No. 24-5925

IN THE

SUPREME COURT OF THE UNITED STATES

Francis Wowkop YOMi — PETITIONER
(Your Name)

vs.

Xavier Becerra, Secretary of the U.S. Department of Health and Human Services (DHHS). — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals, for the 10th Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Francis Wowkop YOMi
(Your Name)

1704-B #101, LLANO STREET
(Address)

Santa Fe, New Mexico 87505
(City, State, Zip Code)

301-473-2019
(Phone Number)

QUESTIONS PRESENTED

Question No. 1: Did all Judges of District and Appeal Courts clearly err when they dismissed my case by retaliation, for me filing a motion to recuse District Judge for judicial misconduct?

Question 2: After a terrible car accident that severely injured me, Magistrate Judge received the doctor's letter she requested, but still denied my motion to stay, saying that I run away from responding to discovery requests, and dismissed the case. Did all Judges err when they affirmed it, whereas I let them know that I am not running away, and that I filed the same motion of 90 days of stay **with the Federal Court in Maryland, which was granted the same day and the next day** by Judges in my 2 Cases No. 1: 21-cv.-02709-BPG, Doc. 33; and No. 1:22-cv.00964, Doc. 8?

Question 3: Magistrate Judge denied (Doc. 158) my motion for sanctions (Doc. 153), by saying I skipped to first file a motion to compel under **FRCP 37(a)**, and I jumped to sanctions under **FRCP 37(b).** Did all Judges in both Courts clearly erred when none of them has addressed, thus, ignored my argument to them that Magistrate Judge erred when she **didn't apply FRCP 37(a)** to Defendant **who also skipped it and jumped to file a motion to dismiss under FRCP 37(b)**, claiming I didn't attend its deposition, whereas I properly objected to it (Doc. 214) and I filed 2 motions for protective order (Docs. 215 and 223) under Rule 26(c)?

Question 4: Whether or not the Circuit Judges clearly erred when I said that the District Court did not address my argument that the dismissal of the case was wrong in part because **Defendant did not confer with me in accordance with Fed. R. Civ. P. 37(d)(1)(B),** and the 10th Circuit said at 17a that "assuming that it is true, the rule did not give a timeframe to which to confer", whereas in fact that time is any time before the filing day of the motion (to sanction or dismiss)?

Question 5: Whether District Judge and the 10th Circuit Judges clearly erred when **none of them ever addressed my argument** that Magistrate Judge clearly erred when **she did not let me file a Reply** to Defendant's Response (Doc. 224) to my renewed motion to stay (Doc. 223) filed on July 11, 2022, and denied it on July 12, 2022 (Doc. 225) by just repeating what Defendant said in

its Response, making me lose unnecessarily a legal battle at her level.

Question 6: Whether the 10th Circuit erred when I said that the District Court **failed to address** my argument regarding **FRCP 37(d)(2)** that prevented the dismissal of my case, and the 10th Circuit argued that: "Likewise, the June 10 **motion** to stay was not presented as a motion for a protective order. Rather, it was **a request** to **pause proceedings** in light of Mr. Yomi's injuries." whereas it was **a motion for protective order,** and was titled: "**Plaintiff's motion** to stay for at least 90 days from today everything **he had to submit** since 5/17/2022" (but **not proceedings**).

Question 7: Whether all Judges in both Courts clearly erred when they didn't apply **Fed. R. Civ. P 26(c)(2),** which stipulates that: "If a motion for a protective order is **wholly or partly denied**, the court may, on just terms, **order that any party or person provide or permit discovery**."

Question 8: Whether all Judges in both Courts erred when I let them know that it is wrong from their part to dismiss the case because I did not travel for about a thousand **(1000) miles** for deposition whereas I let them know in my objection (Doc. 214) to notice of deposition and in my other submissions that **Fed. R. Civ. P. 45(c) or other Rules** even prevent/s the Court to compel me (the deponent) to travel for more than **100** miles for deposition from my place of residence.

Question 9: I didn't oppose to several Defendant's motions for extension of time, but I opposed to the ones in Docs. 115, and 204 granted by the District Court, and opposed the granted 45 day-extension it requested at the 10th Circuit. My own motions in Doc. 118 and the one of 5/8/2024 were denied by both Courts. Did all Judges clearly err when they always grant all Defendant's motions for extension no matter what, and always deny mine when Defendant opposes?

Question 10: The doctor letter that Magistrate Judge requested listed some of my injuries (the rotator cuff tendon tears of right shoulder, left thumb sprain, chest wall contusion), and said they require at least 6 months to heal, and restricted me to lift and push more than 5 pounds, pre-venting me to keep litigating, as I had boxes (of 5 pounds or more) of legal documents placed on top of each other, that I couldn't anymore use. Did all Judges in both Courts clearly err when they never mentioned, nor addressed any of those in their rulings despite my emphasis on those?

LIST OF PARTIES

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

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Francis W. YOMI, Plaintiff/Appellant/Petitioner

Vs

Xavier Becerra, Secretary of the U.S. Department of Health and Human Services (DHHS), Defendant/Appellee/Respondent

RELATED CASES

This case was at the Federal District Court of Kansas, then, at the U.S. Court of Appeals, for the 10th Circuit.

1). Francis W. YOMI vs Xavier Becerra, Secretariat of the U.S. DHHS, case number: 2:21-cv-02224-DDC-ADM, at the U.S. District Court, for the District of Kansas. Judgment was entered on 12/27/2022, dismissing the very good case with prejudice.

2) Francis W. YOMI vs Xavier Becerra, Secretary of the U.S. DHHS, case number: 23-3003, at the U.S. Court of Appeals, for the 10th Circuit. Judgment was entered on 3/14/2024.

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EXHIBITS

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CASES	PAGE NUMBER
See "Related Cases" and Statutes and Rules (below).	All pages of the Statement of Case and Reasons to be granted the Petition.

STATUTES AND RULES

The District Court of Kansas and the 10th Circuit applied the Fed. R. Civ. P 41(b), 37(b)(2)(A)(v), and 37(d)(1)(A)(i) to dismiss this case. However, I denied it, I disagreed with any and all those Fed. R. Civ. P they listed, because, among others, I said they applied the wrong Rules, as it should have been the Fed. R. Civ. P. 37(a) that should be applied against Respondent that failed to file a motion to compel me to go to Kansas for deposition, as I objected to all its notices of deposition. I added by saying that Magistrate Judge Mitchell previously denied my motion to sanction Defendant by saying that

OTHER

I skipped Rule 37(a), failing to file first a motion to compel, before filing a motion to sanction under Rule 37(b). Regarding Rule 37(b)(2)(A)(v) on Response to discovery request, I filed several motions to stay the case due to my injuries from a car accident, specially the one on June 10, 2022 (Doc. 215), filed before the deadline to respond, on June 10, 2022. Doc 215 is also a motion for protective order. Thus, Rule 37(d) should not apply.

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[✓] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.
The website does not say whether or not it is published.

[ ] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[ ] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was March 14, 2024

[X] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts:**

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Title VII of the Civil Rights Act of 1964 (employment discrimination), 42 U.S.C. § 2000e et seq, (Unlawful Employment Practices).

I have attached the fourteen (14) claims that this lawsuit has.

However, this case has been dismissed during the discovery stage by the Judges in the District Court, and did not reach to the Summary Judgment level, nor at the hearing. I believe it was wrongfully and intentionally dismissed. And I believe that the U.S. Court of Appeals, for the 10th Circuit also wrongfully and intentionally confirmed the dismissal, especially because I filed a motion to recuse both Magistrate and District Judges, and a request for Defendant/Appellee Representative to be also removed from the case.

So, I am filing this petition for a Writ of Certiorari for the U.S. Supreme Court to grant it, and to bring this case back to the U.S. District Court, for the District of Kansas, for further proceedings, for a continuation of the case on discovery, since the case was dismissed during discovery, after I was very badly injured in a terrible car accident, and I was not able to keep litigating this lawsuit, I filed proper motions to stay, which were wrongfully denied, to protect the prematurely motion to dismiss filed by Defendant

STATEMENT OF THE CASE

I. The case at the U.S. District Court

I am Francis Yomi, the Plaintiff in the U.S. District Court, for the District of Kansas, the Appellant at the U.S. Court of Appeals, for the 10th Circuit, and the Petitioner in this U.S. Supreme Court. I am an African-American, Black, and native of Cameroon, a country in Africa, in which the first spoken language is French. Having earned a Master in Professional Studies (MPS) in Biotechnology in May 2012, and other diplomas such as a Post-Bachelor's Certificate in Biochemical Regulatory Engineering, and another one in Engineering Management in 2014, I was hired as a Consumer Safety Officer (CSO) in December 2014 at the U.S. Food and Drug Administration (FDA), an Agency of the U.S. Department of Health and Human Services (DHHS), which is Defendant/Appellee/Respondent. However, I allege that I was wrongfully and intentionally terminated or forced to resign by the FDA, thus, the DHHS. The fourteen claims are joined here as Exhibit 1. I beg the U.S. Supreme Court to read them, as they are very powerful, to have this case to keep proceeding, so that Justice can be done to me, to the regard of what the members of the management have done to me when I was employed in 2015. At the Equal Employment Opportunity Commission (EEOC) level, they wrongfully dismissed the case after I wrote the first part of my Summary Judgment, as the Judge realized that I deserve to win, and was biased against me, and towards Defendant. I filed a complaint of judicial misconduct against the EEOC Judges, sending it to the most highly ranked members of the EEOC, such as Ms. Burrows Charlotte, Chair of the EEOC, by email, several times (on 8/4/2022, on 8/9/2022, on 9/16/2022, on 9/19/2022, and on 8/8/2023); to Mr. David Lopez (david.lopez@eeoc.gov) on 1/28/2023; to Mr. Sonderling Keith at ketih.sonderling@eeoc.gov, on 1/28/2023, on 1/29/2023 and on 2/2/2023. However, none of them has responded to me. So, the case went to the Federal Court in Kansas around 5/15/2021. The lead of Defendant Representatives, Mr. Vanorsby Brian from the "Department of Justice" (DOJ) realized that the only way Defendant can get away with this very good case is to have it dismissed by all means, including wrongfully and intentionally. He then engaged in a sort of dishonesty, always acting in bad faith, with malice, defamation and fraud, and always trying to lead me and the Court in errors as much as he could, until the case was finally dismissed after I got into a very bad car accident that seriously and severely injured me. These behaviors worsened when he realized that all 3 Judges in Kansas (Judge O'Hara,

Judge Mitchell, and Judge Crabtree) were not impartial, were biased against me and towards Defendant, and he incited them, encouraged them to be more partial and biased, to the point where he told the District Court the following in Doc. 146, at pg.7: "**Plaintiff has also repeatedly called into question Judge O'Hara's neutrality, implied undersigned is a racist, and stated that he intends to file an ethics complaint against Judge O'Hara and against the undersigned".** Here, the undersigned is Judge Crabtree. I replied to it, and I admitted that I said that I may file a Complaint of misconduct against the Judges, but I denied to have said that I said that Judge O'Hara is racist. I do not believe having said this even once. This is an example of defamation, among many others, from Mr. Vanorsby. And Judge Mitchell was also aware of this, as seen in my arguments at the beginning of page 3 of the email sent to her and to Defendant on May 9, 2022, titled: "the parties' report regarding the conference call of May 12, 2022".

So, Mr. Vanorsby asked at least twice during discovery that the case be dismissed, for very wrongful and improper reasons, even before my car accident of May 17, 2022, where he wrongfully asked it for the third time, and the Courts finally dismissed it, but wrongfully too. In fact, he asked it first after I filed motions for review of the first Magistrate Judge O'Hara who later retired, as I deemed that Judge O'Hara wanted to help Defendant as much as he could, before her near retirement, and was making wrongful decisions against me, and to Defendant's favor, reason why I was filing motions for review. So, in one of his Responses to one of my motions for review, Mr. Vanorsby asked the Court to sanction me and to dismiss the case, because I generally write a motion for review after a Magistrate Judge's decision (since those decisions were also intentional wrong), and District Judge Crabtree Daniel sanctioned me, by giving me a warning, bluntly and expressly ordering me not to write anymore a motion for review, otherwise, sanctions could be taken against me, including dismissal of the case (see Doc. 178). In fact, it was clear that it was a strategy to have the case dismissed, or at least, for both Judges to wrongfully deny me everything (including my motion/s to compel, or for summary judgment), and grant everything to Defendant, so that nothing would be left for me and I would lose the case at the end of the day, whether before the summary judgment, or at the summary judgment. They will never let this case go to the hearing, because they know that other people will be there to listen to my powerful evidences, and will be witnesses if those Judges give a wrongful decision against me. Only impartial Judge will make this case go to summary judgment or hearing. Moreover, Judge Crabtree was wrong because Defendant did not even file a motion

to sanction me, but just said in its Response to my motion for review that I should be sanctioned, and that the case should be dismissed. The most it could have gotten from its "only" Response was a denial of my motion for review, but not for the Court to sanction me on top of that, which was clearly wrong. So, Mr. Vanorsby, as anyone else to his place, immediately understood that the Court played well his game, and is with him and with Defendant, having bias toward Defendant, and against me. On April 27, 2022, he emailed me (but not the Court) another motion to dismiss the case (a seven page-document as attachment), because I objected to his 4th notice of deposition, in which he was wrong in it in his argument and laws, asking me to respond first before he submits to the Court. Because I properly responded to it and showing to him that he is completely wrong, he realized that it would be weak if he presents it to the Court. This is just to show how he only had in mind to have the case dismissed by all means, including wrongfully and intentionally, as he knows that my complaint (including my 14 claims) is a very good case that even needs to be heard out there by the public, and that I do deserve to win it if the Court is impartial. On May 9, 2022, I filed a motion to recuse Judge Crabtree, for his clear bias against me, and towards Defendant, as his rulings were all intentionally wrong from my point of view. This case finally turned upside down when I got a terrible car accident on 5/17/2022 that severely injured me, and I filed several motions to stay the case on 5/18/2022 by simply notifying the Court and Defendant by email stating that I got injured in a car accident, and I request a stay of everything I have to submit to the Court. Defendant who initially said on 5/18/2022 that it does not, and will not take any position on my motion to stay, and reiterated it on 5/31/2022 and 6/2/2022, which means in fact that it did not oppose to it, but Judge Mitchell did not totally grant me the motion, extended what was the most immediate deadline that I had which was on May 27, 2022, to June 13, 2022 (Doc. 209, at 1, and Doc. 219, at 1), and said I have to file a formal motion joining the doctor note in it stating for how long I can heal, before she can grant an extended stay for 90 days. That same day of May 27, 2022, Judge Mitchell also submitted another Doc. (Doc. 211), in which she said that the I have to comply with her Order and respond or supplement Defendant's discovery requests by June 10, 2022 (Doc. 211), which date was already conflicting with the previous date of June 13, 2022 that she gave me in Doc. 209. I was sick, in very bad shape, in pain, and difficult for me to realize all of these at the time. On June 9, 2022, I filed my fifth objection to the fifth notice of deposition (Doc. 214), which deposition was scheduled for June 10, 2022, and in my objection, I let the Court and Defendant

know that I will not come in Kansas for the deposition for many reasons, including, but not limited to the fact that I am severely injured, I am in pain, and I do not work, I have no income, I do not have money to travel to Kansas, and that Federal Rules of Civil Procedure (FRCP) 45(c) stipulates that even the Court cannot compel a deponent to travel for more than 100 miles from his/her place of residence or work, and that Federick, Maryland where I live (at the time) to Kansas City, Kansas is about or more than **1000 miles.** Then, around June 14, 2022, Magistrate Judge Mitchell denied without prejudice my formal motion to stay the case (Dc. 215) filed on June 10, 2022 while in severe pain, which motion was in fact a response to the discovery requests' order in Doc. 211, due that same day of June 10, 2022, and said that I did not include the doctor's letter, and added or meant that I can still file one, but provided that the doctor's letter is included. , **which in fact was out of my control, but now to the control of a third party (the doctor), and she had never provided a date to which the doctor should write the letter, nor the date to which I have to renew it,** which in fact prevented me to write a very simple motion for protective order to stay my submissions and actions before June 10, 2022, as the doctor wrote it on July 8, 2022**, which proves that my case should not be dismissed.** From June 10, 2022 to July 7, 2022 that Mr. Vanorsby suddenly filed his motion for sanctions and to dismiss the case with prejudice, Defendant did not say anything to me regarding deposition and the discovery requests, but I am the one who was informing him and the Court on June 28, 2022 and on July 5, 2022 by email that the doctor said he is writing the letter, and after that, I will renew my motion to stay. I was doing my best to have everything straight, despite my severe pain and sufferings.

The doctor wrote the letter on July 8, 2022, but she still denied (Doc. 225) my renewed motion (Doc. 223), despite the fact that I presented her with the police report, picture showing how very bad the cars were damaged, the MRI showing the tears of tendons of my right shoulder (Exhibit 3 of Doc. 215, joined here as Exhibit 3 too)), my medical records showing the contusion on my chest, sprain of my left thumb, violent headaches, etc., which were attached in Doc. 215 in the District Court. The compliance to the grant of Defendant's motion to compel was due on June 10, 2022, and it also filed its fifth notice of deposition to be held on June 10, 2022. I filed my fifth objection to the fifth notice of deposition on June 9, 2022, (Doc. 214), and I filed another motion to stay the case for ninety (90) days, a formal one on June 10, 2022 (Doc. 215), writing it while in severe pain from my injuries. Judge Mitchell denied it without prejudice on 6/14/2022

(Doc. 219), as it did not contain the doctor's letter that she requested. At this point, all evidences already proves that I have a motion for protective order in place (with my motions to stay the case until I recover from my injuries), and proves that Defendant's motion to sanctions, thus, to dismiss the case filed on 7/7/2022 (Doc. 221 & 222) by claiming that I did not respond to its discovery requests by June 10, 2022 and I did not come to its deposition on June 10, 2022 **was improper, inappropriate, prematurely filed, and should have simply been denied**, as I said before both Judges in the District Court dismissed the case, but by ignoring my proper argument; thus, this also proves that the Judges' decisions to dismiss the case were wrong, since I had an informal motion to stay or informal motion for protective order that started on May 18, 2022, and Judge Mitchell recognized it when she said it in Doc. 209 and Doc. 219, at 1), until she took action and extended my most immediate deadline to June 13, 2022, then I had the formal motion to stay (Doc. 215) filed on time on June 10, 2022, and which continued up to July 11, 2022 with the renewed motion to stay (Doc. 223), and I also had the objection to the deposition (Doc. 214) filed on time, the day before the deposition. However, on 7/7/2022, Defendant via Mr. Vanorsby filed the motion to sanction me and to dismiss the case for not coming to deposition on June 10, 2022 and for not answering to discovery requests by June 10, 2022, whereas he knew that I said two (2) days ago on July 5, 2022 that I will renew my motion to stay once the doctor writes the letter. The doctor wrote the letter on July 8, 2022, and said I need at least 6 months to recover, and listed my injuries, treatment including physical therapy, my restrictions, etc., and mentioned his phone number by saying that anyone can ask him questions if someone has one (see the letter in Exhibit 4). I renewed my motion (Doc. 223) on July 11, 2022. Mr. Vanorsby, who previously said three times in 3 different days that Defendant will not take any position to my motion to stay, stepped in very quickly, and responded to it (Doc. 224) the same day, intentionally violating his own statement he previously made waiving Defendant's rights to oppose to my motion to stay, and said, as both Judges also said later, that the doctor did not say how my injuries prevent me to keep litigating, whereas it is not true. **The doctor said in the letter to call him for any questions, but none of them even called him**. While I was writing my Reply to it to say that Defendant's argument should not be considered as it already waived its rights to oppose, Judge Mitchell at her turn violated the Court proceedings, and ruled on it the very next day on July 12, 2022 (Doc. 225) while I was still writing a Reply to it. This is a misconduct from

her part. Judge Mitchell denied my motion, **despite the doctor's letter she was requesting, and without waiting for my Reply on such an important motion.**

Here is what she said, on 6/14/2022, in Doc. 219, as I copied it from the ECF of the District Court of Kansas in Doc. 219, and I am pasting it here: "Plaintiff Yomi's motion to stay the case or appoint counsel (Doc. 215) is denied without prejudice to being renewed, if at all, only with the required letter(s) from his treating physicians." **So, Judge Mitchell did not let me file a Reply before her ruling (Doc. 225) denying my renewed motion to stay (Doc. 223) because that Reply would have proven that Defendant's Response (Doc. 224) was invalid and improper, which would have added more evidence in my motion, for that motion to be normally granted. She acted so, without letting me file a Reply also because if my motion (Doc. 223) was granted, Defendant's motion for sanctions including dismissing the case (Doc. 221 & 222) would have been automatically denied. So, Judge Mitchell should have let me file a Reply to it, but she wrongfully did not. Then, she eventually granted Defendant's motion to sanction, and wrongfully dismissed the case with prejudice.** Then, she eventually granted Defendant's motion to sanction, without even letting me respond to Defendant's motion to strike my Sur-reply (Doc. 240) that she even granted the same day (Doc. 241). This is another misconduct from her. In her dismissal of the case, she ignored that I filed a timely motion for protective order to stay on June 10, 2022 (Doc. 215), and ignored that my objection to the deposition (Doc. 214) was a valid argument for me not to attend the deposition, and to Defendant to first file a motion to compel (but it did not, simply because FRCP 45(c) prohibits me to travel for more than 100 miles, reason why Mr. Vanorsby realized that it might not work if he filed a motion to compel me, and he misused the Federal Rules, tried to go around that powerful Rule 45(c), knowing that the biased Judges would be with him, and would agree with him, but wrongfully. **So, Judge Mitchell acted as if she does not know all of those, and tried to debate or argue on the content of my objection so that to say that its content is invalid, whereas in fact she knows that the point here is not about the content of my objection, no matter what I said in it, but it is all about whether or not I responded to Defendant's motion for sanctions and argued in it that I cannot travel to Kansas because I am injured from a car accident, and because I do not have the money to travel , because I do not work, because FRCP 45(c) stipulates that I cannot be compelled to travel for more than 100 miles for deposition, and that even the Court cannot compel me to do so, and it is also about whether**

or not an objection was made, was in place on time, and the correct answer of all of those is yes, thus, Defendant should have filed a motion to compel me to go in Kansas for the deposition, or to subpoena me, but did not because it knew that it would not work for it, since Mr. Vanorsby's strategy was not even for me to be deposed, but was for the case to be dismissed. I said it several times and in several pages of my Response to Defendant's motion to sanction (Doc. 234), but she did not address it, ignored it, because she knew that I was right. **She previously denied my motion to sanction Defendant (Doc. 158) by saying that I skipped to file a motion to compel first, and mentioned the Federal Rules 37(a) and 37(b), but here, she ignored it when it came to apply the same Rule against Defendant's motion to sanction.** On July 12, 2022, Judge Mitchell wrongfully and intentionally denied (Doc. 225) my renewed motion to stay (Doc. 223) because **she wanted to grant Defendant's motion to sanction** (Doc. 221 & 222 **filed earlier on July 7, 2022)** and wrongfully dismiss the case. My Doc. 229 and 250 proves her wrongful decisions on Doc. 225 and 242 respectively.

And Judge Crabtree came at his turn on December 27, 2022, which was four (4) months after I filed the motion for review the dismissal of the case, also called Objections to the dismissal, and he also wrongfully confirmed the wrongful recommendations of the dismissal of the case with prejudice done by Judge Mitchell, and he worsened his misconduct that I already explained in the motion to recuse him (Docs. 199 & 200) for judicial misconduct.

II. The case at the U.S. Court of Appeals, for the 10th Circuit (also called the 10th Circuit)

On February 27, 2023, I filed a timely Appeal with the 10th Circuit, as the Appellant. Defendant, the Appellee, filed a motion for extension of time of forty-five (45) additional days to respond to it, in which Mr. Vanorsby said with no evidence whatsoever that he is busy. I objected to it, stating that he did not prove that he is busy. The 10th Circuit simply granted it the motion. By the way, I said in my objection or in my Reply to Appellee's Response to my Appeal Brief that Defendant committed an error to request for an extension of time, as this is exactly what the dismissal of my case is, which is about the extension of time for me to respond to all of what I had to respond to Defendant (before my car accident), and to re-start keep fully litigating the case. So, the 10th Circuit granted it the motion for an additional 45 days to respond, whereas he presented no evidence in his motion for extension of time, and this same 10th Circuit did not reverse the wrongful decision of the District Court (Doc. 225) that denied my renewed motion to

stay the case for 90 days (Doc. 223), despite the doctor's note that Judge Mitchell requested, and despite the fact that the Doctor said that I need at least six (6) months to recover for my injuries, and despite all other evidences I presented, such as, but not limited to the photo of the car accident, showing how very bad the crash was, the MRI of my shoulder clearly showing the big tears of my tendons, the medical records stating some of my injuries, such as headaches, very bad bruises of my chest (until I did the X-ray on it twice, as I thought I have broken bones, I was such a pain that I thought I will die), the sprain on my left thumb (I am a left tender), the pain on my clavicles, the wound and pain on my elbow, etc.

In fact, the "Questions Presented" in this petition basically present the clear errors, which I call the wrongful and intentional errors committed by all Judges in the District Court and the 10th Circuit, and **the answer to each of the 10 Questions Presented is yes**, which proves their judicial misconduct in this case, reason why they all deserve to be held accountable of their misconduct, and deserve to be recused from this case, and even sanctioned, and I am asking the U.S. Supreme Court to do so if it has those authorities. Moreover, on May 6, 2024, the 10th Circuit filed a document "Mandate issued". That same day, I mailed a motion for extension of time to file a document, or pleading, or motion that the 10th Circuit construed as "a motion to file a petition for rehearing". It received it on May 8, 2024, and on May 9, 2024 the Circuit judges denied it, without giving any reason whatsoever, simply denied it, despite the fact that I explained that I have been sick for a long time since December 2023, and I am on medicines for major depression, insomnia, headaches, anxiety, high blood pressure, heart burning, etc., and despite the fact that I even provided a copy of the medicines I was taking, prescribed by my Psychiatrist sometime at the end of April 2024. But Judge Mitchell granted Defendant's motion or request to extend discovery deadline for 45 days or two months in May 2022 that I opposed to, whereas Defendant did not give any reason as to why, even during the conference that we have had with Judge Mitchell about it, and whereas this 10th Circuit also granted Appellee's motion for extension of time for 45 days to respond to my Appeal Brief stating that he (Mr. Vanorsby) is busy, despite my opposition to it as he did not provide any evidence, but all Judges o in the District Court and the 10th Circuit dealing with my case are simply denying my motions for extension of time (including motion to stay the case), despite the overwhelming evidences of medical health issues that I present, which is wrong, discriminatory and retaliatory. Both Judges in Kansas also wrongfully ruled in several other motions mentioned in Appeal at the 10th Circuit.

REASONS FOR GRANTING THE PETITION

First of all, the correct answer to any and all the 10 "Questions Presented" joined here is: Yes. The District Court Judges and the 10th Circuit Judges clearly erred on everything I said in the "Questions Presented" section, and they have wrongfully and intentionally done so, reason why they deserve to recuse themselves if this petition is granted. On a3, the 10th Circuit said the following regarding a previous grant of Defendant's request for my medical records: "Mr. Yomi would not agree to a standard release giving the government permission to obtain his protected health information directly from his healthcare providers (as opposed to Mr. Yomi himself producing the health records he deemed relevant). The government therefore moved for an order to that effect, which the magistrate judge granted" End quote. However, the 10th Circuit is wrong, because those are not the real fact. The real fact is that Defendant had already asked me for my medical records as part of one of its Requests for Production of Documents (RFPs), and it took me a very long time to provide it all my medical records, in which I spent a lot of my little money. Then later, Defendant came and asked the same request, by saying that my medical records this time should come from my healthcare providers, and I objected to it, as being a duplicate RFP. This is the part the 10th Circuit did not mention, since I said it in my Appeal Brief; and this is exactly how the 10th Circuit has ruled on my case, by not saying, ignoring, or by not arguing on the powerful evidences I presented, but wrote its decision by not mentioning what will prove that I deserve to prevail on everything, but by just mentioning what Defendant and the Judges said, since all of them were just against me. Secondly, the 10th Circuit calls Appellee by the name of "the Government" instead of saying the Appellee, or the U.S. Department of Health and Human Services. In fact, even the 10th Circuit is also an agency of the Government, as Appellee. Thus, for me, it is clear that the 10th Circuit Judges here are protecting Defendant from

liability in this case, as they are all agencies of the Government, which is unjust.

The Circuit Judges also clearly erred when they did not allow a hearing despite my request for it, but failed to address of lot of important points I mentioned in my Appeal Brief, and my Reply, regarding the dismissal of the case, and the ruling on other motions I mentioned in my Appeal Brief that needed to be reversed. If the U.S. Supreme Court finds that the dismissal of my case was wrong, then, I am asking it to please go and read my entire Appeal Brief at the 10th Circuit, Defendant's Response and my Reply to Defendant's Response, and to reverse all the wrongdoings the District Court decided against me that I mentioned in my Appeal Brief, and later, including, but not limited to, the motion to recuse both the Magistrate Judge Mitchell and the District Judge Crabtree, and even the 10th Circuit Judges who ruled on this case, as they all proved that they are extremely biased against me, and even discriminated against me, and made me wrongly lose the case, and there is no way that they can be fair if they keep ruling on this case. At the middle of page 4a, the 10th Circuit said: "The government soon noticed Mr. Yomi's deposition for March 11 in Kansas City, Kansas. Mr. Yomi responded with a motion that his deposition be located no more than fifty miles from his home in Maryland." However, this is not totally correct, since I first objected to any and all five Defendant's notices for deposition, but the 10th Circuit did not mention that, since it is important to prove that Defendant failed to file a motion to compel, and jumped to a motion for sanctions that was wrongfully granted, and wrongfully approved by the 10th Circuit. Secondly, I requested that the deposition of any deponent of both parties be done within 50 miles of deponent residence, but not for my residence. At the beginning of page 5a, the 10th Circuit said: "While this motion was pending, Mr. Yomi separately moved to postpone his deposition by forty-five days because he wanted to see the government's responses to outstanding requests for production of documents before he

sat for his deposition. He did not explain why he first needed to see the government's responses, other than saying it was his "own discovery strategy." Id. at 176." End quote. However, this is not true, and it is false. Here is what I said on page 1 of Doc. 118, where I clearly said and explained why I was requesting an extension of time, since Defendant's first filed a motion for extension of time to respond to my RFPs, which was granted by Judge O'Hara, despite my opposition to it, and I let the Judge know that Defendant's strategy was for me to be deposed first before it responds to my discovery requests, whereas I already answered to its 18 RFIs, and its 36 RFPs, and to its RFAs, and whereas I provided it with my RFPs first, before its scheduled deposition, and I needed its responses first so that I can better prepare for the deposition later. And Judge O'Hara denied my motion for extension of time. But the 10th Circuit falsely said that I did not say why I requested an extension of time. Moreover, it mentioned that this can be seen at I. 176. However, Id. 176 does not have that. The 10th Circuit did not say that Defendant first filed a motion for extension of time to respond to my RFPs, which was granted, despite the fact that I said in my opposition that it was Defendant's strategy to depose me first, then to come later and wrongfully object to all my RFPs, and my other discovery requests. The 10th Circuit is only mentioning bad stuffs about me, but does not say anything bad from Defendant and the Judges, but wrongfully acting so, as I am proving here, and is totally incorrect in its analysis and his rulings. The 10th Circuit is wrong all the way through. On page 6a, the 10th Circuit said: ""Indeed," the district court said, "plaintiff has turned this case into . . . something of a hydra: every time the court rules [on] a motion, three more appear in its place." Id. at 236–37. The court cautioned Mr. Yomi that his "litigation strategy, if it continues, may warrant some kind of filing restrictions or perhaps sanctions." Id. at 237." End quote. In fact, it was first Mr. Vanorsby who said it in his Response to one of my motions or review, having copied this statement from a

Judge's ruling in another case (that is not mine), but because District Judge Crabtree was always reading what Defendant said, and basically just recopying it in his decisions, ignoring anything I said, that is why he just repeated this from Defendant's Response, when Defendant asked him in that Response (but not in a motion) to sanction me and to dismiss the case, which was wrong to Judge Crabtree to sanction me by warning me, and by preventing me to write further motions for review. At the end of a7, the 10th Circuit said: "The government filed a new deposition notice for June 10, 2022, in Kansas City." However, it failed to say that I again objected to it, because it knows that my objections are key here, since it would have been for Defendant to file a motion to compel me on deposition or a subpoena, but it did not, but wrongfully jumped to file a motion to sanction, skipping FRCP 37(a). So, all the Federal Rules Mr. Vanorsby, both Judges in Kansas, and the Judges at the 10th Circuit mentioned as being their valid reasons to dismiss the case are all improper, since, I objected to all notices of deposition, and on 5/18/2022 I filed an informal motion for protective order to stay what I was supposed to submit and act in this lawsuit, because of my injuries, which Judge Mitchell recognized, and which continued on June 10, 2022 with the formal motion for protective order to stay (Doc. 215), filed the last day to comply with the Court's order on discovery responses and the day of the deposition. And this is where this case is also about, after the wrongful denial (Doc. 225) of my renewed motion for protective order to stay my submissions and acts, including deposition (Doc. 223). At the end of 9a and beginning of 10a, again, the 10th Circuit said at 10a that: "On June 10, the government arrived for Mr. Yomi's deposition at the designated place in Kansas City." **However, the 10th Circuit Judges always ran away from stating that I objected to the last notice of deposition the day before, stating in it that I will not come to Kansas (Doc. 214), and the 10th Circuit did not say that I explicitly said in all my submissions (Responses, motions, Replies) regarding this dismissal**

of the case (apart from or separately from what I said in the objection to deposition) that I will not come to Kansas for the deposition, mainly because of my injuries, and because FRCP 45(c) prevents me to travel for more than 100 miles for deposition as a deponent. This is key here, and I said in my Objection to the notice of deposition. And the fact that the 10th Circuit always runs away from stating those arguments I mentioned in my objection (Doc. 214), as both Judges in Kansas did, is a pure and simple proof of their wrongful decisions, and proof of judicial misconduct against all of them, for discriminating against me at the basis of my race, color, and national origin, and especially for retaliating against me for filing motion to recuse District Judge Crabtree and Judge Magistrate Judge Mitchell. My objection (Doc. 214) of Defendant's last notice of deposition and my informal motion for protective order to my submissions and acts filed on 5/18/2022 in which Judge Mitchell recognized and extended my immediate deadline for taking action in this lawsuit from May 27, 2022 to June 13, 2022 (page 1 of Docs. 209 and 219), then my formal motion for protective order to stay (Doc. 215) of June 10, 2022, and my renewed motion to stay of July 11, 2022 (Doc. 223) in fact nullify all the FRCPs that both Courts wrongfully mentioned as being the reasons of the dismissal of the case.

At 10a, the 10th Circuit said: "The Magistrate judge denied the motion the next day because, although Mr. Yomi submitted a letter from a physician, the letter stated only that Mr. Yomi was restricted from pushing or pulling more than five pounds and standing or walking more than thirty minutes." However, the 10th Circuit kept twisting things around, avoiding to mention what would make my argument strong, and just mentioning what would make it weak. So, in fact, the Doctor's letter seen in Exhibit 4 here, or in 10th Circuit Document: 010111015902 Date Filed: 03/14/2024 Page: 199, says the following: "To whom it may concern, Francis Yomi has been a patient of mine since June 2022. He has been under my medical care for his right shoulder and

left thumb injury as a result of a motor vehicle accident on May 17, 2022. He was diagnosed with Right rotator cuff tendon tear and left thumb sprain. He also suffered a chest wall contusion as a result of the motor vehicle accident. These injuries require minimum of 6 months to heal. While recovering from this injury, he has the following restrictions: No lifting pushing, pulling > 5 lbs, No standing, walking > 30 minutes. He is being referred to physical therapy to hasten his recovery. Feel free to contact my office with any questions or concerns you may have." End quote. So, we can all see that the doctor did not only say that: "Mr. Yomi was restricted from pushing or pulling more than five pounds and standing or walking more than thirty minutes.", as stated by Magistrate Judge Mitchell (which District Judge Crabtree also approved), and by the 10th Circuit Judges EID, Joel M. CARSON, and ROSSMAN. Also, the facts and laws show that Magistrate Judge Mitchell denied (Doc. 225) my motion (Doc. 223) the next day, **without letting me file a Reply to Defendant's Response** to my renewed motion to stay (Doc. 224) because in fact**, she wanted to protect Defendant's premature and improper motion for sanctions** (Doc. 221 & 222) filed a five (5) days ago, on 7/7/2022, **so that my case can be dismissed, but for discrimination and retaliation against me**, for filing motion to recuse Judge Crabtree (Docs. 199, 200 and 202). It is so clear! On 14a, the Circuit Judges said: "Concerning Mr. Yomi's motion to stay filed on the evening of June 10, this could not have had any effect on his failure to attend his deposition at 9:00 that morning." However, they are wrong, or incorrect. Let just suppose for example that a car accident happened to anyone on June 9, 2022, and the person is unable to file a motion for protective order to postpone the deposition of June 10, 2022, because of his/her injuries, then does not attend the deposition, and file a motion for protective order on June 11, 2022, explaining the car accident incident and the injuries that prevented him/her to file a motion for protective order before the time of the deposition. Does that person

would have an acceptable excuse to his/her favor in a motion to dismiss is filed by Defendant? The answer is yes. And it is the same thing in my case, where I filed the motion of June 10, 2022 (Doc. 215) at the earliest or at the sooner time possible I could have filed such a motion, because of my injuries. Thus, the 10th Circuit is wrong, and is doubly wrong when it did not say that I said in my Objection to the deposition that I would not come to the deposition. Both Judges in the District Court, and the Circuit Judges all said that the dismissal of the case was proper under FRCP 37(d) for failing to attend to the deposition, and mentioned FRCP 37(d)(2) and said that my objection (Doc. 214) to Defendant's fifth notice of deposition is not an acceptable excuse, and added that I did not file a motion for protective order under FRCP 26(c). However, they are all wrong, because Magistrate Judge Mitchell has considered my request of May 18, 2022 as being an informal motion for protective order, and as took action on it, and extended my most immediate deadline to take action regarding this lawsuit from May 27, 2022 to June 13, 2022 (see page 1 of Doc. 209), and she reiterated it on page 1 of Doc. 219. I said in all my submissions that regarding "Fed. R. Civ. P. 37(d)(2), I said that it was Mr. Vanorsby who brought up this Rule 37(d)(2) in his motion to dismiss the case, and I said that he intentionally did not mention the part of this Rule that states that: "unless there is a pending motion for protective order under Fed. R. Civ. P. 26(c)." simply because he knew that I did have such motion in this lawsuit, which was my informal motion to stay that started on May 18, 2022, and continued to June 10, 2022 (Doc. 215), and to July 11, 2022 (Doc. 223). I added by saying that I do not know if he was taught in law school that a lawyer can retract some parts of a Rule, when, by doing so, would benefit his party. But anyway, I do not think so, and I just think that he is dishonest. Thus, all Judges from both Courts (District Court and the 10th Circuit) are all wrong to say that there was no pending motion for protective order regarding my deposition, when they said that I filed the formal

motion to stay in the night of June 10, 2022 (Doc. 215), whereas in fact, this was simply a continuation of what Judge Mitchell considered as being my informal motion to stay filed on May 18, 2022 by email (thus, a motion for protective order asking the Court to protect me so that Defendant cannot keep asking me to respond to anything it requests, including deposition ,and discovery requests), until she (Judge Mitchell) said she **recognized it** and **extended my most immediate** deadline from May 27, 2022 to June 13, 2022.

As I said in all my submissions, including on pages 4, 15 and 18 of my Appeal Brief, there was a motion for protective order in place since May 18, 2022 (request to stay the case) which continued to 6/10/2022 (Doc. 215), and to 7/11/2022 (Doc. 223). Both Courts are taking advantage of the fact that I did not explicitly say in the title of my motions to stay my submissions and acts (Docs. 215 and 223) that they were "motions for protective order", to falsely say that they were not motions for protective order. However, the title of them (even without the words "protective order") clearly shows that they were motions for protective order, in which I clearly requested the Court to stay everything I had to submit to it, and to Defendant, including any action I was supposed to take (such as deposition, etc.), until I heal from my injuries, so that Defendant cannot harass me, or annoy me about those. The title and the content of those motions (Docs. 215 and 223) clearly prove it. The title was: "**Plaintiff's motion** to stay for at least 90 days from today everything **he had to submit** since 5/17/2022". We can see that I well-requested in my motion a stay of everything I had to submit, but I did not request **a pause of the proceedings**, as wrongfully mentioned by the 10th Circuit seen in Appendix A, at a15 here, so that my proper motion for protective order would not look as one, from the eyes of a reader of its decision. The 10th Circuit also said at a15 that:

"The June 9 objection was not presented as a motion for a protective order.

To the extent it could have been construed as one, the court had already denied a
protective order on the grounds asserted (which were the same grounds asserted in
Mr. Yomi's motion to limit his deposition to within fifty miles of his

residence."

In fact, my motion that was already denied was about doing deposition by each party at 50 miles from the residence or workplace of deponents of each party (Doc. 100), but not just me, whereas this one now involved FRCP 45(c) that prohibits deposition to be done at more than 100 miles. Moreover, the 10th Circuit did not mention the big part of that Objection (Doc. 214) that renders it to be construed as a motion for protective order, which is the part relating to my terrible car accident, in which I said I am badly injured, and I cannot do the deposition because of my pain and sufferings from the car accident. When you read my objection Doc. 214, and my motion to stay (Doc. 215), you will immediately see that they are proper motions for protective order. Thus, both objections (Docs. 100 and 214)were not the same ground, and this Objection (Doc. 214) should be construed as a motion for protective order. Thus, Doc. 214, 215, and 223 should all be construed as being motions for protective order, since they are, and this case should survive. Defendant mentioned FRCP 37(d)(2), but it removed the part that says that: "unless there is a motion for protective order in place", because it knew that there was a motion for protective order in place, which was my Doc. 215, renewed in Doc. 223. That is why Mr. Vanorsby acted in bad faith. Judge Mitchell did not address the point on the expression "motion for protective order". District Judge Crabtree only said that it was not a motion for protective order, without saying anything else, nor why, but he did not say why simply because it was in fact one motion for protective order, but he took advantage of the fact that I did not write the words "protective order", to falsely claim that it was not one. Thus, Mr. Vanorsby and all Judges in both Courts are

wrong. It is so clear! More importantly, the main point in the dismissal of the case was not to see if the motion to stay would be denied or not, but it was to just see if there was a motion filed by me **by June 10, 2022** regarding the discovery request **due on June 10, 2022**, and the answer is **yes, with my motion for protective order to stay (Doc. 215).** Thus, it was wrong to dismiss the case by saying that I did not respond to discovery requests by the due date of June 10, 2022, and did not attend the deposition still on June 10, 2022. Regarding the deposition, I objected on time, before the day of the deposition, and I said I would not come to the deposition (Doc. 214), and there was an informal motion for protective order filed on May 18, 2022, and a formal one filed on June 10, 2022 (Doc. 215), despite the pain from my injuries. Moreover, Judge Mitchell was clearly wrong to deny my motion to stay, but she acted so to protect Defendant's motion to dismiss (Doc. 222). The 10th Circuit also said that Judge Mitchell said that I said I am in pain, and added by saying that: however, I write 3 to 6 page-documents, etc. But in fact, she is not overall correct, as all District Judges and Circuit Judges who ruled on this case, and Defendant too, when they all failed to address the point that I said, when I said that I copied and pasted about 4 or 5 pages from those 6 page-documents seen in Doc. 214, and other Docs., and they all also failed to address my argument that the doctor's restrictions are preventing me to look into the law books that I had that weighed more than 5 lbs, are preventing lift and/or push my boxes of documents weighing more than 5 lbs that I use to litigate this lawsuit, that are arranged one above another, etc. They all did not address it because they all knew that it was a powerful evidence for not denying my motion to stay for 90 days, and to deny the motion to dismiss the case. It is so clear! Also, my injuries were improved slowly, with the time, and I could write a little more than before in May 2022. In her recommendation to dismiss the case, this time, Judge Mitchell said on August 4, 2022, on page 2 of Doc. 242 that my injuries were not so severe to

prevent me to participate in discovery, and did not necessitate extending deadlines—aside from the modest extension the court already granted. However, she is totally wrong, because it is clear to every neutral and mentally fit person that my injuries prevented me to respond to discovery requests by June 10, 2022, as the Specialist Doctor said that they require at least 6 months to heal, but not just 2 weeks and 3 days to heal (from May 27, 2022 to June 13, 2022 that Judge Mitchell extended (Doc. 209, at 1). **Judge Mitchell (and Judge Crabtree and Circuit Judges who ruled on this case and affirmed the dismissal) are all challenging the Specialist doctor (who spent more than 12 years in medicine studies and has some years of experience) in medicine, and they want to show that they know how much time my injuries that they did not even see could have lasted to heal.** But they are all wrong. You should Doc. 215 and all Exhibits, including the pictures of the car terribly damaged, and my medical records I provided, to understand the gravity of incorrectness of all Judges in this case, which for me, was simply wrong from their part. Also, Judge Mitchell said in that above statement that she extended my deadline (to act) to 2 weeks (up to June 13, 2022. Please see Doc. 209, at 1). **But why did she want me to respond to discovery requests and do the deposition on June 10, 2022, whereas it was 3 days before the June 13, 2022 that she said**? The correct **answer is that it is because she wanted to dismiss the case**, but she wrongfully did so. Moreover, as I said here above, on May 27, 2022, Judge Mitchell extended my most immediate deadline to June 13, 2022, even before seeing my tremendous medical records that showed that I have bruises on my chest, the two X-rays I did for it, the MRI of my shoulder clearly showing the big tears in it, the sprain of my left thumb, the headaches, the pain on my neck and clavicles, etc., as my initial request of May 18, 2022 was simply an email of about 2 sentences I sent to her and Defendant notifying them of my injuries, and the stay of my submissions. But after Defendant filed a motion to

dismiss on 7/7/2022, Judge Mitchell that time said that my injuries did not prevent me to respond to discovery requests by June 10, 2022, which is fact is false and wrong. More importantly, the point was not even to see the validity of my motion to stay in its whole (including the validity of the content of the doctor's letter), meaning that it was not to see whether or not my injuries or what the doctor's letter stated allowed me, or prevented me to respond to discovery requests by June 10, 2022 **(since even if I had broken 100 bones during that car accident, including both arms' longest bones and both legs and feet's longest bones and rib bones, Mr. Vanorsby, Judge Mitchell and all Judges who ruled in this case would have still found that those injuries did not prevent me to respond to discovery in 3 weeks and 3 days, and would have said that Judge Mitchell was correct, and did not err when she denied it), but the point was to see if there was a motion filed by June 10, 2022** that prevented me to respond to discovery request by June 10, 2022. And **the correct answer is yes:** with my formal motion to stay (Doc. 215). That's it! But all Judges in both Courts and Defendant just spent their time to argue about the validity of the doctor's letter, trying to diminish and/or undermine and/or degrade and/or minimize what the doctor said, but just because at the end of the day, they all just wanted to conclude that my motion to stay deserves to be denied (and to dismiss and affirm the dismissal of the case), whereas they know that this was not even the point as I said, but the point was to see whether or not I filed the motion by June 10, 2022, and the answer is yes**. So, Defendant and all Judges (District Court and the 10th Circuit) are clearly wrong to say that I did not respond to discovery request on June 10, 2022 (**which is failure to comply with Fed. R. Civ. P. 37(b)(2)(A)(v)) as seen on 11a**, and to dismiss the case for that, since I did comply, I did respond to it, with or by my motion to stay (Doc. 215) filed on June 10, 2022. I said this in all my submissions, but the Judges are just looking for ways to turn around it, so that to dismiss**

the case, but wrongfully. The fact that Judge Mitchell involved the doctor's letter **was now out of my control**, and it is simply wrong from both Courts to say that I did not respond and did not attend to deposition on June 10, 22, whereas they all know that my motion for protective order that needed to be filled on or before June 10, 2022 depended of the doctor, a third party, but not me alone, and **Judge Mitchell did not provide a deadline to which the doctor should write it.** Thus, wrong.

At the end of 20a, **the 10th Circuit Judges addressed the fact that I said that Judge Crabtree clearly erred when he ruled as moot** two (2) of my motions (motion for review (Doc. 229) Judge Mitchell's denial (Doc. 225) of my motion to stay (Doc. 223), and my motion for review (Doc. 246) of Judge Mitchell's grant (Doc. 241) of Defendant's motion to strike (Doc. 239 and 240) my sur-reply (Doc. 238 stricken) to its Reply regarding its motion to dismiss the case (Doc. 221). However, the Circuit Judges clearly erred, since they said that I should have objected about this directly in my Objection (Doc. 250) to Judge Mitchell's Recommendation to dismiss of the case. However, the 10th Circuit is wrong, because I could not write the entire content of my motion for review (Doc. 229) in my Objection (Doc. 250) to the dismissal of the case, since my motion for review exists, and Judge Crabtree should have read it and ruled on it first, before affirming the dismissal of the case, but he failed to do so. It is clear that the 10th Circuit is just looking for ways to go around my powerful arguments, always putting the blame on me, even when the blame is to put to the Judges at the District Courts. Regarding the other motion for review (Doc. 246), the Circuit Judges are wrong, because when Judge Mitchell had stricken it without my Response, and dismissed the case, **she was limiting my chance of winning this lawsuit, since the case would go to the next level, which is the District Judge, but wrongfully, making me lose already unnecessarily a legal battle. This is the point here.**

Judge Mitchell was also wrong to dismiss the case, whereas she showed in Doc. 242 that she knew that there was a pending motion (my Doc. 229) for review her denial of my renewed motion to stay. On page 7a, the Circuit Judges said that: "**his objection** to the deposition notice **had no legal effect.**" However, they are wrong, because the legal effect that such an objection has is that it prevents the Court to directly sanction the deponent under Rule 37(b) or 37(d) if s/he does not object, and it leads the Court to compel the deponent at the worst for the deponent under Rule 37(a). **One of the proofs that "Objection" to notice of deposition matters is the following Federal Rules: Fed. R. Civ. P. 30(c)(2) and 32(d), especially** 32(d)(1), which stipulates that: "(1) *To the Notice.* An objection to an error or irregularity in a deposition notice is waived unless promptly served in writing on the party giving the notice." In fact, they are there for a reason, contrary to what the 10th Circuit says. For instance, in my case against the Navy, it filed a motion to compel me to attend deposition after my objection to its notice of deposition, but it did not jump to file a motion to sanction me (see Case No. 3:23-cv-05199-KKE in the U.S. District Court in Washington State, Doc. 50), titled: "DEFENDANT'S MOTION TO COMPEL VIRTUAL DEPOSITION OF PLAINTIFF FRANCIS YOMI"). Thus, objection to notice of deposition matters, and all Judges in both Courts are wrong all the way through.

At the end of 17a, the Circuit Judges said that I said Defendant failed to apply Rule 37(d)(1)(B), thus, failed to confer with me before filing the motion for sanctions. The 10th Circuit said the Rule does not tell when to confer. However, the 10th Circuit is wrong, because the time to confer is just any time before the day to file the motion to sanction. So, it is so clear that the Circuit Judges are egregiously wrong all the way through in their arguments regarding this dismissal of the case. In fact, Mr. Vanorsby knew this Rule, since he just literally said that he conferred and/or filed a certification about it, whereas in fact he did not confer, thus, did not tell the truth, since the record shows that there was no communication between Defendant and me regarding

discovery requests, from June 11, 2022 to July 7, 2022. Mr. Vanorsby did not confer because he knew that if he did, I would have told him that he is wrong to file the motion for sanctions, since I informed him and the Court on June 28, 2022 and on July 5, 2022 that the doctor is writing the letter requested by Judge Mitchell, and said that it will be done very soon, so that I will renew my motion to stay. This clearly proves the malicious and act in bad faith of Mr. Vanorsby, as he knew that the Judges were extremely biased against me, and would grant everything he files, thus, intentionally leading the Court in error, and he deserves to be properly sanctioned by the U.S. Supreme Court, in which the very first sanction will be to disqualify him from this case, and from any other cases to which I am a Party, as I explained (in my Appeal Brief with the 10th Circuit, and in the motion to recuse Judge Mitchell and Crabtree from this lawsuit) his dishonesty (among many other things, saying that he conferred with me whereas he did not, twisting the FRCP or intentionally not stating the entire Rule because the entire Rule would show that he is wrong, such as FRCP 37(d)(2) **that he intentionally did not mention it in its entirety** (because he knew that I did have a pending motion for protective order (Doc. 215 or 223)), **his fraud on discovery regarding the verification pages** of witnesses which are joined here as Exhibit 5 (which he basically and finally admitted to, and promised to correct it, but did not, since he relied on the extreme bias of the District Court to give him a pass on everything), and refused to provide proper responses to my discovery requests, etc., **his defamation**, his multiple **acts in bad faith, his leads of the Court and me in error** as much as he could, his **lies** to the Court, such as, but not limited to, the fact that he said to Judges in the District Court of Kansas that I said that Judge O-Hara is a racist, whereas I believe not having said that at the time he said I said it, and so on... Here is what the verification page of each of the person who wrote it says: "

I, Michael Feingold, under declare penalty of perjury under the laws of the United States of America

that the foregoing response to Interrogatory No. 4 is true and correct to the best of my knowledge, information, and belief." The other verification page says: "I, Dina West, under declare penalty of perjury under the laws of the United States of America that the foregoing responses to Interrogatory Nos. 1, 2, 3, 4, 5, 7, 10, and 12 are true and correct to the best of my knowledge, information, and belief." And the last one says: "I, Nadine Nanko, under declare penalty of perjury under the laws of the United States of America that the foregoing responses to Interrogatory Nos. 6 and 11 are true and correct to the best of my knowledge, information, and belief." We can see how it is wrongfully formulated, and each of those members of the management (Ms. West Dina and Ms. Nanko Nadine) has read it, but signed a wrongly formulated document, knowing that it was improper.

If we have a hearing regarding the other motions wrongfully ruled that I mentioned in my Appeal Brief in February 27, 2022, I would go deeper on everything. He never disputed when I qualified him of all those bad lawyer's behaviors, but simply because he knows that I am right. If I have a chance to have a hearing about him and Judges who ruled on this case in both Courts, I believe they will have their law licenses revoked. They took advantage of the fact that I am a pro se and a non-lawyer person, to violate all the Federal Rules as much as they could, so that to dismiss the case, but wrongfully.

Regarding the application of the Ehrenhaus Factors at 17a, the Circuit Judges are totally wrong. First, they said: before the Court dismisses a case, it looks the prejudice that this created to Defendant. However, in fact, Mr. Vanorsby cannot claim any prejudice here, because he stated in May and on June 2, 2022 that Defendant will not take any position to motion to stay, thus, in fact, he did not oppose to it. So, he is wrong to claim that my non-appearance to the deposition in Kansas and not providing him with the proper discovery requests created prejudice to Defendant. Moreover, I notified him in advance that I will not come to the deposition; so, the fact that I he

said that he came is not a prejudice that I created to it. Regarding the response to its discovery requests, no prejudice exists here, because even after it filed the motion to dismiss the case on July 7, 2022 saying that this created it a prejudice because I did not provided the proper response to its discovery requests, the parties (including Defendant itself) and the Court were still all dealing with my motion to stay the case or not, until Defendant came on July 11, 2022 and responded (Doc. 224) to my renewed motion to stay (oc. 223) filed the same day (on July 11, 2022). This level of dishonesty from Mr. Vanorsby is to be reviewed by neutral Judges or others who have that authority to take disciplinary action against lawyers. It was simply premature to file such a motion to dismiss, that the Judges in the District Court and the 10th Circuit are wrongly trying to show that such a frivolous motion to dismiss made in bad faith, dishonesty, and even lie is proper. I said in all my submissions that all the FRCP 37 that the Judges mentioned as reason to dismiss the case do not apply in my case, because I had an informal motion for protective order filed on May 18, 2022, then a formal one of June 10, 2022 (Doc. 215) and July 11, 2022 (Doc. 223), and because I objected to the notice of deposition (Doc. 214), which objection has a legal effect, which is that I cannot be directly sanctioned, and that it was to Defendant to file first a motion to compel me, but it did not because the FRCP 45(c) would have prevented me to travel for more than 100 miles, thus, not to go in Kansas, whereas Mr. Vanorsby's malicious plan was in fact to have the case dismissed, but not really to depose me, since he could have also come in Maryland to do it, or do it remotely, as he proposed to Dr. Ojo those 2 alternatives when he wanted to go to Arizona and depose Dr. Ojó where he lives. I said it in my Objection to the notice of deposition (Doc. 214, at 6), in my Response to the motion to dismiss (page 6 of Doc. 234), in my Objection (Doc. 250, at 24) and in my Reply (on page 6 of Doc. 255) to Defendant's Response to the Recommendation to dismiss the case, but none of the

Judges has ever addressed it, but simply because they know it goes to my favor.

Still regarding the motion to recuse both Judges in Kansas, the Circuit Judges said at the end of 12a that: Mr. Yomi's dispute with the district judge and magistrate judge arises from the rulings they made against him, but "adverse rulings cannot in themselves form the appropriate grounds for disqualification," However, this is not only what I said. I said at the end of page 3 of my motion to recuse Judge Mitchell filed with the 10th Circuit that: "I will not go over each single decision Judge Mitchell made, but I will simply insist on the most important ones, which will prove that not only she made wrongful decisions on the motions to which one party did not oppose to, **but it was more than these adverse rulings, because those rulings were made wrongful, based on discrimination and retaliation against me."** And I said it several times. I did the same with the motion to recuse Judge Crabtree filed at the 10th Circuit too. Thus, the Circuit Judges did not mention the part I said "**but it was more than these adverse rulings**, etc., but **simply because they know that this warrants recusal and sanctions against the Judges for their misconducts.**

At 19a, the Circuit Judges said: "the magistrate judge also said Mr. Yomi's opposition to attending his deposition in Kansas was an example of intransigence that the court would not allow to continue." However, she was wrong to say it, and the Circuit Judges know that she was wrong, because Defendant did not file any motion to compel me to go to the deposition in Kansas, and there was no Court's Order compelling me to go. Defendant filed five notices of deposition, and I objected to all five notices. The Federal Rules states that the Court is not involved in discovery, unless there is dispute between parties and that a motion to compel or to sanction is filed. But here, when Magistrate Judge Mitchell stated that the court would not allow my refusal to go to Kansas to continue (on May 27, 2022), there was no motion to compel me for

deposition, nor a motion to sanction me for deposition in place filed by Defendant, thus, it is so clear that all Judges (Magistrate Judge Mitchell, District Judge Crabtree, and all Circuit Judges who ruled on my case) were all wrong, to concur with Judge Mitchell's warning to me whereas I did not do anything wrong, and whereas Defendant did not even file a motion to sanction at the time of the warning. Judge Mitchell clearly erred when she did not grant me my motion to appoint an attorney, as I met all the requirements for it. She granted an untimely motion to compel done by Defendant, and the argument she mentioned as to prove that Defendant was not late is just totally invalid, and even proves that she knows very-well that it was late. She granted each of Defendant's discovery requests (I believe), but each of them was wrongfully granted by Judge Mitchell. Judge Mitchell also provided legal advice to Mr. Vanorsby during our conference call around May 9, 2022, telling him he has to file a motion, which she is prohibited to do. as I objected to his 5 notices of deposition, and he expected the Court to rule on each of them each time. That is why he later filed the motion to dismiss the case. Brief, all the motions granted to Defendant and denied to me that I mentioned in my Appeal Brief need to be reversed to my favor, all Judges in both Courts need to recuse themselves in this case, and Defendant Representative Mr. Vanorsby needs to be disqualified, sanctioned, and removed as Defendant Representative, and also needs to be warned by the U.S. Supreme Court that he shall be ordered not communicate to any person (including his colleagues at work, and any other attorneys, and any person he knows and people he does not know) about any of my cases, if not, more severe sanctions would be taken, including jail time, all of which would be graciously appreciated.

Francis Yomi

On October 17, 2022

CONCLUSION: Thus, my case was wrongfully dismissed, and I am asking the U.S. Supreme Court, to reverse that dismissal, and to resend the case back to the District Court of Kansas, in New Mexico so that the parties can continue the litigation. **It is just clear, at least that, I deserve to have an acceptable excuse for not having this case dismissed because the Courts wrongfully said that I did not respond to discovery on June 10, 2022 and did not go to the deposition of June 10, 2022 in Kansas, whereas Judge Mitchell herself said that it will be from June 13, 2022 that I will start acting again in this lawsuit; and whereas or because I did a car accident that severely injured me; whereas or because the Orthopedist said I have at least 6 months to heal**; and whereas or because **I filed an objection to the deposition on June 9, 2022 (Doc. 214)** and let Defendant and the Court know in advance that I will not come for the deposition, and explained why; and whereas or because **I filed an informal motion to stay or for protective order on May 18, 2022**, which continued on June 10, 2022 with the formal motion for protective order **(Doc. 215) which clearly was a Response to the compliance of the Judge's Order in Doc. 211 ordering me to respond to discovery requests by June 10, 2022 (thus, FRCP 37(b) should not apply here)**; and whereas or because on July 11, 2022 I filed another renewed motion to stay (Doc. 223) that Judge Mitchell considered and ruled on, without saying that it was late, thus, this proves that my case cannot be dismissed because I did not respond to discovery requests **way back on June 10, 2022**; and whereas or because of the fact **that I explicitly responded to the motion to dismiss (apart from or separately from what I said in the objection to deposition) by saying and demonstrating that I was sick, severely injured, I did not have money to go in Kansas since I do not work and I do not have income, and that FRCP 45(c) stipulates or means that even the Court cannot obligate me to travel for more than 100 miles for deposition; and/or that the deposition of a party cannot**

be held outside of the State of residency of the deponent; and whereas or because **Judge Mitchell did not allow me to file a Reply** to Defendant's Response (Doc. 224) to my renewed motion to stay (Doc. 223) after Defendant filed its motion to dismiss the case (Docs. 221) and 222) and she denied my motion the next day (Doc. 225); and whereas or because Judge Mitchell wrongfully accepted and considered Defendant's Response (Doc. 224) to my renewed motion to stay (Doc. 223) whereas Defendant previously said in May and on June 2, 2022 that it will not take any position regarding my motions to stay relating to the car accident; whereas or because Judge Mitchell fully repeated all arguments Defendant has said in its Response to my renewed motion to stay, whereas that Defendant's Response should have been dismissed and not considered by Judge Mitchell as it waived its response in May and June 2022, which Defendant and Judge Mitchell arguments in Docs. 224 and 225 respectively were that: the doctor's letter did not tell how my injuries prevented me to keep litigating, and that I file motions and objections of 3, to 6 pages long, and wrongfully concluded that I am able to litigate, but they (Mr. Vanorsby, Judge Mitchell, Judge Crabtree, the Circuit Judges) never addressed the fact that I said I cannot lift the law book I read that weighs more than 5 lbs or pounds, nor push or pull the boxes of documents placed on top of each other that I use for this lawsuit that weigh more than 5 lbs, as I am restricted to lift, push and pull weights of more than 5 lbs); and whereas or because Judge Crabtree and Judges at the 10th Circuit did not talk about the fact that I said that Judge Mitchell clearly erred when she prevented me to Reply to Defendant's Response (Doc. 224) of my motion to stay (Doc. 223), but simply because I was right saying it; and whereas or because the 10th Circuit Judges' argument is false, improper and invalid (please see the end of page 20a) regarding the fact that I said Judge Crabtree was wrong to rule as moot both my motion for review (Doc. 229) Judge Mitchell's denial (Doc. 225) of my renewed motion to stay (Doc. 223)

and my motion for review (Doc. 246) Judge Mitchell's grant (Doc. 241) of Defendant's motion to strike (Docs. 239 and 240) my Sur-reply (Doc. 238) to Defendant's Reply to my Response to its motion to dismiss the case, where Judge Mitchell granted it (Doc. 241) the very same day Defendant filed it, without letting me file a Response to it. The U.S. Supreme has to see the picture of the car accident, the MRI of my shoulder, and read the doctor's letter (joined here as Exhibits), and maybe go through to medical records joined in the 10th Circuit Electronic Court Filing (ECF) on 3/14/2024, Document: 010111015902, from page 182 to 199 (if it wants to read them, but it is not really necessary to read them, as the evidences are this case are already overwhelming to show that it was wrongfully dismissed). Another part of them can be seen in the Attachments of Doc. 215.Also, I am also asking the U.S. Supreme Court that, in case it reverses all Judges' decisions to dismiss this case, to allow at least 2 or 3 months for the parties to get everything together, before re-starting litigating this lawsuit from where it was stopped, thus, from May 27, 2022 with my most immediate deadline, which was to file a Reply to Defendant's Response to my motion to compel. Also, I am asking the U.S. Supreme Court to rule on the remaining motions wrongfully ruled by the District Court that I mentioned in my Appeal Brief at the 10th Circuit, and I am also asking the U.S. Supreme to take proper sanctions against both Judges in the District Court of Kansas, and all 10th Circuit Court Judges who ruled in this case, and Mr. Vanorsby Brian, for their judicial and attorney misconducts.

The Petition for a writ of certiorari should be granted, and I am asking you to grant it.

Respectfully submitted, ~~On August 9, 2024~~ On October 17, 2024

Francis Yomi

Francis Yomi, The Petitioner 1704 – B # 101 Llano Street, Santa Fe, NM 87505