24-5964 ORIGINAL

# In the Supreme Court of the United States

DANIEL E. HALL, PETITIONER

v.

TWITTER INC., RESPONDENT



*ON PETITION FOR A WRIT OF MANDAMUS*
*TO THE UNITED STATES COURT OF APPEALS*
*FOR THE FIRST CIRCUIT*
*CASE NO. 23-1555*

## PETITION FOR WRIT OF MANDAMUS

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## QUESTIONS

1. **"How does the Supreme Court define and address instances of fraud upon the court, the required duty to apply Local Rule 83.1(a), the required procedure of voiding proceedings under Rule 60(b)(4) or (6) and Rule 60(d) and what remedies are available to ensure justice is served when such fraud is identified?"**

2. **"What are the implications of the Supreme Court's decisions when the required procedure of holding a hearing under Rule 201(e) are not followed, and how does this impact the fairness and consistency of judicial outcomes?"**

3. **"Under what circumstances does the Supreme Court consider issuing a writ of mandamus to compel lower courts or public officials to act upon the required procedure of noticing indisputable material facts under Rule 201(b), and what standards must be met to justify such extraordinary relief?"**

4. **"Under what circumstances may the Supreme Court issue a writ of mandamus to compel a lower court to accept jurisdiction, the required application of notice pleading requirements under Rule 8(a)(2), statutory entitlements proscribed in § 1981 and the state actor doctrine and what are the broader implications for access to justice in such cases?"**

5. **"What standards does the Supreme Court apply when considering a writ of mandamus to compel a judge to recuse themselves as proscribed in 28 U.S.C. § 455 and § 144, and how does this impact the integrity of judicial proceedings?"**

6. **"Should the Supreme Court issue a writ of mandamus to compel the lower court to conduct a hearing on the constitutionality of Section § 230, given that the plaintiff has sufficiently alleged potential violations of constitutional rights and the lower court has not yet addressed these claims?"**

## TABLE OF CONTENTS

**CITATIONS**

**US SUPREME COURT**

**FIRST CIRCUIT**



**OTHER CIRCUITS**

**OTHER COURTS**



**CONSTITUTIONAL RIGHTS**



**RULES**



**STATUTES**



**OTHER CITATIONS**

## I. JURISDICTION

This Court has jurisdiction through 28 U.S. Code § 1254 as relief is sought for the 1st Circuit Courts ("1st Cir.") July 10, 2024 ("Order") (Appendix I, Exhibit A) denying a rehearing or hearing en banc, which affirmed the 1st CIR'S May 28, 2024 ("Panel Order") (Appendix I, Exhibit B), after a so-called de novo review, affirming the decision of the "District Court" of New Hampshire, in Civil No. 20-cv-536-SE, the [Doc. 139 Order] (Hall v. Twitter Inc. 20-cv-536-SE (D.N.H. May. 9, 2023), (Appendix I, Exhibit C), and the [Dkt. 124 Order], See (Appendix I, Exhibit D). See also, 28 U.S. Code § 1291; which denied Petitioner Daniel E. Hall's ("HALL") claims against Twitter, Inc.,**[1]** which were brought under the federal question jurisdiction or 42 U.S.C. "§ 1981", 42 U.S.C. §2000a and Constitutional grounds. See *Marbury v. Madison*, 5 U.S. 137, 138 (1803), (authority to compel government officials to perform their duties).

Additionally, by charging thousands in fees, and collecting these fees from HALL, the government has implicitly created a property interest and liberty interest

(plus his constitutional claims) that this Court has jurisdiction to adjudicate.

Furthermore, HALL has exhausted all other available legal avenues before resorting to this writ of mandamus. The petitioner has no other adequate means of obtaining the requested relief, such as through a normal appeal process, as the 1st Cir., using misinformation and a defendant friendly notice standard, failed to uphold the law, has denied any hearing or rehearing, and has failed to articulate its reasoning for their decisions which would enable a meaningful appellate review, and the relief sought is not available in any other court. The petitioner will suffer irreparable harm and injury of liberty and property that cannot be adequately remedied or compensated through a monetary award or other legal remedy if the requested mandamus relief is not granted. This is an urgent matter of great public importance that requires immediate resolution as both lower courts have improperly declined to exercise jurisdiction over this case and have improperly ruled that they lack jurisdiction.

The 1st Cir. has a crystal clear legal duty to take the actions being sought as they are non-discretionary and mandatory acts which entitle HALL a clear legal right to have the 1st Cir. to perform these duties, which the court has unlawfully refused to perform.

## II. STATEMENT OF THE CASE

Petitioner Hall, seeks a writ of mandamus to compel the 1st Circuit Court to address several legal and constitutional errors in his case against Twitter, Inc. (now X Corp.). Hall's claims include that the lower courts failed to apply proper legal standards and procedures, such as Local Rule 83.1(a), Rule 8, Rules 59 & 60, and judicial recusal statutes (§ 455 and § 144). He argues that Twitter's attorneys practiced law without proper admission, leading to biased and fraudulent court proceedings. Hall also contends that 47 U.S.C. § 230 is unconstitutional as it infringes on his First Amendment rights.

The reasons for granting the writ of mandamus are:

1. **Fraud and Bias in Court Proceedings**: Hall alleges that Twitter's attorneys practiced law without proper admission to the bar, facilitated by illegal policies of Magistrate Johnstone and other judges, leading to biased and fraudulent court proceedings.
2. **Failure to Apply Proper Legal Standards**: Hall claims that the lower courts failed to apply several mandatory legal standards and procedures, including:
    - Local Rule 83.1(a) regarding attorney admissions.
    - Rule 8(a)(2) for notice pleading requirements.
    - Rule 60(b)(4) or (6) and Rule 60(d) for void judgments and fraud on the court.
    - Judicial recusal statutes (§ 455 and § 144).
3. **Denial of Constitutional Rights**: Hall argues that his constitutional rights to an unbiased tribunal, due process, and equal protection under the Fifth and Fourteenth Amendments were violated.

4. **Unconstitutionality of 47 U.S.C. § 230**: Hall contends that § 230 is unconstitutional as it allows private entities to suppress free speech, which the government itself is prohibited from doing under the First Amendment.
5. **Exhaustion of Legal Remedies**: See Jurisdiction.
6. **Irreparable Harm**: Hall claims that he will suffer irreparable harm and injury to his liberty and property that cannot be adequately remedied through a monetary award or other legal remedy if the requested mandamus relief is not granted.
7. **Public Importance**: Hall emphasizes that this is an urgent matter of great public importance requiring immediate resolution due to the lower courts' improper refusal to exercise jurisdiction and uphold the law.

Based on these reasons, Hall requests the Supreme Court to void the lower court's rulings, strike Twitter's motion to dismiss, and award him $500 million in damages.

## III. FRAUD UPON THE COURT AND VOID JUDGMENTS

HALL claims that Magistrate "JOHNSTONE", wrote and applied her own pro hac vice rules or policy, instead of L.R. 83.1(a), which allowed TWITTER attorneys to practice before the court although they lacked the requirements of eligibility and were not members of the bar, and that these special benefits continued for a period of over 2 years, and covering 66 incidents, prior to HALL'S case being filed in May of 2020. (See Appendix II, Exhibit E, ¶ ¶ 65-72, 76, 80), and that JOHNSTONE, Judge BARBADORO, Judge LAPLANTE, and Judge DICLERICO, allowed TWITTER attorney MRAZIK to practice law before the Court and file 66 motions even though he was not a member of the bar.

HALL claims that JOHNSTONE and MCAULIFFE both had knowledge of the illegal policies and continued to apply these illegal policies in his case by allowing SCWHARTZ to continue practicing law 25 times before the Court in his case when she was not a member of the bar, (See iii Declaration, Exhibits 1-25), and that ELLIOTT utilized the illegal policy when denying HALL'S motions for default, strike, recusal and his Rule 59 and Rule 60 motions. See Appendix II, Exhibit G, pge. 14-16.

HALL claims that ELLIOTT, MCAULIFFE, BARBADORO, LAPLANTE, DICLERICO and head judge MCCAFFERTY participated in extra-judicial proceedings in which each had the administrative duty to investigate, deliberate and in fact voted in favor of re-hiring JOHNSTONE, utilizing the same material facts contained within HALL'S case, to which ELLIOTT should have recused herself having learned material facts extra-judicially. See Appendix II, Exhibit E, ¶ ¶ 95-100; Exhibit F, ¶ ¶ 15-17; See In re Murchison, 349 U. S. 133, 136 (1955) and Williams v. Pennsylvania, 579 U.S. (2016), (adjudicating a case where she was also an investigator for the government). See, e.g., *United States v. Alabama*, 828 F.2d 1532, 1543-46 (11th Cir. 1987) (recusal mandatory under § 455(b)(1) where trial judge's activities had involved him in "disputed evidentiary facts"), cert. denied, 487 U.S. 1210, 108 S.Ct. 2857, 101 L.Ed.2d 894 (1988). See *El Fenix de Puerto Rico v.*

*The M/Y Johanny*, 36 F.3d 136, 141 n.4 (1st Cir. 1994). See also, US Supreme Court, Case 22-1987, Doc. 00117957469, Writ of Mandamus.

HALL claims that these filings under JOHNSTONE'S illegal policies demonstrate a pattern of fraud and bias of the Court in favor of TWITTER, over an extended period of time and through several cases, which is sufficient to raise a reasonable inference of the appearance of actual or apparent bias or prejudice.

HALL claims that the substance of these 66 and 25 submittals, and corresponding dockets, unequivocally prove that;

1. MRAZIK and SCHWARTZ were TWITTER'S attorneys and were not members of the bar when they submitted substantial legal arguments to the Court and were practicing unauthorized under the rules and on behalf of TWITTER.

2. JOHNSTONE, MCAULIFFE and ELLIOTT each knowingly concealed and continued to utilize the illegal policy which favored TWITTER, which created a bias and unconstitutional tribunal for HALL.

Because L.R 83.1(a) required SCHWARTZ to be either previously admitted to the bar of the court or to have been admitted pursuant to subsection (b), and because TWITTER'S attorneys have, without question, violated this rule. See Davis v. Colonial Freight Sys., Inc., Case No. 3:16-cv-674, 4 (E.D. Tenn. Mar. 29, 2019); See, e.g., Matter of Jindal for Pro Hac Vice Admission to Virgin Islands Bar, 69 V.I.

942, 948-49 (V.I. 2018) (holding that an attorney engages in the unauthorized practice of law when he/she commences work on a case before being admitted pro hac vice); In re Elizabeth Serv., Case No. 3:20-bk-30003 (MFW), 12-13 (Bankr. D.V.I. Apr. 7, 2021), HALL is entitled to have TWITTER'S motion to dismiss and MOL (and 23 others) stricken from the record as SCHWARTZ submitted them when she was not a member of the bar and was in violation of N.H.R.S.A. 311:7 and L.R. 83.1(a), and because the submittals were a part of the fraud upon the court scheme where TWITTER attorneys and the six judges allowed TWITTER attorneys to practice law in the court while not members of the Courts bar which satisfies the standards of Rule 60(b)(4) or (6) (void) and Rule 60(d) (fraud on the court).

The indisputable fact is that SCHWARTZ was not a member of the courts bar when she submitted the Motion to Dismiss and MOL (or the other 23) as she was not accepted to the bar until August 18, 2020, almost 3 months after the submittal, and did not even appear in the case until August 25, 2020, when she, for the first time, signed a submittal to the court. See Dkt. 53, Local rule 83.6(a), Attached iii Declaration, Exhibit 26.

The false narratives interjected by TWITTER and the District Court Judges, that the local attorney, ECK, signed the motion to dismiss under the requirements of Local Rule 83.2(b), or that SCHWARTZ wrote in parenthesis "(motion for pro hac vice admission to be filed)" or "(motion for pro hac vice pending)" has no bearing

on whether SCHWARTZ was a member of the bar when these submittals were made on her behalf. See Appendix II, Exhibit E, pge. 26-33.

Because JOHNSTONE, MCAULIFFE and ELLIOTT failed to maintain any ethical standards and avoid engaging in behavior that violates ethical rules; and were disqualified under § 144 and § 455; failed in their duties to comply with § 144 and § 455 and recuse themselves in a case which compromised their impartiality, HALL is entitled to a void judgment under Rule 59, Rule 60(d) (fraud on the court) and Rule 60(b)(4) or (6) (void); and pertinent case law. See Exhibit E, ¶ ¶ 65-79; See Exhibit F, pge. 18-20; *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 850-51 (1988). See *Johnson v. Carroll*, 369 F.3d 253, 260 (3d Cir. 2004). (where the appearance of partiality exists, recusal is required). *Liteky v United States,* at 510 U.S. at 548, 114 S.Ct. at 1153-54.

The Court, through the actions of these three Judges, acted in a manner inconsistent with due process of law and equal protections, and therefore it's judgments are void. See Wright and Miller, Federal Practice and Procedure: Civil, § 2862, pp. 199-200. As a matter of law HALL is entitled to an unbiased judge under the Fifth and Fourteenth Amendments of the U.S. Constitution and the statutory entitlements proscribed in § 455; § 144 and Rule 60(d) (fraud on the court) and Rule 60(b)(4) or (6) (void).

Instead of following the Code of Conduct for United States Judges promulgated by the Judicial Conference of the United States requiring judges to "disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no actual basis for disqualification," or upholding or protecting HALL'S numerous rights, JOHNSTONE, and every judge that has followed, instead, knowingly and willfully- together, and in violation of 18 U.S.C. § 371, concealed by scheme or device, the material facts of JOHNSTONE'S illegal policy in violation of 18 U.S.C. § 1001, and corruptly endeavored to influence, obstruct, or impede the due administration of justice in HALL'S case in violation of 18 U.S.C. § 1503, and all while utilizing the court's machinery.

While HALL was focused on the illegality of the motion to dismiss and MOL, TWITTER through its attorneys, in an effort to further conceal the fraud, the bias of the Court and to give the appearance that SCHWARTZ'S initial motion was legal, continued to file motions in the same manner of using a [notation/no signature] as was used by MRAZIK in previous TWITTER cases as was used with SCHWARTZ'S motion to dismiss, and JOHNSTONE and MCAULIFFE continued to allow the illegal policy [notations/no signature] to continue so that it would appear that nothing was out of the ordinary and to give the appearance that SCHWARTZ'S initial motion to dismiss and MOL were within the rules of the Court. The end of the

initial fraud was that after she was admitted to the bar of the Court, SCHWARTZ now signed the submittals which is not a requirement as local council is responsible for signing any submittal to the court.

Further evidence of the Courts' and presiding judges involvement in this fraud, is the fact that even after HALL'S initial protest that TWITTER'S Motion to Dismiss should be stricken and therefore defaulted, both JOHNSTONE and MCAULIFFE allowed SCHWARTZ to continue using JOHNSTONE'S illegal policy to file motions, briefs, etc. and practice law on behalf of TWITTER when she had yet to be admitted to the bar. See Attached iii Declaration.

JOHNSTONE, MCAULLIFFE and ELLIOTT, having not provided the required mandatory procedure of recusing a judge for bias under § 455 and § 144, or Rule 60, and the required mandatory procedure and duty to apply L.R 83.1(a) evenly and to protect all parties, and by further concealing JOHNSTONE'S illegal policy, and by failing to perform the required duty to uphold and protect HALL'S Constitution rights, of an unbiased judge under the Fifth and Fourteenth Amendments and the statutory entitlements proscribed in § 455, § 144, Rule 60(d) (fraud on the court) and Rule 60(b)(4) or (6) (void), both the Panel Order and Order fail to protect HALL's entitled rights to an unbiased judge and due process under the Fifth and Fourteenth Amendments of the U.S. Constitution and the statutory entitlements proscribed within those statutes, and therefore should be compelled to

void, in full, any orders by JOHNSTONE and MCAULIFFE and ELLIOTT as each utilized the illegal policy when denying HALL'S motions for default, strike, and was utilized by ELLIOTT when addressing HALL'S motion for recusal and his both Rule 59 and 60 motions. Appendix II, Exhibit E, pge. 28-29, Exhibit G, pge. 14-16.

**IV. ENTITLEMENTS of RULE 201**

Relevantly, the Panel Order states;

> "Plaintiff's multiple motions to take judicial notice are resolved as follows; we have reviewed the submitted documents and have taken judicial notice of any proffered materials to the extent they are relevant and appropriate for consideration for the purposes of this appeal."

HALL is entitled to a Rule 201 hearing as HALL fulfilled the requirements of 201(e), in requesting a hearing, and that a hearing is a required mandatory procedure under Rule 201(e). See (Dkt. 00118041810) ("JN-I"); (Dkt. 00118041810) ("JN-I"); (Dkt. 00118070078) ("JN-III"); (Doc. 00118091413) ("Motion"); Attached Appendix, Exhibit G, pge. 16; Exhibit H, ¶ ¶ 4-9, TWITTER'S non-dispute record),

HALL is entitled to a Rule 201 judicial notice of public court records material to JOHNSTONE'S illegal policy and the Article III Commission to re-hire her, as HALL fulfilled the requirements of; 201(c)(2) in providing the court with the necessary information, 201(b)(1) as they are records within this district, and 201(b)(2), as records to which TWITTER does not dispute. See JN-I.

HALL is entitled to a Rule 201 judicial notice of undisputed material facts of JOHNSTONE'S illegal policy and the Article III Commission to re-hire her, as HALL fulfilled the requirements of; 201(b)(2), in providing the court with the necessary information, and 201(b), in that TWITTER did not oppose or contest any of these material facts directly or dispute the accuracy or truth of the statements, or otherwise create a dispute within the meaning of the law in the District Court proceedings, and only generally opposed to noticing the truth of the substance of those filings in the appeal proceedings. See JN-I, Exhibit H.

HALL is entitled to a Rule 201 judicial notice of undisputed material facts of congressional testimony made by then CEO, Jack Dorsey, as well as formal statements made by Members of the US Congress, as HALL fulfilled the requirements of; 201(b)(2), in providing the court with the necessary information, and 201(b), in that TWITTER did not oppose or contest any of these material facts directly or dispute the accuracy or truth of the statements, or otherwise create a dispute within the meaning of the law in the District Court, and only generally opposed to noticing the truth of the substance of those filings in the appeal proceedings. See JN-II, H.

HALL is entitled to a Rule 201 judicial notice of undisputed material facts of now owner Elon Musk's public statements made while the appeal was pending, as HALL fulfilled the requirements of; 201(b)(2), in providing the court with the

necessary information, and 201(b), in that TWITTER failed to demonstrate clear or obvious hearsay error and only mentions Musk's public admissions as hearsay only in passing and without providing any evidence to support it.. See JN-III, Exhibit H.

HALL has satisfied the indisputability requirements of Rule 201(b) and (e) and therefore, the **1st Cir.** has clearly failed to fulfill (1) the required mandatory procedure of holding a hearing under Rule 201(e), (2) a mandatory duty of noticing indisputable material facts under Rule 201(b), which exceeded their statutory authority in giving TWITTER relief to which it is not entitled, because it failed to create a dispute these material facts within the meaning of the law, and should be compelled to take judicial notice of these undisputed facts under Rule 201(c)(2), and as a juror, accept these [noticed] facts as conclusive under Rule 201(f). See *Rivera-Torres v. Ortiz Velez*,341 F.3d 86, 100-01 (1st Cir. 2003). Given the undisputed facts recited in HALL'S Judicial Notice(s), a sufficient basis exists for judicial notice under Rule 201(b)(2)." *U.S. v. Gilbert,* 94 F. Supp. 2d 157, 162 (D. Mass. 2000), and the 1st Cir. should be compelled to notice the records themselves and the material facts submitted by HALL, as he is entitled due process and equal protections under the law. See Armstrong v. Manzo, 380 U. S. 545, 380 U. S. 552 (1965); Grannis v. Ordean, 234 U. S. 385, 234 U. S. 394 (1914), (Requirement of due process and to be heard "at a meaningful time and in a meaningful manner.")

The 1st Cir. has made clear that the Federal Rules of Civil Procedure do not permit defendants to "sandbag" the plaintiff by withholding defenses until after a judgment has been entered against them. *Calderon v. United States District Court* 163 F.3d 530 (9th Cir. 1998); *McPhail v. Municipality of Culebra,* 598 F.2d 603, 607 (1st Cir. 1979) ("A party may not 'sandbag' his case by presenting one theory to the trial court and then arguing for another on appeal."). *Sammartano v. Palmas del Mar Properties, Inc.,* 161 F.3d 96, 97 (1st Cir. 1998); Rule 12(h) states that certain defenses, if not raised in the initial responsive pleading, are "waived." TWITTER cannot simply raise new defenses through post-judgment motions, as that would undermine the finality of the original judgment.

## V. NOTICE PLEADING REQUIREMENTS UNDER § 1981

The **1ST CIR. Panel Order** relevantly concluded that;

> "plaintiff failed to plead **facts sufficient** to make out a **plausible claim** that Twitter suspended his account on the basis of race" ... See *Doe v. Brown Univ.*, 43 F.4th 195, 208 (1st Cir. 2022) (explaining that a § 1981 *claim requires* **proof of an intent** *to discriminate on the basis of race);*

First, *Brown Univ.* does not overrule *Swierkiewicz, Rodriguez-Reyes* or its progeny, **[2]** which require only a notice pleading standard under Fed. Rule 8(a) and not a heightened pleading standard. *Brown* simply states that **"intent",** among other

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[2] (cleaned-up), See Exhibit E, ¶ ¶ 11-25). See also, Exhibit G, pge. 2-6 (intent), pges 6-11 (plausibility); Swierkiewicz v. Sorema N.A.,534 U.S. 506, 122 S.Ct. 992,

things, must be shown in order to succeed in a § 1981 claim, and speaks nothing to the pleading standards in civil rights actions at the motion to dismiss stage of the proceeding. While Swierkiewicz involved Title VII and ADEA claims, its reasoning likely extends to HALL'S § 1981 claims as well.**[3]** Additionally, the McDonnell Douglas burden-shifting framework for proving intent does not apply at the pleading stage. See *Bell Atlantic Corp. v. Twombly: 550 U.S. 544 (2007),* quoting *McDonnell Douglas Corp. v. Green*, 411 U. S. 792 (1973).

Second, the plausibility requirement under Rule 8(a)(2), "simply calls for enough fact to raise a reasonable expectation that discovery will reveal evidence" of illegal conduct. *Twombly*, 550 U.S. at 556. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the **reasonable inference** that the defendant is liable for the misconduct alleged." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citation omitted). Patel v. United States, Civil Action 24-10180-FDS, 3 (D. Mass. Apr. 24, 2024). See Rule 8(a)(2); arguments, Exhibit E, pge 4-18. (Exhibit F, pge. 5-11), Additionally, in Twombly, the Court notes that Swierkiewicz reaffirmed that the Federal Rules of Civil Procedure only require

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[2] Continued...152 L.Ed.2d 1 (2002); Educadores Puertorriqueños en Acción v. Hernández,367 F.3d 61, 62 (1st Cir. 2004); See *Cepero-Rivera v. Fagundo*, 414 F.3d 124, 128 (1st Cir. 2005).

[3] See Complaint, at "Dkt. 1" or "Compl." or Dkt. 1.6 Electronic Version.

"notice pleading," not a heightened fact-pleading standard. Plaintiffs do not have to plead facts establishing each element of a prima facie case, **including intent**. This Court reversed on the ground that the Court of Appeals had impermissibly applied what amounted to a heightened pleading requirement by insisting that Swierkiewicz allege "specific facts" beyond those necessary to state his claim and the grounds showing entitlement to relief. Id., at 508.

Like Swierkiewicz's pleadings, HALL'S Complaint details the events leading to his contract being terminated, has provided relevant dates of statements made by TWITTER'S Workforce and at least some of the relevant persons involved with his contract termination, such as engineers who built or maintained TWITTER'S algorithms or from the CEO's and workers who enforced TWITTER'S so-called health policy. These are factual assertions that must, at the pleading stage, be given credence. See Ocasio-Hernández v. Fortuño-Burset, 640 F.3d 15 (1st Cir. 2011) (holding similar allegations to be factual, not conclusory). The Complaint also alleges that TWITTER and its Workforce;

1. built, designed, created and implemented algorithms and policies to address and deal with **White** Supremacy users on their platform. Compl. ¶ 85; interjected race. Compl. 47; algorithms are bias. Compl. ¶ 55; "algorithms" are going to ban a way of talking. Compl. ¶ 49; something we're working on." Compl. ¶ 66; algorithmic solution to

**White** supremacy. Compl. ¶ 85; Section 230 "is the thing that enables us to increase the health in the first place". Dorcey, Compl. Exhibit Q, ¶ 2397; "what CDA 230 protects us to do is to actually enforce these actions Dorcey, Compl. Exhibit Q, ¶ 2607;

2. took action by limiting, locking or suspending **White** users' contracts for reasons such as abuse, hate and **White** nationalism. Compl. ¶ 24; en masse." Compl. ¶ 55; new algorithm surfacing 50% of tweets. Dorsey Testimony; Dorcey testimony, Compl. Exhibit Q; banned prominent whites. Compl. ¶ 25, Exh. J;

3. previously implemented shadow banning policies that targeted a group of largely **White** users. Compl. ¶ 34; shadow banned large group of **Whites** in the past. Compl. ¶ 3; content review agent admits to being anti-Trump and banning Trump supporters. Compl. ¶ 50; for years. Compl. ¶ 28; while lying to the public about its actions. Compl. ¶ 72; TWITTER'S general council, lied. Compl. ¶ 33;

The Complaint also alleges volumes of comparator proof of intent, *Pina v. Children's Place*, 740 F.3d 785, 796 (1st Cir. 2014), that TWITTER and its Workforce;

1. continues to make its services available to and has not removed offensive tweets, locked or banned the user contracts of Blue Checker's

with over 50 million followers, to post derogatory and discriminatory speech against whites. Compl. 40 EXHIBIT L. (74 tweets illustrating blue check users posting racist comments against White people, most years old which have been promoted to over 50 million users and have never been taken down).

2. continues to make its services available to and has not banned the contracts or the benefits of a contract of similarly situated non-white users. Compl. 44, Compl. Exhibit N, (22 tweets illustrating what appear to be non-white users posting the same words as HALL did, but whose tweets were not removed and their accounts not banned as HALL'S).

3. still makes its services available to and has not banned the contracts of similarly situated users outside HALL'S protected class from posting violative tweets using similar words such as HALL used. Compl. 44, 45, Exhibits N and O, (which includes 10 tweets illustrating what appear to be non-white users posting the same words as HALL did, but whose tweets were not removed and their accounts not banned as HALL'S).

HALL'S Complaint provides facts which demonstrate a consistent pattern of conduct or decision-making by TWITTER'S Workforce that have disproportionately impacted individuals of the **White** race. It also depicts the

departures from normal procedures or policies that suggest racial considerations played a role, when it continuously allows Non-whites to post virtually the same words as HALL, and not suffer the same consequences as HALL, who is **White**. The Complaint also provides comparative evidence showing more favorable treatment of individuals outside the HALL'S protected class and TWITTER'S Workforce's pervasive bias or the perception of bias towards a predominantly **white** groups. See Appendix II, Exhibit E, pges. 4-14. See **Compl.** Exhibits J-N.

These many witness statements and reports of and by TWITTER'S Workforce corroborate HALL'S claims of racial discrimination and provide an unbiased account of the events that occurred. The use of such witness statements are a powerful way to substantiate the factual allegations in HALL'S Complaint, to which the reliability and admissibility of members of the Workforces' statements has never been challenged. These are not conclusionary or bald assertions but actual facts described by those within TWITTER'S Workforce.

Evidence of such remarks or comments is nevertheless important in an intent case, and can help to establish circumstantial or indirect evidence of intent. *Doe v. C.A.R.S. Prot. Plus, Inc.,* 527 F.3d 358, 368 (3d Cir. 2008); See *Lounds v. Lincare, Inc.,* 812 F.3d 1208, 1224 (10th Cir. 2015) (Stray remarks can prove to be invaluable insights into biases at every level of consciousness that may be rife but invisible within the workplace.").

HALL'S Complaint gives TWITTER more than fair notice of his claims and the grounds upon which they rest under any reasonable standard of Rule 8(a)(2). The Complaint addresses the what (discrimination of contract and public place of accommodation), who (by TWITTER'S Workforce), when (from 2018-2019), where (from TWITTER'S public forum), and why (because of his race and behaviors of his race) of his claims and is entitled to a proceeding under § 1981.

In sum, *Swierkiewicz, Rodriguez-Reyes* or its progeny do not require intent to be pled at the motion to dismiss stage and HALL'S claim are sufficient under the standards of § 1981 and comply with Rule 8's minimal "who did what to whom, when, where, and why" requirements." *Educadores,* 61, 62. TWITTER has not once claimed it has not been afforded both adequate notice of any of HALL'S claims asserted against them and a meaningful opportunity to mount a defense.

The 1st Cir. failed to accept the statements by TWITTER'S owners and Workforce employees as true for purposes of the motion to dismiss and improperly required HALL to plead or prove intent. The 1st Cir. therefore impermissibly applied the wrong standard in what amounted to a heightened pleading requirement by insisting that HALL failed to allege "facts sufficient to make out a plausible claim" and beyond those necessary to state his claim and the grounds showing entitlement to relief under Rule 8.

Since there is no federal statute or specific Federal Rule of Civil Procedure mandating a heightened pleading standard for civil rights actions such as the racial discrimination claims at issue in the appeal, the **1ST** CIR. should be compelled to apply the notice pleading standard, and not the heightened pleading standard of requiring intent or that HALL prove his entire case through his Complaint at the motion to dismiss stage and beyond the requirements of Rule 8.

Having rested its decision on requiring "intent" to be pled at the motion to dismiss stage, and requiring HALL to plead beyond the requirements of Rule 8, the 1st Cir. plainly acted beyond its "jurisdiction" as prior Supreme Court decisions have interpreted the term intent and the notice pleading requirements of Rule 8, for a § 1981 claim which does not require intent to be pled within the complaint and requires no heightened pleading standards.

## VI. NOTICE PLEADING REQUIREMENTS UNDER STATE ACTOR DOCTRINE

The 1st CIR. Panel Order concluded, relevantly, that;

> "plaintiff failed to plead facts sufficient to make out a plausible claim that Twitter..... is a state actor for constitutional purposes under the circumstances of this case.... See *Manhattan Comm. Access Corp. v. Halleck*, 587 U.S. 802 (2019) (requirements for a private entity to be deemed a state actor). See Appendix II, Exhibit G, pge. 11-14.

First, *Manhattan* clearly is limited and Second, HALL'S claims to not even contemplate that the Court consider that TWITTER was a state actor simply because it operates an online platform which amounts to a clear error. Third, HALL'S

allegations that TWITTER was acting as a state actor clearly surpass the requirements of Rule 8.

In only considering the limited question of whether TWITTER'S private forum may be considered a state actor under *Manhattan*, the Panel Order is clearly limited, incomplete and incompatible here as contemplates only whether "a private entity who provides a forum for speech is not transformed by that fact alone into a state actor." *Manhattan*, at 1921, 1930. In only considering this limited question, the 1st Cir. failed to perform or consider HALL'S claims that the exclusivity of the function test, the nature and degree of government the involvement and delegation of public function, traditional public function, enabling legislation, the public/private nature of TWITTER'S involvement, the nexus test, the symbiotic relationship test, and the fact that having invoked § 230 legal defenses, which TWITTER concedes, that TWITTER is not purely private. HALL attempted to bring this to the 1st Cir.'s attention through motion, which indicated that such tests contained within cases such as *Missouri v. Biden*, 83 F.4th 350 (5th Cir. 2023), (mis-stated as, *Missouri et al. v. Biden et al.*, No. 23-30445, Dkt. No. 238-1), (Dkt. 00118066991). *O'Handley v. Weber*, 62 F.4th 1145 (9th Cir. 2023), would be more appropriate for this case.

As stated above, the plausibility requirement "simply calls for enough fact to raise a reasonable expectation that discovery will reveal evidence" of illegal

conduct. *Twombly*, 550 U.S. at 556. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the **reasonable inference** that the defendant is liable for the misconduct alleged." Ashcroft, 662, 678. In pleading a constitutional claim under the First Amendment against a private actor, alleging the private actor was a "state actor," a plaintiff must only plead the specific speech or expressive conduct that was allegedly infringed upon, as well as the particular government action or policy that violated the plaintiff's First Amendment rights, and details about the time, place, and manner of the alleged constitutional violation, as well as the specific harm suffered by the plaintiff. See Rule 8.

HALL has pled that § 230 is unconstitutional by infringing free speech and expression, and that Congress ceded its sovereign duty to protect and police free speech to private companies like TWITTER, and by combination of entwinement of § 230 itself and by further pressuring and coercing actions by members of Congress, TWITTER was engaged in "state action" or was a "state actor" under the First Amendment by implementing back room racial discrimination policies in an effort to remove White Supremists and White Nationalists from its platform, which banned HALL'S speech and contract, which is conduct fairly attributable to the State, to which HALL was a victim. See Appendix II, Exhibit E, pgs. 16-26; Exhibit F, pgs. 11-14.

In pleading that TWITTER was performing a traditionally exclusive public function, that § 230 creates a symbiotic relationship or nexus between TWITTER and Congress, that TWITTER was coerced or significantly encouraged by members of Congress, See Bantam Books, Inc. v. Sullivan,. 372 U.S. 68 (1963) and that TWITTER willfully participated in joint activity with Congress, **[4]** HALL'S Complaint states a clear and plausible narrative of the alleged First Amendment violation in that in the time

prior to HALL'S speech being banned, and through the leverage created by § 230, Congress members further coerced or threatened TWITTER to remove White Supremists and White Nationalists from its platform or suffer consequences. TWITTER, through its anti-white Workforce did in fact create bias algorithms which targeted White users, which led to hundreds of thousands of whites to suffer consequences by being banned from TWITTER'S platform of the basis of White speech or White behaviors. See Exhibit E, pgs. 16-26; Exhibit F, pgs. 11-14. Exhibit G, pgs. 11-14.

It is plausible that in knowing the power of § 230 has over online platforms, Congress members utilized this power to facilitate private racial discrimination of White Nationalists or White Supremists which is antithetical to the principles of equal rights and civil liberties enshrined in the Constitution. Congress's pressure

[4] Twitter's first defense was § 230. Exhibit G, pg. 12.

tactics became "tantamount to a command." FAIR v. Rumsfeld (2004).

Additionally important here would be the threating statements to repeal § 230 by prominent members of Congress by removing immunity if platforms didn't do what these members thought was the right thing, and remove White Nationalists and White Supremists from their platforms. Now, with § 230 heavily entrenched and fully embraced by each branch of government, government officials can flip a switch and ban large groups of speech or certain expressions on a massive scale, such as Congress did in 2018-2019 when it pressured platforms to remove, what they themselves considered to be, bullying or hateful speech by White Nationalists, White Supremists, to which TWITTER obliged when it removed hundreds of thousands of users, including HALL, in 2019 from its platform for the same reason. this type of government influence and directive, enabled by the legal framework of § 230, amounts to an unconstitutional condition - the government is granting legal benefits (§ 230 protections) while enticing, coercing and demanding that platforms expand the limits of § 230, and to engage in censorship the government cannot mandate. Here, Congress Members acted as judge, jury and utilized TWITTER as their executioner, as White Nationalists and White Supremists views did not align with their own personal views. These actions obliterate the separation of powers which are the fundamental principles of the U.S. Constitution as Congress cannot

unilaterally prosecute or punish individuals through third party private actors. See Federalist Paper #47, James Madison.

In cases like *Murthy v. Missouri,* the reasonable standard is that the executive (regardless of hierarchy position) may assert a compelling interest in executing laws or responding to emergencies. Justifications may be broader, particularly in matters of national security or public safety such as adolescent suicide games on platforms.

Now when Congress legislates, it typically needs to demonstrate a compelling interest to justify regulations, such as an emergency, particularly when infringing on rights (e.g., free speech), the standard for legislative action is often strict scrutiny. And unlike the Executive branch who may assert emergency powers, Congress would have act legislatively first, before censoring any speech.

The line drawn in this case is whether members of Congress have these same broad powers as Executives to regulate speech through third party platforms, in non-emergency circumstances. And the answer is no, they do not. Certainly Congress has the powers to regulate speech as they have (improperly) done with § 230, but must do so within the constraints of the First Amendment. But Congress does not have the power to individually censor speech, or to coerce platforms to sensor speech or certain groups of people they feel should be censored, and also lacks a legitimate compelling interest because their constitutional powers and § 230 only take them so far, and lack any compelling interest in censoring White users speech, bullying,

spreading misinformation or disinformation, fostering discord or sowing division, as these types of speech are not considered crimes in the U.S. at the federal level. Congress Members only have the constitutional authority to legislate and therefore lack a legitimate compelling interest in having any speech censored unless the act is done through a legislative action.

Having rested its decision on a false narrative that HALL'S constitutional and state actor claims contemplate that TWITTER is a state actor simply because it operates a private platform and by requiring a heightened application of beyond the notice pleading requirements under Rule 8(a)(2) at the motion to dismiss stage, the 1st Cir. plainly acted beyond its "jurisdiction" as prior Supreme Court decisions have interpreted the term state actor and the notice pleading requirements of Rule 8(a)(2) for a state actor claim which requires no heightened pleading standards.

**VII. UNCONSTITUTIONALITY of 47 U.S.C. § 230.**

The U.S. Constitution is the supreme law of the land. All Federal courts have the authority, duty and responsibility to ensure that laws passed by the legislative and executive branches do not violate the Constitution. Federal courts, particularly the Supreme Court, also have the power of judicial review. This allows them to review the constitutionality of statutes and other government actions, and to invalidate those they find to be unconstitutional. As part of the judicial branch, federal judges take an oath to "support and defend the Constitution of the United

States." This creates a duty to strike down laws that are in conflict with the Constitution.

The First Amendment prohibits the government from abridging the freedom of speech. **"Congress shall make no law...abridging the freedom of speech."**

The Supreme Court has also established the "unconstitutional conditions" doctrine, which holds that the government cannot grant a benefit or privilege to a private entity on the condition that the entity relinquishes a constitutional right. Extending this principle, courts have ruled that the government cannot empower private parties to do what the government itself is constitutionally prohibited from doing. See *Marsh v. Alabama* (1946), (town performing a public function, and thus could not engage in censorship that would be unconstitutional for the government to do directly).

It is paradoxical that § 230, which is often framed as a pro-free speech law, provides legal protections **[5]** for platforms to remove certain types of speech. § 230 grants platforms broad legal immunity from liability for content moderation decisions, § 230(c)(1) including the removal of speech that the platforms deem "obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise

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[5] Rather than a one-time gift, Section 230 is, in effect, an annuity. A 2017 Internet Association study placed the value of Section 230 and the Digital Millennium Copyright Act at $40 billion annually. See Economic Value of Internet Intermediaries and the Role of Liability Protections, NERA (June 5, 2017).

objectionable." § 230(c)(2) By defining certain categories of speech as "objectionable" and providing liability protections for removing that type of content, § 230 places parameters around permissible content moderation practices. This gives platforms a strong legal incentive and protection to aggressively moderate and remove content, e.g., to engage in the suppression of free speech, even if that content may be protected speech under the First Amendment. In return, the government gets a more sanitized and controlled online environment, with fewer instances of the types of speech or content that the government or lawmakers may find objectionable or problematic.

So through § 230, the government is, in effect, trading platform immunity for the suppression of certain types of speech in the tech industry and establishes the right to suppress speech which is on internet platforms as a basic federal policy, and amounting to - a quid pro quo arrangement where the government provides legal protections in exchange for private entities doing the "dirty work" of content removal. The government is indirectly supporting the ability of private entities to suppress certain types of speech, even if the government is not directly compelling the removal of that speech. This is a blatant end-run around the First Amendment.

In passing § 230, Congress engages in censorship by proxy by inducing, encouraging, or promoting "private persons to accomplish what it is constitutionally forbidden from accomplishing." See *Norwood v. Harrison,* 413 U.S. 455, 465

(1973); *Biden v. Knight First Amendment Inst. at Columbia Univ.*, 141 S. Ct. 1220, 1226 (2021) ("government cannot accomplish through threats of adverse government action what the Constitution prohibits it from doing directly."). § 230 amounts to the law "dictating" or shaping content moderation to a degree, even if it doesn't mandate specific takedown decisions, it clearly creates a framework that empowers and incentivizes platforms' content policies to sensor certain speech. The government's influence over a private entity in suppressing speech constitutes a backdoor censorship which violated and continues to violate HALL'S First Amendment rights to speech and expression.

As § 230 is an unconstitutional delegation of the government's power to restrict speech, undermines fundamental free speech protections, and infringes HALL'S free speech and free expression, the **1st. Cir.** failed in its duty to defend the Constitution of the United States and the freedom of speech and expression and should be compelled to invalidate and strike down § 230 as it is clearly unconstitutional.

A State may not interfere with private actors' speech to advance its own vision of ideological balance. States (and their citizens) are of course right to want an expressive realm in which the public has access to a wide range of views. But the way the First Amendment achieves that goal is by preventing the government from "tilt[ing] public debate in a preferred direction," See *Sorrell v. IMS Health Inc.*, 564

U. S. 552, 578–579, not by licensing the government to stop private actors from speaking as they wish and preferring some views over others. A State cannot prohibit speech to rebalance the speech market. (See arguments, Appendix II, Exhibit F, pge. 6), That unadorned interest is not "unrelated to the suppression of free expression." *Moody v. NetChoice, LLC and NetChoice, LLC v. Paxton,* 603 U.S. ___ (2024).

Some may say "court of review, not first view," but the government, through the Department of Justice, the Solicitor General, and both Civil and Criminal divisions, has watched and been notified of each docket entry in both lower courts, and HALL'S recusal mandamus in this Court, and has not once intervene to protect § 230 or attempted to participate and challenge HALL'S claims. So while the judiciary branch was busy curb stomping HALL and his constitutional claims over the last 4.5 years, the executive branch watched and its only actions were to intimidate HALL by opening some type of "criminal investigation" by the criminal division of the DOJ for simply pursuing his legal rights. A criminal division led by then, Criminal Division Chief of the United States Attorney's for the District of New Hampshire, Seth R. Aframe, who, by "coincidence", was just recently given the job of Appellate judge for the 1st Cir., and is the reason Judge Aframe recused himself from participating in HALL'S En Banc Motion. To label this case first view would be a perversion of justice in that HALL has brought these claims at each and every

step of the process, and the governments only actions were to use behind the scene tactics to stop HALL claims from being adjudicated.

As this Supreme Court has the power of mandamus and of judicial review under *Marbury*, which grants the judiciary the power to invalidate laws, and to review and interpret the constitutionality of laws and government actions, and because the 1st Cir. truly and unjustifiably failed to address a clear constitutional violations, this Court should feel compelled to step in through mandamus to fulfill its duty to protect the Constitution and HALL'S rights and invalidate § 230.

## VIII. CONCLUSION

In conclusion, the District Court through JOHNSTONE, MCAULLIFFE and ELLIOTT;

1. Failed to apply the Erie Doctrine in a diversity case;

2. Failed to apply L.R. 83.1(a);

2. Failed to apply Rule 8 to HALL'S § 1981 and State Actor claims;

4. Failed to apply Rule 60(b)(4) or (6) and Rule 60(d);

5. Failed to apply § 455 and § 144;

6. Failed to invalidate 47 U.S.C. § 230 and have completely failed to address a clear constitutional issue.

7. Promoted and utilized JOHNSTONE'S illegal policy while concealing its existence and the bias of the Court.

In conclusion, the 1st Circuit, through KAYATTA, GELPI , MONTECALVO, BARRON and RIKELMAN;

1. Failed to uphold the Erie Doctrine in a diversity case;

2. Failed to uphold L.R. 83.1(a);

2. Failed to uphold Rule 8 to HALL'S § 1981 and State Actor claims;

4. Failed to uphold Rule 59, Rule 60(b)(4) or (6) and Rule 60(d);

5. Failed to uphold § 455 and § 144;

6. Failed to invalidate 47 U.S.C. § 230 and have completely failed to address a clear constitutional issue.

7. Failed to uphold Rule 201(b) and Rule 201(e);

8. Concealed JOHNSTONE'S illegal policy and the bias of the Court.

In conclusion, the 1st Circuit, through LYNCH, KAYATTA, GELPI, BARRON, MONTECALVO, in HALL'S mandamus appeal;

1. Failed to uphold § 455 and § 144.

Both the District Court and the 1st Cir. have demonstrated a pattern of ignoring HALL'S Constitutional rights, procedural Rules, Federal Statutes and stare decisis. When HALL brought claims against JOHNSTONE, MCAULIFFE and TWITTER'S two attorneys, ECK and SCHARWTZ, Case No. 1:21-cv-01047-LM, Verogna (Hall) v. JOHNSTONE, the District Court, through head judge, MCCAFFERTY;

1. Failed to apply § 455 and § 144 and recuse herself as MCCAFFERTY was simultaneously deciding issues regarding HALL'S claims of JOHNSTONE'S illegal policies while also investigating those same policies within her administrative duties as Chief Judge and as a member of the Commission. In re Murchison, 349 U. S. 133, 136 (1955); Williams v. Pennsylvania, 579 U.S. ___ (2016).

2. Required HALL to plead a class- or race-based discriminatory animus in order to maintain a private cause of action under § 1985(2)(clause i), Kush v. Rutledge, 103 S. Ct. 1483, 61 WASH. U. L. Q. 849 (1983), when clause i does not contain equal protection language. Kush v. Rutledge :: 460 U.S. 724-725 (1983). Read § 1985(2)(clause i).

3. Failed to Strike affirmative Defenses pled after judgment.

4. Failed uphold Rule 60 in allowing ECK'S and SCHARTZ'S attorneys to plead new affirmative defenses after judgment.

5. Relied upon these new affirmative defenses when deciding to reconsider HALL'S claims.

5. Introduced a plethora of misrepresentations of material facts.

In hearing HALL'S appeal, Case No. 22-1364, Verogna (Hall) JOHNSTONE, the 1st Cir., BARRON, LYNCH, HOWARD, KAYATTA, GLEPI and MONTECALVO affirmed MCCAFFERTY'S unlawful orders and;

1. Failed to uphold § 455 and § 144.

2. Failed to uphold Rule 60 and the finality of a judgments.

3. Upheld that a class- or race-based discriminatory animus is a requirement of a § 1985(2)(clause i), when no such requirement exists.

3. Relied upon affirmative defenses brought after judgment.

4. Relied upon MCCAFFERTY'S misrepresentations.

This Supreme Court has also demonstrated a willingness to ignore HALL'S claims. In Case No. 22-7601, this Court denied HALL'S Mandamus and pleas for help in dismissing a bias judge. In Case No. 22-7607, this Court denied HALL'S claims to hole JOHNSTONE, MCAULIFFE, ECK and SCHWARTZ to account for scheming to conceal the illegal policy, and all of what the lower courts had denied.

The 1st Cir., having failed their required duty to uphold the Constitution of an unbiased tribunal and due process under the Fifth and Fourteenth Amendments and failed to provide HALL the (1) required mandatory procedure and duty to apply L.R. 83.1(a) evenly to protect HALL and (2) the required procedure of voiding proceedings under Federal Rule of Civil Procedure Rule 60(b)(4) or (6) (void) and Rule 60(d) (fraud on the court), plainly acted beyond its "jurisdiction" as prior Supreme Court and 1st Cir. decisions have interpreted the term "pro hac vice" under L.R. 83.1(a), which are mandatory, and the terms "extra-judicial" knowledge of material facts, and "recusal", which under § 455 and § 144, which are mandatory,

and therefore the 1st Cir. should be compelled to reverse its Orders and comply with L.R. 83.1(a), Rule 59, 60 and statutes § 455 and § 144, and Order TWITTER'S motion to dismiss stricken and void, Order default of TWITTER, and Order judgment for HALL in the amount stated in the Complaint (500 million dollars) for TWITTER'S participation in the fraud upon the court.

The 1st Cir., having not provided (1) required mandatory procedure and duty to apply Rule 201(e) evenly and to protect HALL and the required mandatory procedure of holding a hearing under Rule 201(e); and (2) the required mandatory procedure of noticing indisputable material facts under Rule 201(b), plainly acted beyond its "jurisdiction" as prior Supreme Court and 1st Cir. decisions have interpreted this rule, for, Rule 201(e) is mandatory if requested, as did HALL, and Rule 201(b) is mandatory if facts to be noticed are known in this jurisdiction, undisputed and the court is supplied with the information, as HALL has done, and therefore the 1st Cir. should be compelled to reverse its Orders and comply with Rule 201(b) , and to hold a hearing and notice said material facts.

The 1st Cir., having not provided (1) the required application of notice pleading requirements under Rule 8(a)(2), and (2) the statutory entitlements proscribed in § 1981, the 1st Cir. plainly acted beyond its "jurisdiction" as prior Supreme Court and 1st Cir. decisions have interpreted the term "intent" and the notice pleading requirements of Rule 8, for a § 1981 claim which does not require

intent to be pled within the complaint and requires no heightened pleading standards under Rule 8(a)(2), which is mandatory as HALL has satisfied the notice pleading requirements of under Rule 8(a)(2) and § 1981, and therefore the 1st Cir. should be compelled to reverse its Orders and comply with Rule 8, § 1981, and reinstate HALL'S claims.

The 1st Cir., having not provided (1) the required application of notice pleading requirements under Rule 8(a)(2), and (2) the statutory entitlements proscribed in the State Actor Doctrine, the 1st Cir. plainly acted beyond its "jurisdiction" as prior Supreme Court and 1st Cir. decisions have interpreted the term "notice pleading requirements" of Rule 8 and for a State Actor claim, which requires no heightened pleading standards under Rule 8(a)(2) is mandatory as HALL has satisfied the notice pleading requirements of a State Actor.

The 1st Cir., having failed in the required duty to uphold and protect HALL'S Constitution rights, which requires it to invalidate 47 U.S.C. § 230 as it violates HALL'S constitutional rights, and therefore the Court should invalidate § 230.

HALL has discharged his burden of proving that he is entitled to a writ of mandamus, and the 1st Cir. erred when it denied his clear and indisputable claims. See *Bankers Life & Cas. Co. v. Holland :: 346 U.S. 379 (1953).* supra, at 346 U. S. 384, quoting *United States v. Duell,* 172 U. S. 576, 172 U. S. 582 (1899).

Both lower courts failed to apply equal protection of the rules, failed to apply the precedents of the Erie Doctrine in this diversity case, the 1st Cir. failed to comply with the law in not adhering to and following the legal requirements, obligations, duties and provisions as set forth by the applicable laws, statutes, regulations, or court precedents which led to an erroneous legal outcome. The Court(s) deviation from these established processes, prescribed rules, standards, procedures and legal requirements resulted in a judgment that fails to uphold the intended purpose, rights, or obligations established by the law which is essential to ensure fairness, consistency, and justice.

**Wherefore,** HALL PRAYS for an adult to enter the room, and an impartial assessment to ensure fairness and maintain public trust and requests an independent review or investigation into the decision-making process of the 1st Cir. and District Courts actions in this case, and 'to confine the courts to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.'" See *Will v. United States :: 389 U.S. 90 (1967)* quoting *Roche v. Evaporated Milk Assn.*, 319 U. S. 21, 319 U. S. 26 (1943). (a judicial usurpation of power, will justify the invocation of this extraordinary remedy. *Will, supra* at 389 U. S. 95, and to order;

1. a writ of mandamus voiding the entire proceedings for fraud upon the Court and award HALL 500 million dollars for TWITTER'S involvement in this

fraud and to deter future parties from overtaking a federal court and partaking in fraud upon the court, or

2. a writ of mandamus vacating the **1st Cir.'s** two rulings and remand the case ordering the **1st. Cir.** with instructions to properly apply the relevant established law and precedents as these orders are clearly inconsistent with established civil and evidentiary rules, precedent and establish the proper legal principles to be applied; and

3. that the **1st. Cir.** conduct an evidentiary hearing to more fully develop the factual record before making a final determination to help ensure the **1st Cir.** has properly considered all the relevant facts in light of the applicable established law.

Dated: September 15, 2024

Updated: November 4, 2024

Respectfully submitted,
*/s/ Daniel E. Hall*
Pro Se, Petitioner

## IX. CERTIFICATE OF COMPLIANCE

### Certificate of Compliance With Type-Volume Limit, Typeface Requirements, and Type-Style Requirements

1. This document complies with the word limit of Fed. R. App. P. 21(d)(1) because, excluding the parts of the document exempted by the Fed. R. App. P. 32(f) as this document contains 8,995 words.

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Dated: September 15, 2024

*/s/ Daniel E. Hall*
Pro Se Petitioner

Updated: November 4, 2024

*/s/ Daniel E. Hall*
Pro Se Petitioner