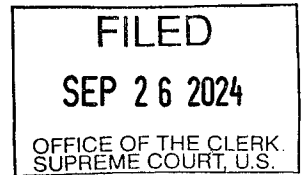


No **24-5907**



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**IN SUPREME COURT OF THE UNITED STATES**

**Aisha Wright, Pro Se**  
**Petitioner**

**Versus**

**Transportation Communication Union/IAM,**  
**Respondent**

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**On Petition for Writ of Certiorari to the United States**  
**United States Court of Appeal for the Fifth Circuit**  
**District Court of Appeals for the Southern District of Texas**

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**PETITION FOR WRIT OF CERTIORARI WITH APPENDIX**

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### **QUESTION(S) PRESENTED**

Plaintiff, was represented by an attorney, Staci Childs. Staci Childs had the responsibility according to the United States District & Bankruptcy Court of the Southern District of Texas to register with the court or seek permission of the Federal Judge, Gray Miller before whom the case is pending prior the transition of cause to Judge Gray Miller and George C. Hanks. Plaintiff received Final Judgment, pursuant to the Motion to Dismiss submitted by Defendants in Dkt- 13 order to dismiss was denied with prejudice in cause, and Joint Management Discover Plan (26F) which was coordinated with Defendant, Transportation Communication Union/IAM, on behalf of Plaintiff in response to the Federal Docket on Pacer for cause 4:20-cv-0975 was provided as Staci Childs exited court proceedings via email after final dismissal of Plaintiff's appeal and complaint to State Bar of Texas. The United States District & Bankruptcy Court Southern District of Texas Magistrate Judge Christina Bryan likewise joined in aligning sidebar communication in the absence of attorney support via email outside of Federal Docket. Magistrate Judge Christina Bryan sent an email stating that Plaintiff did not have an attorney on file, and Plaintiff quickly responded stating that she was under contract with counsel. Staci Child's did not post any items to the Federal Docket, and provided confirmation to Pro Se in Forma Pauperis Litigant, Aisha Wright, that she never said that she was NOT representing Aisha Wright in support documentation that was submitted to the Texas Bar Association. Attorney, charged Plaintiff, \$6000.00 for the submitted to the Federal Docket Joint Management and Discovery Plan, which has been stricken from the record, and did not provide an itemized invoice with hourly rate and support documentation. Therefore; Defendant's Motion and Pleadings were accepted due to the fact that Plaintiffs could not respond after communicating to the court in writing and verbally that she was being represented by an attorney under Texas law Furthermore, would the Presiding Judge(s) Gray Miller, Christina Bryan, and George C. Hanks has provided Staci Childs permission to prosecute a Labor Law case with the Texas Bar Practices Areas of Criminal and Family in The United States District & Bankruptcy Court Southern District of Texas under their court's decision, all in all causing the court to err in the way to create an advantageous environment for the corporation.

Southern District of Texas for Lower District failed in Erred by not hearing my case properly at all and used it to their advantage to have my case dismissed with prejudice to go unjust; whereas the Appellee claim Res Judicata of being litigated and it wasn't never heard properly from the beginning?

Whether a plaintiff asserts new claims, can federal preclusion principles bar a defendant from raising defense that were not actually litigated and resolved in any prior case between the parties?

The following questions are proposed:

1. Did the Fifth Circuit err in its reading of Gonzalez, given that five other Circuits read Gonzalez to allow Rule 60(b) motions to remedy a wide range of procedural defects in habeas proceedings, similar to the one alleged by Petitioner here?
2. If a presiding judge's unfitness qualifies as the sort of "defect in the integrity of the federal habeas proceedings" that would support a Rule 60(b) motion under Gonzalez, may a reviewing court in determining that motion consider the reasonableness of that judge's prior disposition of the movant's claims for relief?
3. Did the Fifth Circuit, which to date has never identified any debatable issue in any post-conviction appeal by a death-sentenced federal prisoner, err in denying a COA concerning the district court's application of Gonzalez to Petitioner's Rule 60(b) motion?

### LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

### RELATED CASES

Aisha Wright v. Transportation Communication Union/IAM, 4:20-cv-0975; U.S. District Court for the Southern District of Texas. **(Judgement in favor of defendant; (December 02, 2020).**

Aisha Wright v. Transportation Communications Union/IAM, No. 24-20146, The United States Court of the Appeals for the Fifth Circuit. **(Dismissed for want of Jurisdiction; (July 23, 2024).**

Aisha Wright v. Union Pacific Railroad, 4:19-cv-00203 U.S. District Court for the Southern District of Texas. **(Final Judgement; Wright takes nothing from Union Pacific Railroad (May 31, 2022).**

Aisha Wright v. Union Pacific Railroad, No. 20-20344, The United States Court of Appeals For the Fifth Circuit. **(Judgement; (Affirmed in Part, Reversed in Part, Remanded for further Proceedings March 29, 2021).**

Aisha Wright v. Union Pacific Railroad, No. 22-20322, The United States Court of Appeals For the Fifth Circuit. **(Judgment of the District Court is AFFIRMED (January 25, 2023).**

Aisha Wright v. Union Pacific Railroad 4:16 –cv-02802 U. S. District Court for the Southern District of Texas. **(Judgement; ORDER OF DIMISSAL without prejudice; FURTHERMORE, jurisdiction to enforce settlement (January 12, 2018).**

### TABLE OF CONTENTS

QUESTION(S) PRESENTED	2, 3
LIST OF PARTIES AND RELATED CASES	4
TABLE OF CONTENT	4
PETITION	1
OPINIONS BELOW	5
JURISDICTION	6
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	6
STATEMENT OF THE CASE	7
REASON FOR GRANTING THE WRIT	13
CONCLISION	13

## INDEX TO APPENDICES

APPENDIX A	Decision of Fifth Court of Appeal Denying Rehearing.
APPENDIX B	Decision of Fifth Circuit Court of Appeal AFFIRMED.
APPENDIX C	Decision of Fifth Circuit court of Appeal JUDGEMENT AFFIRMED.
APPENDIX D	Decision of Southern District of Houston, TX (Dkt.37) GRANTED and the case is dismissed with prejudice, all other pending motion are DENIED as moot.
APPENDIX E	Decision of the Southern District Court of Houston, TX, FINAL JUDGEMENT, DISMISSED WITH PREDJUDICE.
APPENDIX F	Supreme Court of the United States No.24A187

## TABLE OF AUTHORITES CITED

### CASES

<i>Lucky Brand Dungarees, Inc. v. Marcel Fashions Group, Inc.</i> , 140 S. Ct. 1589, 206 L. Ed. 2d 893 (2020)	PASSIM
<i>Federated Department Stores, Inc. v. Moitie</i> , 452 U.S. 394, 101 S. Ct. 2424 (1981);	PASSIM
<i>Baltimore S.S. Co. v. Phillips</i> , 274 U.S. 316, 47 S. Ct. 600 (1927)	PASSIM
<i>Lawlor v. Nat'l Screen Serv.</i> , 349 U.S. 322, 75 S. Ct. 865 (1955)	PASSIM
<i>Boggs v. City of Cleveland</i> , 655 F.3d 516 (6th Cir. 2011)	PASSIM
<i>Commissioner v. Sunnen</i> , 333 U.S. 591, 68 S. Ct. 715, 92 L. Ed. 898 (1948)	PASSIM
<i>Muldrow v. City of St. Louis</i> , No. 22-193 (U.S. Apr. 17, 2024)	PASSIM
<i>Collins v. Union Pac. R.R. Co.</i> , No. 23-2711 (8th Cir. Jul. 24, 2024)	PASSIM
<i>Armstead v. Union Pac. R.R.</i> , 8:21CV183 (D. Neb. Sep. 3, 2021)	PASSIM

## **OPINION BELOW**

This opinion is not designated for publication. See 5<sup>th</sup> Cir.R.47.5

## **JURISDICTION**

The Fifth Circuit Court of Appeal has denied the petitioner request in a Rehearing in a timely matter dated April 29, 2024. Jurisdiction in this court has the right to review an Appeal Court is proper per Title 28 USC, Section 1254 (1) as the Supreme Court of Justices has the right to review an Appeal Court ruling via a Writ Certiorari.

## **STATUTES AND RULES**

<i>Rule 41 (a) (1)</i>	<i>PASSIM</i>
<i>28 U.S. RULE 8</i>	<i>PASSIM</i>
<i>Rule 12(b) (1)</i>	<i>PASSIM</i>
<i>Texas Government code 81.101(a)</i>	<i>PASSIM</i>
<i>28 U.S. RULE 59</i>	<i>PASSIM</i>
<i>28 U.S. RULE 56</i>	<i>PASSIM</i>
<i>42 U.S.C 1983</i>	<i>PASSIM</i>
<i>42 U.S.C. 1981</i>	<i>PASSIM</i>
<i>42 U.S.C.2000e-2</i>	<i>PASSIM</i>
<i>42 U.S.C. § 2000e-2(a)(1)</i>	<i>PASSIM</i>
<i>42 U.S.C. § 2000ff-1(a)(1)</i>	<i>PASSIM</i>
<i>Fed.R. Civ P.8.(b)(1)A B (5)(c)(1)</i>	<i>PASSIM</i>
<i>Rule 301 LMRA, SECTION 301</i>	<i>PASSIM</i>

## **OTHER**

### **Legal information institute**

Dispositive Fact

Hybrid and Non Hybrid Law Action

## **CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED**

The Due Process, First Amendment, Fourteenth Amendment, Equitable Equality Right, The TCU by Laws Provision under Govern Federal Rules, whereas this provide that nobody may deprived of life, liberty, or property without Due Process Law involves steps that must be taken.

Whereas included notice and importunity to be heard, as well as an unbiased decision-making, and the right to present evidence, a right to cross-examine opposing witnesses, malpractice of an ineffective lawyer among other protections.

### **STATEMENT OF THE CASE**

Plaintiff, Aisha Wright, an African American Female began her career, October 11, 1994, with Southern Pacific Lines which merged with Union Pacific Railroad in 1997 to Omaha, Nebraska; Union Pacific Railroad (UPRR) in Denver, Colorado in 1994 joined the Transportation Communications Union/IAM ("TCU/IAM") for the purpose of protection during employment. Aisha Wright continued in her employment and progressed in varied positions and with upward mobility in rank (bump) and transitioned with Railroad in mobility to Omaha, Nebraska in 1997 where she remained for 11 years. During this time a data breach class action settlement took place, and the plaintiff, endured sexual harassment, sexual assault, and physical battery during her employment. Physical battery charges were filed on a Union Pacific contractor that paid restitution to Plaintiff and process was officiated by the local policing agencies, and TCU/IAM established local legislative practices in 2005 documenting the sexual harassment violations to Plaintiff, and both were settled in District Courts of Omaha Nebraska. Union Pacific Railroad was a main fixture in Omaha Nebraska in the Job Market which established a hostile community environment for the Plaintiff of strife as a transplant that was able to secure an established employment with The Prominent Union Pacific Railroad in a close knit community in which those in the Socioeconomic Class of the Plaintiff within the context of the work, community and relationship. The purchase of a new home established more challenges, when Transportation Communications Union/IAM ("TCU/IAM") stepped in to support Plaintiff in legal proceedings of sexual harassment causing the demotion of manager to clerk, Long Time Nebraska Resident, seniority, and police stepping in to support Plaintiff in physical abuse of estranged boyfriend, Long Time Nebraska Resident, causing the payment of restitution to the Plaintiff. Reaching retirement age with limited advancement opportunities in Nebraska, the Plaintiff decided to take a bump opportunity in Palestine, Texas and was excited about the opportunity for advancement. Plaintiff, Aisha Wright arrived in 111 S Magnolia St, Palestine, TX 75801 Union Pacific Railroad Co in Palestine Texas driving her Brown C-230 Mercedes as an African American Women. Prior to Palestine, her white coworker in Omaha, Nebraska asked her how she could afford to pay for the car that she was driving. Similar to Omaha, Nebraska, Palestine, Texas is a "Train Town" with prior contractual relationships consistent with mergers with ongoing legal deliberations evident in national media and attitudes amongst the township. Palestine, Texas. Union Pacific, has suffered several data breaches that exposed Plaintiff's information during employment and throughout legal proceedings without notification which continued to create vulnerability. Moreover; the question in the controversy is and was unaware of the battle that filed court proceedings for hostile work environment, Here Comes Now in the United State Supreme Court underlying theory is straightforward: The Transportation Communication

Union/IAM and (former employer); Union Pacific Railroad conspired in retaliation due to numerous complaint against the two corporation's which fabricate in bad faith in a perfunctory manner in a deceitful manner to have the Appellant terminated permanently in March 2016, out of Palestine, TX (Clerical Position) and on July 2018 out of Houston, TX (demoted to heavy manual labor position). These two cases were filed separately in the Federal Court in the Southern District of Houston Texas; in March 2020 and in September 2021; whereas I the Appellant have reach its final destination and followed the proper channels and the policy and procedures, the Collective Bargain Agreement and the TCUBYLAWS that's under the Federal guidelines provision to protect paying Union member to have a fair conference, hearing and a waiver when bad working condition arise and Discrimination violations that was reported whereas the Transportation communication Union/IAM and Union pacific Railroad conspired to showed lack of less favorite against the Appellant based on the purportedly improper fiduciary duties of Denial of Arbitration of Grievances in November 2020 and February 2021 to file Federal lawsuit under hybrid and non-hybrid law. Aisha Wright worked as a Claims Representative in Palestine, TX which is a Clerical Position and to work her way to a Claims Adjusters to retire from this department. On March 09, 2016, I was permanently terminated due to my numerous complaint against the Transportation Communication Union/IAM and Union Pacific Railroad which was very apparent and transparent to have me escorted off the company property by Union Pacific Railroad policeman that was order by the Transportation Communication Union/IAM to have all my belongings out of office by 16:30 on March 09, 2016 and if I didn't have all my by that time, stating "I'll be shit out of luck order by the Transportation communication Union/IAM will be locking the doors" per stated by the Transportation Communication Union/IAM in a aggressively violate manner. I was terminated due to my Internal EEO complaints, filing a police report with Palestine, TX police department of being violate threaten in a pointing aggressively manner stating from the Transportation communication Union/IAM these words "go hire you a fucking lawyer, I will not be helping you", by the Transportation communication union/IAM members official. I was sexually harassed by the Union Pacific Railroad management supervisor Damian Vaeas and being hostile working in hostile working environment which lead the appellant to a traumatic duress of depression and fell out in the office and was ambulance to emergency room and discover heart condition and was pulled out of service by the Appellant primary doctor for five months on medical leave of absence and discovered that the appellant was terminated/suspended at the same time as being terminated in the Union Pacific Railroad portal system out of Palestine, TX. The Transportation communication union/IAM official union members stated to the Appellant "when I get back to work you are going to be discipline", of which they restricted my seniority, gave me a level one on my personal work record, fabricated my work performance, fabricated the Investigation Hearing, denied Transportation communication Union/IAM benefits of short-term disability all because of bumping and displacing union member official Dennis William of which I the Appellant have more Seniority. The union member official were protecting their own and discriminate against the appellant in a retaliation manner by ways of conspiracy with



the Union Pacific Railroad to get me out of the claims Department. I was released and returned back to work in February 2016 by my primary physician. When I was released I had to meet at the La Quinta inn hotel with the Union Pacific Railroad management Johnnie Boyd which accompany by another manager Jim Olsen of which the Transportation communication Union/IAM allowed them to write-up retaliation report against me to sign before I can come back to work, which show as being less favorable than any other employee in a perfunctory manner to have me dismissed illegally by means of terminating my Clerical position and prevent me from any other department of restricting my seniority by Labor Relation Department with Union Pacific Railroad to have fellow union against me as Hate crime to defame my character, treated different by disciplining me and not helping me, they was forcing me to quit, I was homeless facing an eviction, had no income coming in, my car was repossessed and lost everything.

In April 2016, the second complaint lawsuit out of Houston, TX Supply Warehouse Department was Continued Doctrine Violation of a demotion to a less paying job rate and very heavy manual labor of which my health condition had worsen and was used against me as I the Appellant reported. I the Appellant was written up by the Transportation communication Union/IAM and Union Pacific Railroad for attendance-alert. At that time in April of 2016, which I was facing eviction, no car had to travel from Palestine, TX to Houston, TX. Both ways with no car, were begging people to take me and using other people's cars to keep my job, sleeping in the parking lot at a gas station and hotels, washing up at gas stations, and asking for help from kind people not to lose my retirement. Whereas by that time they stated it was very apparent to the Transportation communication Union/IAM.

As the Supreme Court explained more than 50 years ago in *Lawlor v. National Screen Service corp*; 349 U.S. (1955), res judicata does not bar a suit, even if it involves the same course of wrongful conduct as alleged, so long as the suit alleges new facts or a worsening of the earlier conditions. This is what this case is about here, whereas I Appellant The Lower District Court dismissed my case and failed to hear my argument by not asserting its release defense and overlooked the principle of that defense that are also subject to preclusion under Res Judicata; see *Clarke v. Frank*, 960 F.2d 1146 (2d Cir. 1992); whereas; whether claim preclusion barred the Appellant from a voluntary dismissal to filed my case at a later date within the statutory limitation from raising a damages mitigation defense that did not raise nor given a chance to speak or ligated to the Lower District court at the time when the case was filed in March 2020. Whereas the defendant falsely submitted documents without my knowledge during the proceedings of which I could have objected and amended my case on November 19, 2020, to have a conference; but it was intentionally canceled and was unfairly unjust and dismissed by Lower District Court with prejudice. The Lower District Court dismissed in erred privy in this lawsuit under the Collective Bargaining Agreement and the Constitutional Bylaws of continue of actions but did not take the appropriate action to ensure it was addressed; Instead, the decision

was based on from another District Lower Court judge opinion instead of being properly heard in the court of law. Whereas in civil procedure Rule 19 of the Federal Rules of civil procedure governs the compulsory joinder of parties. This Rule is intended to protect party's right to be heard and to participate in the adjudication of a claimed interest of resolving a dispute or deciding in a case when brought to court identify the rights of the parties at that particular moment by analyzing what were, in law, the rights and wrongs of their action when they occurred. Whereas the Lower District Court failed proceeding at law of equity case and equitable doctrine and procedure are distinguished from legal ones by the Appellant requesting specific performance. Whereas constitutional rights are the protection and liberties guaranteed to the people by the U.S. Constitution. Whereas case No. 4:20-cv-0975, applied to this case No.24-20146 that was never heard and the Appeal court of the fifth district failed to hear my case under the standard review in the judicial proceedings and dismissed for want of jurisdiction. This deprive the Appellant of her First Amendment rights of individual to speak freely and the Fourteenth Amendment to litigate my case under the Equal Protection that's a governmental body may not deny people equal protection of its governing laws based on discrimination by the Appellant which was void of having no legal effect from the start.

Whereas that defense preclusion bars a party from raising a defense where: (i) a previous action involved an adjudication on the merits; (ii) the previous action involved the same parties or those in privity with them; (iii) the defense was either asserted or could have been asserted, in the prior action; and (iv) the district court, in its discretion, concludes that preclusion of the defense is appropriate because efficiency concerns outweigh any unfairness to the party whose defense would be precluded. *Cf. Ward v. Harte*, 794 F.Supp. 109, 118 (S.D.N.Y. 1992) (concluding "that the use of offensive collateral estoppel would not be unfair" where "the Court had before it the same parties who appeared" in a prior action, and the defendant "was represented at all times by counsel, which significantly mitigates, in the Court's view, any possible unfairness towards him" and observing that, under these circumstances, *Parklane*'s fairness "concerns are somewhat lessened").

Relatedly, a release defense is a specifically identified affirmative defense in the federal rules, *see* Fed. R. Civ. P. 8 (b) (1) A B (5)(c)(1), obviating any concern that application of claim preclusion here elides the line between claim and issue preclusion.

Defendant Transportation Communications Union/IAM ("TCU/IAM") precluded that the Appellant should raise a new defense and court should dismiss Plaintiff, Aisha Wright's Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) based in Palestine, TX in 2015 and Houston, TX 2018. Introduction is as follows:

This case arises from Plaintiff Aisha Wright's disqualification and eventual termination by Union Pacific Railroad Company ("Union Pacific" or "Company"). Although Plaintiff's claims were resolved in two prior federal lawsuits she brought against Union Pacific, Plaintiff now

attempts to relegate her disqualification and termination. Indeed, the current action tries to impute liability on the TCU/IAM, with Plaintiff claiming that the Union should somehow now be liable for failing to protect her from the Company's actions which have already been determined to be lawful. Plaintiff's Complaint invokes 42 U.S.C. § 1981 and Title VII, 42 U.S.C. § 2000e et seq. Plaintiff also makes a passing reference to the Texas Commission on Human Rights Act ("TCHRA"), Tex. Lab. Code § 21.001 et seq. However characterized, Plaintiff's Complaint should be dismissed.

As a threshold matter, Plaintiff's attempt to revive claims she has already litigated and lost against her former employer, Union Pacific, is barred by the doctrine of collateral estoppel. She cannot sue the TCU/IAM for failing to prevent or protect against employer action which has already been held to be lawful.

With regard to her Section 1981, Title VII and state law claims, Plaintiff has failed to allege facts stating a plausible claim of discrimination or retaliation by the TCU/IAM. Plaintiff's Title VII and state law claims should also be dismissed for failure to timely exhaust these claims with the appropriate agencies. See *Boone v. Union Carbide Corp.*, 205 F. Supp. 2d 689, 693 (S.D. Tex. 2002).

On the contrary Plaintiff argues that Transportation Communications Union/IAM ("TCU/IAM") is not considering the court(s) unsatisfactory performance in the implementation of LMRA301 and Hybrid 301 Claims which was denied Arbitration in November 2020 and 2021 in a Perfunctory Manner of Bad Faith. This case is underline as Hybrid and non-hybrid Law actions, whereas the Appellant can a suit to State or Federal Court by a protected Union member who brought both suit against both parties in single actions separate from the corporation; case *Aisha Wright v. Transportation Communication Union/IAM*; 4:19-cv-0975, due to lower district failed to hear my case from the beginning and asked to be heard properly *Aisha Wright v. Transportation Communication Union/IAM*, 4:21-cv-03174 with continuous ongoing new facts that was caused by the original parties which is the TCU/IAM for failure to protect a paying union member of fiduciary duties per Collective bargaining Agreement and the Constitutional Bylaws. The Transportations Communication Union/IAM conspired with the Union Pacific Railroad to retaliate to wrongfully terminate my employment in unethical way in a perfunctory manner. Whereas the lower District Court Error without my knowledge and wasn't properly served of documents and fail to dispose all parties in a claim of motion of creating an issue of fact. The Lower District Court erred to send proper notice of documents Memorandum and recommendation without my knowledge and failed under the Procedure and Substantive Law Rules 73, failed to give trial by Consent; Appeal and other authorized consent for the record in accordance with 28 U.S.C. 636, Rule 77(d) did not purport to attach any consequence to the clerk's failure to give notice as specified, the terms of the rule were such that the appellant was entitled to rely on it, and the trial court in such a case, in the exercise of a sound discretion, could vacate the former judgment and enter a new one, so that the appeal would be within the allowed time; Rule 60, relief from a judgment or Order by the mistakes of the lower court of documents that should have been edited of evidence under 201, A System of Judicial Notice Based on

Fairness and Convenience, in Perspectives of Law 69 (1964). and 400 to take notice of factual findings which deprive the plaintiff the opportunity to prove the truth of their pleaded of Discrimination of Retaliation as a Continuing Violation Doctrine that was cause by working in a volatile threatening Hostile Work environment which cause a medical condition, harmful and damage to the Plaintiff of liability in this case, see Va. Code Ann. (Michie,1936) §§6329, 6333, and see Lawlor v. National Screen Service corp; 349 U.S. (1955), The Lower District Erred on November 19, 2020, to have a conference and it was canceled, not knowing, whereas I could have amended my motions to stay in the Federal court to continue to pursue my case. I was deceived by the Lower District Court in erred and was told no attorney on the Docket 4:20-cv-0975 which was never litigated and prevailed on its release defense in the 2020 case.

*As stated by the United State of the Supreme Court; As this Court explained in Baltimore S.S. Co. v. Phillips, 274 U. S. 316, 274 U. S. 325 (1927), Otherwise, it is quite apparent from the language of the opinion that an amendment would have been sought and allowed pleading the ground of negligence afterwards set up in the second action. Nevertheless, the cause of action was one and indivisible, and the erroneous conclusion to the contrary cannot have the effect of depriving the defendants in the second action of their right to rely upon the plea of res judicata.*

*It follows that here, both the libel and the subsequent action were prosecuted under the maritime law, and every ground of recovery open to respondent in the second case was equally open to him in the first. But evidently, in the first proceeding, both court and counsel misinterpreted the effect of § 33, and proceeded upon the erroneous theory that, in admiralty, the rule laid down in The Osceola, 189 U. S. 158, 189 U. S. 175.*

Whereas case No.4:21-cv-03174 as a current complaint raises new facts that do not arise out of the same transaction or occurrence, whereas the Lower District of Southern District of Texas failed to meet the burden to establish that res judicata bars the suit.

Here, district court mistakenly viewed Boggs's and Rachid's earlier dismissal for lack of standing—which the district court recognized was not on the merits—as analogous to the dismissal of Case #1 in Mason, which was on the merits. (R. 26: Op. at 10.) The district court misread Mason to say that any dismissal becomes a dismissal on the merits once the party fails to appeal. But Mason never said any such thing. As noted, the dismissed suit there (Case #1) was dismissed on the merits (coincidentally, by res judicata). In other words, had Case #1 in Mason been dismissed based on lack of standing (as Boggs and Rachid were in their first suit), the plaintiff could have chosen not to appeal (as did Boggs and Rachid), and the court would have allowed Case #2 to proceed, consistent with the rule that dismissals for lack of standing are not dismissals on the merits— regardless of any appeal. See Media Techs. Licensing, LLC v. Upper Deck Co., 334 F.3d 1366, 1370 (Fed. Cir. 2003) (reversing application of res judicata where first suit was dismissed for lack of standing and not appealed), and dismissal of want of Jurisdiction. Whereas, when a Union case is filed by a Union member it can be filed separate from the employer and not be deemed when the union member wants to file suit in federal court and not be judged from another judge's opinions to opt-out the union member rights to bring suit that was not relegated. The Lower District court took his opinion from another judge and denied the harm of injury in hostile work environment an "erroneous conclusion" reached by the court in the first suit does not deprive the Appellant in the second action 'of their right to rely upon the plea of res

*judicata*. . . . A judgment merely voidable because based upon an erroneous view of the law is not open to collateral attack, but can be corrected only by a direct review, and not by bringing another action upon the same cause [of action]."

My retained counsel of not being transparent and honest regarding my case led to an Involuntary Dismissals of which it can be filed at a later time within the statutory limitation. I wasn't privy to any information and documents to save my case to be properly heard.

### **REASONS FOR GRANTING THE PETITION**

The reason for granting this petition is that the Plaintiff was never given Due Process and Equal Protection, which deprived the constitutional of the Law, The Appeal of the Fifth Circuit of Appeal and Lower District never said I didn't have an actual case, but did state the Plaintiff failed to identify any error in the district court's judgment applying the standard for *res judicata* to the facts of this case of which I said of the improper for failure to hear my case properly. I was never introduced properly in the Federal court to be heard properly instead the lower district went off another judge's opinion to have the Appellant's case dismissed and never talk the judge at the time of the court proceeding to litigate the discretion and to have a chance to talk about the discretion of standard law to the lower district court and prior case which could have not been relegated in the first place.

### **CONCLUSION**

All and all, the TCU/IAM and Union Pacific Railroad created the systematic cycle of Labor Trafficking for the Plaintiff, an African American female in the microcosm of the rail industry. This cycle was created in the sense of a one-industry ecosystem within each work location. Citizens and Colleagues of corresponding cities established vulnerability by identifying Plaintiff as a threat to the stability of long term residents. Plaintiff struggled financially while recovering from medical issues, withstanding the fact that TCU/IAM members are guaranteed short term benefits after surgical procedures. Dedicated to the cause, Plaintiff, with car repossessed, facing eviction, and sleeping in a loaner vehicle pressed to maintain retirement and abruptly transition into a labor intense working environment from clerical position at a moment's notice after FMLA only to be terminated four days later. TCU/IAM breached fiduciary responsibility to Plaintiff, Asia Right, an African American woman, the least protected in the United States of America, in the commercial transportation industry dominated by men and known for sexual harassment and discrimination, and failed to render fiscal support during Family and Medical Leave forcing homelessness, and did not provide support during sexual harassment of the management Union Pacific Employee from Palestine, Texas. TCU/IAM made a political decision based on the 150 year contract dispute and wagered Aisha Wright as property in the dispute, and failed to comply with the commitment in new jurisdiction, under new management here in by registering this

incident as a new complaint. TCU/IAM policy should be consistent, and it can be concluded that TCU/IAM and Union Pacific collectively mitigate employment losses in the way of labor trafficking with African American Women, through Union Pacific formally Southern Pacific Lines. For there would be no formal reason that the Court of Appeal of the Fifth Circuit would justify upholding the decision of the TCU/IAM based on one Motion, that the Plaintiff's lawyer did not respond to during an unprecedented nationwide pandemic. In addition, the Fifth Circuit Court denied the Plaintiff's appeal during the Pandemic knowing that there were 2 different Federal Judges assigned to the Docket and acknowledged that the Plaintiff indeed had an assigned lawyer that did not respond to the cause during a Pandemic, and once the cause was refiled the Jurisdiction claim was misapplied.

**PLEASE NOTE:** In the request that identifiers that should the court approve the writ of certiorari that you will obtain counsel to work the matter through the pendency of the case. I pray you will take this in reconsideration. Thank you.