and not substantive matters except for the assertion of failure to state a claim, which is not a procedural in nature but rather it is an affirmative defense against the entire complaint. So, in order for the Trial Court to sustain that legal position it must be able to show and prove Petitioner's-Appellant's allegations or causes of action are not factual, believable or trustworthy, which means, the Trial Court must dissect every aspect of Petitioner's-Appellant's argument and enumerate them and finally point out all the defects that does not meet the pleading standard and not just casually allege Petitioner-Appellant failed to state a claim. Petitioner-Appellant believes that there is a high probability that the Trial Court has not thoroughly examine Petitioner's-Appellant's complaint and supporting exhibits due to the reason that the Court has failed to mention any problem area in the action, which demonstrate a lack of interest in the process and that type of behavior renders the Trial Court unable to make sound legal decisions due to the refusal to examine the evidence. The first main requirement needed to establish failure to state a claim is as follows:

a) ***The Petitioner failed to offer an example of illegal activity conducted by the Respondents.***

In February of 2018, Petitioner-Appellant discovered a false and fabricated document sent to his family member for the express purpose of extorting money from them and embezzling funds from the insurance policy in question ***(See E-1, compl.)***, In the above-mentioned document it displayed a loan payment, a current loan balance and the accruing interest and it stated that the death benefits would be

reduced by the amount of the loan balance and that NCMLIC, encouraged the policy holder to pay the amount in full, in order that the beneficiary may receive the complete payment. The above stated document was a collection notice sent to Petitioner-Appellant and his family every month to force them to make illegal payments on a fictitious loan that the Respondents-Appellees have yet to produce any proof that it ever existed. Petitioner-Appellant sent several certified mailed complaints with attached exhibits to NCMLIC, for an extended period of time and also sent the same information to Alabama Department of Insurance (ALDOI), and Alabama, Florida and North Carolina Attorney General Offices ***(See E-15-21, compl.)***, yet not one of those entities complied with the law or performed their sworn duties to report and investigate. Petitioner-Appellant initiated his first lawsuit in the Alabama federal court because that was one of the jurisdictions that the crimes were committed and according to the ***Code of Alabama (COA) 27-12A-21(a)***, titled; mandatory reporting requirements, which asserts, persons engaged in the business of insurance, having knowledge or a reasonable belief that insurance fraud is being, will be, or has been committed shall provide to the department such information that is required by, and in the manner prescribed by, the department ***(See E-9, compl.)***. NCMLIC, have totally violated this law because as of this date NCMLIC, have never reported this crime to Alabama, Florida or North Carolina Department of Insurance and in fact Petitioner-Appellant have contacted all of the afore-mentioned who knowingly and willingly conspired with NCMLIC, to cover up those crimes ***(See E-15-23, compl.)***. According to ***COA 27-12-21(b)***, which states, a person other than an insurer having knowledge or having a reasonable belief that insurance fraud is being, will be, or has been committed may provide the information to the attorney general, the department or both. As stated, before

Petitioner-Appellant sent numerous complaints to NCMLIC, starting in June of 2018, until December of 2020 ***(See E-4-7, compl.)***, and throughout August of 2018, Petitioner-Appellant sent certified mailed complaints with supporting exhibits to Alabama and Florida Attorney General, Alabama Commissioner of Insurance, Alabama Department of Insurance and the National Insurance Crime bureau ***(See E-15-21, compl.)***, yet all these entities allowed NCMLIC, to continue violating fraud, conspiracy and negligence laws unabated. The Florida Attorney General sent Petitioner-Appellant an email dated September 13, 2018, telling him to contact North Carolina Department of Insurance (NCDOI), concerning the fraud claim and this was after the fact that Petitioner-Appellant had provided clear proof, in the form of exhibits, that showed serious crimes had been committed in multiple jurisdictions. After Petitioner-Appellant filed a complaint in FSCC, in the year of 2020, he received an email from NCDOI, dated November 5, 2020, attempting to negotiate with Petitioner-Appellant on behave of NCMLIC, ***(See E-25, compl,)***, even though NCDOI, had in their possession Petitioner-Appellant complaint and all the supporting evidence proving that the crimes of fraud, conspiracy and negligence were committed by NCMLIC, and further NCDOI, had access to all of NCMLIC, records and knew that the loan in question did not exist but continued to conspire with the perpetrators to conceal the above-stated violations. Petitioner-Appellant received an email from ALDOI, fraud bureau; dated August 15, 2018, after contacting that specific division by means of a certified mailed fraud complaint with supporting exhibits but unfortunately NCDOI, fraud bureau; referred the matter to their consumer services department ***(See E-22, compl.)***, who in turn refused to conduct a real investigation by asserting in a letter sent to Petitioner-Appellant dated, August 24, 2018, that NCMLIC, was unable to release

information on a policy to another individual without the policy owner's written consent, nor can they make any changes to the policy on behalf of a non-owner without the appropriate legal documentation authorizing such person to make those changes ***(See E-23, compl.)***. First according to ***COA 27-12A-21(b)***, which states; a person other than an insurer having knowledge or having a reasonable belief that insurance fraud, is being, will be, or has been committed may provide the information to the attorney general, the department or both ***(See E-9, compl.)***. The above code does not require the reporter of fraud to be a policy holder nor needing written consent to perform the reporting duty and that very action is a criminal violation on multiple levels by ALDOI, because Petitioner-Appellant and the NCMLIC, have provided that agency with certified and notarized letters from the previous policy owner giving Petitioner-Appellant authority to legally act on his behalf but NCMLIC, refused to comply with the orders of the previous policy holder and ALDOI, knew this fact but took no enforcement action against the afore-mentioned business ***(See E-3,8, compl.)***. And further ALDOI, knew the fraud complaint was centered around the fictitious loan but failed to compel NCMLIC, to produce any and all evidence to support the existence of such. NCMLIC, sent a false and fabricated letter to ALDOI, dated August 24, 2018, claiming that the policy in question was issued by Booker T. Washington Insurance Company (BTWIC), and that NCMLIC, assumed that business on April 29, 2010, and that they were relying on the electronic data that they inherited from BTWIC, to respond to Petitioner's-Appellant's complaint ***(See E-29, compl.)***. Here is clear proof of a conspiracy by both ALDOI and NCMLIC, to cover up fraud crimes for NCMLIC, by claiming they relied on electronic data from BTWIC, to enforce the loan but failed to provide that same information to ALDOI, the Courts and

Petitioner-Appellant, and still ALDOI, refused to demand the production of said data. In a false and fabricated letter sent to Petitioner-Appellant dated December 12, 2019, from NCMLIC, they asserted in that document that they did not have the original loan documentation in their records ***(See E-12, compl.)***, then in their answer brief filed in the Florida Appeals Court, NCMLIC, stated on page 8, that NCMLIC, did not have a copy of the original document in their records, and could not provide a copy to Petitioner-Appellant ***(See E-13, compl.)***, and on page 14, of that same document, it was said that NCMLIC, was unable to produce the policy loan document at trial, as it had never received them from BTWIC ***(See E-14, compl.)***. And in the final judgment from FSCC, the trial judge stated that, as to Petitioner's-Appellant's cause of action for breach of contract, the court finds for Petitioner-Appellant, inasmuch as the Respondents-Appellees did not produce at trial the original documents to prove the policy loan that is at issue ***(See E-30, compl.)***. This is a serious criminal enterprise, because NCMLIC, is admitting in the above documents that the loan does not exist and that they have no record of such but Alabama, Florida, and North Carolina Attorney Generals, the Courts, the FBI, the Justice Department, Alabama and North Carolina Department of Insurance and all other agencies that Petitioner-Appellant have contacted concerning those violations, have refused to demand and compel NCMLIC, to produce evidence of the loan, in which they have been extorting money from Petitioner's-Appellant's family for years and also embezzling funds from the insurance policy.

b) The Petitioner failed to provide evidence to prove that the Respondents broke the law.

NCMLIC, sent false and fabricated collection notice to Petitioner's-

Appellant's family forcing them to make illegal loan payments without producing any evidence to prove the existence of such ***(See E-1, compl.)***. And further NCMLIC, sent Petitioner-Appellant a falsely fabricated letter claiming that they were prohibited from sharing information about the policy or from making changes without the appropriate authorization ***(See E-10, compl.)***, yet Petitioner-Appellant provided NCMLIC, with certified and notarized letters from the previous policy owner, giving Petitioner-Appellant full authority over the policy but NCMLIC, refused to comply with his instructions ***(See E-3,8, compl.)***. Petitioner-Appellant received an email from ALDOI, dated August15, 2018, refusing to truly investigate the crime of insurance fraud after Petitioner-Appellant provided clear evidence that NCMLIC, had violated the law ***(See E-22, compl.)***, but instead forwarded the complaint and supporting exhibits to ALDOI, Consumer Services Department, who in turn sent Petitioner-Appellant letter dated August 24, 2018, in which that official asserted that Petitioner-Appellant had no legal right to report an in an insurance fraud claim, because he was not the policy holder ***(See E-23, compl.)***. But according to ***COA 27-12A-21(b)***, which states, a person other than an insurer having knowledge or having reasonable belief that insurance fraud is being, will be, or has been committed may provide the information to the Attorney General, the department or both ***(See E-9, compl.)***. The actions of the officials for ALDOI, is conspiratorial in nature, since neither of those officials thoroughly examined the information provided by Petitioner-Appellant nor did they compel NCMLIC to produce the loan documentation. Also, on August 24, 2018, NCMLIC, sent ALDOI, a letter with supporting exhibits and the letter asserted that NCMLIC, were relying on electronic data that they inherited from BTWIC, to respond to Petitioner's-Appellant's complaint ***(See E-29, compl.)***, but NCMLIC,

failed to produce any documents or data related to the loan and ALDOI, did not force them to manufacture such. Petitioner-Appellant have attempted to acquire possession of the fictitious loan information for several years without any success and none of the investigative bodies have compelled NCMLIC, to produce that crucial evidence and based upon several documents filed in multiple courts, NCMLIC, have admitted that the loan does not exist and never have. In a letter sent to Petitioner-Appellant dated December 12, 2019, NCMLIC, stated that they did not have the original loan documents in their records ***(See E-12, compl.)***, and in their response brief filed in the Florida Appeals Court, NCMLIC, asserted on page 8 that they did not have a copy of the original loan documentation in their records and could not provide a copy to Petitioner-Appellant ***(See E-13, compl.)***, and on page 14 NCMLIC, stated that they were unable to produce the policy loan documents at trial, as it never received them from BTWIC ***(See E-14, compl.)***, and finally in the final judgment order of the FSCC, the Trial Judge stated that. As to Petitioner's-Appellant's cause of action for breach of contract, the Court finds for the Petitioner-Appellant, inasmuch as the Respondents-Appellees did not produce at trial the original documents to prove the policy loan that is at issue ***(See E-30, compl.)***. Petitioner-Appellant received an email dated November 5, 2020, from NCDOI, attempting to negotiate some type of deal to alleviate NCMLIC, criminal and civil liability ***(See E-25, compl.)***, and all parties involved in this action know that the concocted loan doesn't exist but refused to investigate or prosecute the perpetrators of the afore-mentioned crimes, which violates ***North Carolina General Statutes (N.C.G.S.) 58-2-163***, titled report to commissioner, which states, whenever any insurance company, or employee or representative of such company, or any other person licensed or registered unde3r article 1through 67 of

this chapter knows or has reasonable cause to believe that any other person has violated ***N.C.G.S. 58-1-161, 58-2-162, 58-2-164, 58-2-180, 58-8-1, 58-24-180(e)***, or whenever any insurance company, or employee or representative of such company, or any person licensed or registered under article 1 through 67 of this chapter knows or has reasonable cause to believe that any entity licensed by the commissioner is financially impaired, it is the duty of such person, upon acquiring such knowledge, to notify the commissioner and provide the commissioner with a complete statement of all of the relevant facts and circumstances.

c) The lawsuit has no measurable injury indicated in the action.

Petitioner-Appellant alleged that the Respondents-Appellees conspired for years to illegally confiscate and embezzle money from him and his family thereby producing economic loss and serious health issues due to the extreme stressful condition from attempting to pay the extorted fees and trying to litigate this matter in a hostile environment produced by the criminal action of the Respondents-Appellees. And the afore-stated action violates, ***N.C.G.S. 58-2-162***, that's titled, embezzlement by insurance producers or administrators, which asserts, if any insurance producer or administrator embezzle or fraudulently converts to his own use, or, with intent to use or embezzle, takes, secretes, or otherwise disposes of, or fraudulently withholds, appropriates, lends, invest, or otherwise uses or applies any money, negotiable instrument, or other consideration received by him in his performance as a producer or administrator, he shall be guilty of a felony. Petitioner-Appellant have lost job wages, business revenue, time way from job and business, the devaluation of his mental and physical health due to the Appellees-Defendants misconduct and refusal to correct the problem. Petitioner-Appellant

have been litigating this action for years, which means, he had to study law, business and organizations protocol, rules, regulations and policies without the aid from paralegals, advisors or team members to help research, investigate, proof-read and type all pleading, documents and other filings to accomplish his objective.

2. **Whether the trial court abused its discretion in refusing to examine or review the complaint and the supporting exhibits and the denial of the motion to proceed in forma pauperis by asserting the action was frivolous?**

The blanket denial of Petitioner's motion to proceed in forma pauperis.

The Trial Court issued an order on September 2, 2022, attempting to utilize ***28 U.S.C. § 1915***, by asserting on page 1 and paragraph 1, that for reasons set forth below, the Court grants Petitioner's-Appellant's application to proceed in forma pauperis and recommends that his complaint be dismissed in its entirety. And that statement alone proves that Petitioner's-Appellant's complaint should have never been dismissed based on the Trial Court's argument that he failed to comply with federal rules because there are three main requirements stemming from the use of ***28 U S.C. § 1915(e)(2)(B)***, which asserts, notwithstanding any filing fees, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that the action or appeal: (a) is frivolous or malicious; (b) fails to state a claim on which relief may be granted; or (c) seeks monetary relief against a defendant who is immune from such relief. This section of the above-stated rule presuppose that the filing fee was paid in advance and has nothing to do with the granting of the application to proceed in forma pauperis, which requires the Court to examine the complaint before taking of such an action.

And since ***28 U.S.C. §1915***, apply to a large portion of the contents of the complaint and any such violation should require the Trial Court to meet their burden of proof obligations to show forth all the defects in Petitioner's-Appellant's complaint but the Court only alleged procedural deficiencies and failed to list any substantive or factual defects. And by the Trial Court claiming that Petitioner-Appellant failed to state a claim its completely abusing its discretion because the Trial court never mentioned, examined or used the supporting exhibits in the Court's argument nor did the Court point out or identify one single error in the factual allegations of the complaint, it only alleged that Appellant-Plaintiff failed to comply with federal rules, without ever proving such. By dismissing the complaint for failure to state a claim the Trial Court is literally denying Petitioner's-Appellant's forma pauperis status due to a lack of a lawsuit accompanying such and further it denies access to the court, due process, the right to redress grievances and a fair trial. In order for the Trial Court to establish the assertion of fail to state a claim, there are some serious hurdles that must be overcome before any such defensive posture could be utilized as a bulwark in a legal argument and the Trial Court must demonstrate that Appellant-Plaintiff did not meet the following requirements: *(1) The Petitioner failed to offer an example of illegal activities*; *(2) The Petitioner failed to provide evidence to prove that the Respondents broke the law; and (3) The Petitioner's lawsuit has no measurable injury indicated in the action.* The Trial Court just cannot claim that Petitioner-Appellant failed to do something without producing substantial proof, backing those allegations and foe the Court to just argue that the complaint failed to comply with federal rules, and not perform critical analysis of the factual allegations then dissect them and insert that information into the final decision, so that it could be

presented and explained with clarity to all parties involved. According to ***28 U.S.C. § 1915(a)(1)***, which asserts, subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil, criminal, or appeal therein, without prepayment of fees or security therefor. The above-stated statute is using basic legal language but it simplify and clarify the responsibility of the Trial Court in granting in forma pauperis status (IFP) to any person, by stating that the Court may be authorize to commence, prosecute and defend any suit, action or proceeding, which means, all of the afore-mentioned activities are forward moving processes but the dismissal of this action is a halting process that violates the aim and purpose of granting IFP status because the above statute intentions are clearly designed to move the legal proceeding forward. So, the question must be asked, is in forma pauperis a right or a privilege? Based on the ***U.S. Constitution 1st Amendment***, which asserts, or abridging the freedom of speech, or to petition the government for redress of grievances. The ***U.S. Constitution 5th Amendment***, asserts, nor be deprived of life, liberty, or property without due process of law. And the ***U.S. Constitution 14th Amendment***, declares, no state shall make or enforce any law which shall abridge the privileges or immunities of a citizen of the United States, nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the law. This signifies that the Trial Court has totally violated Petitioner's-Appellant's Constitutional Rights, by falsely granting then denying him IFP, which means the Court is punishing Petitioner-Appellant- for being poor, thereby interfering with the right to petition the court, freedom of speech, the denial of protected privileges and due process of law. And further IFP, is also a privilege that is secured by the

14th Amendment and Petitioner-Appellant understand the benefits in receiving the financial waivers from the government, but he also knows the responsibilities of those entities to protect the rights of the citizens to be able to entreat the court to redress their grievances.

Trial Court failed to review and examine the complaint and supporting exhibits.

In the Trial Court orders issued on September 2, 2022, and May 5, 2023, it asserted that Petitioner-Appellant failed to state a claim, failed to comply with federal rules, barred by res judicata and sovereign immunity, without identifying the specific areas in the complaint where those alleged deficiencies occurred. If the trial court was genuine in its argument the Court would have ruled on the merits of the factual basis in the complaint and utilized the supporting exhibits because the Trial Court quoted case law, which declared that pro se complaints are entitled to a more liberal treatment than pleadings drafted by attorneys. *See White v. White, 886 F.2d 721-723 (4th Cir. 1989).* So, in Appellant's-Plaintiff's sincere efforts to plead with the Trial Court to comply with the rules of the Court and the law, it should have forced the Court to render a more lenient judgment than it did, the question must be asked, what was the basis for the Trial Court decision? The Petitioner-Appellant filed a 26-page complaint with 30 supporting exhibits into the Trial Court on August 2, 2022, and within a two-week period of time the Court arrived at a convoluted narrative that defies legal interpretation, especially with a concise and well factually articulated complaint along with supporting evidence being presented to the Trial Court, it still asserted the complaint failed to state a claim.

Evidence showing that the Trial Court failed to meet its burden of proof.

Petitioner-Appellant alleged that he and his family received false and fabricated collection notices every month from NCMLIC, which stated that the death benefits would be reduced by the amount of the loan balance and that they encourage the policy owner to pay the loan balance in full, in order that the beneficiary may receive the complete payment upon death ***(See E-1, compl.)***, This very action by NCMLIC, is fraudulent and it is extortion and embezzlement, since the Respondents-Appellees have failed to produce or provide documented proof to Petitioner-Appellant, the Courts or the investigative agencies, that the loan currently or in the past, ever existed. NCMLIC, sent the previous policy owner a letter while in prison, dated July 2, 2018, which instructed him to send them a notarize document with all his request for changes and information ***(See E-2, compl.)***, The previous policy owner complied with the above letter instructions by sending two separate letters to NCMLIC, one on June 15, 2018, which was certified ***(See E-3, compl.)***, and the other was sent on July 20, 2018, which was notarize ***(See E-8, compl.)***, and both letters gave authorization to Petitioner-Appellant to access information by making him the owner and the beneficiary but NCMLIC, refused to comply with the law or the previous policy owner's instructions. On December 12, 2019, Petitioner-Appellant became the new policy owner and discovered that the fictitious loan was supposedly granted on July 22, 2002, in the amount of $262.33, in which NCMLIC, claimed the loan predated their acquisition of the company responsible for the illegal transaction and that they did not have the original documents in their possession but NCMLIC, continued to extort money from Petitioner's-Appellant's family for years and embezzle funds from the policy by illegally confiscating the annual interest and

dividends of the insurance policy without proving the loan existed ***(See E-12, compl.)***. In an answer brief filed in the Florida Appeals Court, NCMLIC stated on page 8 of that document, that NCMLIC, did not have a copy of the original loan documents in their records and could not provide a copy to the Petitioner-Appellant ***(See E-13, compl.)***. And then in that same brief on page 14, NCMLIC said that they were unable to produce the policy loan document at trial, as it had never received them from BWTIC ***(See E-14, compl.)***. And in the final judgment from FSCC, the Court stated that, as to plaintiff's cause of action for breach of contract, the court finds for the plaintiff, inasmuch as the defendants did not produce at trial the original documents to prove the policy loan that was at issue ***(See E-30, compl.)***. All the afore-mentioned documents prove a serious criminal enterprise because NCMLIC was admitting that the loan did not exist and that they have no records of such but all the government entities that Petitioner-Appellant contacted concerning those violations refused to demand and compel NCMLIC, to produce the evidence of the fabricated loan. Petitioner-Appellant received a false and fabricated government email from ADOI, Fraud Bureau dated August 15, 2018, refusing to investigate the crimes of insurance fraud after being provided clear evidence that NCMLIC, violated the law, but decided to forward the complaint to the ALDOI, Consumer Services Department, when the allegations had nothing to do with bad business transactions but rather criminal activities ***(See E-22, compl.)***. And on August 24, 2018, Petitioner-Appellant received a falsely manufactured government letter from ALDOI, Consumer Services, asserting that he had no legal right to report an insurance fraud claim because he was not a policy holder ***(See E-23, compl.)***. According to ***COA 27-12A-21(b)***, which states, a person other than an insurer having knowledge or having reasonable belief that

insurance fraud is being, will be, or has been committed may provide the information to the attorney general, the department or both. The by ALDOI, officials are conspiratorial in nature because neither of those persons thoroughly examine the information provided to them nor did they compel NCMLIC, to produce the loan documentation. On August 24, 2018, NCMLIC, sent ALDOI, a false and fabricated letter with supporting documents, which asserted, that they were relying on electronic data that they inherited from BWTIC, to respond to Petitioner's-Appellant's complaint but NCMLIC, failed to produce any documents or data related to the loan in question and ALDOI, refused to force them to supply such information ***(See E-29, compl.)***. Then on November 5, 2020, Petitioner-Appellant received an email from NCDOI, attempting to negotiate some terms of agreement with him on behave of NCMLIC, even though NCDOI, had in their possession Petitioner's-Appellant's complaint and supporting exhibits proving that the crimes of fraud conspiracy and negligence were committed by NCMLIC, and further NCDOI, had access to all of NCMLIC, records and knew that the loan did not exist but continued to conspire with the perpetrators to conceal the above-stated violations ***(See E-25, compl.)***.

CONCLUSION

For the foregoing reason Petitioner, Noel Vincent Thomas, respectfully request that the Trial Court's order dismissing the causes of actions be reversed and this case be remanded for adjudication on the merits