APPENDIX A

[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

No. 23-12543

Non-Argument Calendar

IRVING A. HARNED, JR.,

Plaintiff-Appellant,

versus

FULTON COUNTY CLERK OF THE COURT'S OFFICE,
FULTON COUNTY DISTRICT ATTORNEY'S OFFICE,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:22-cv-03476-ELR

Before JORDAN, ROSENBAUM, and GRANT, Circuit Judges.

PER CURIAM:

Irving Harned, proceeding *pro se*, appeals the district court's dismissal of his action for failure to state a claim against the Fulton County Clerk of the Court's Office (Clerk's Office) and the Fulton County District Attorney's Office (DA's Office) under 42 U.S.C. § 1983. On appeal, Mr. Harned alleges that his constitutional rights to due process and equal protection were violated when the Clerk's Office prevented him from filing a motion in an earlier case and when the DA's Office declined to prosecute Piedmont Healthcare as part of an alleged conspiracy. He argues that, contrary to the district court's determination, the Clerk's Office is a legal entity subject to suit and that its employees are not entitled to quasi-judicial immunity.

After careful review, we affirm the district court's order dismissing Mr. Harned's claims against the Clerk's Office and its employees and conclude that any arguments as to the claim against the DA's Office have been abandoned.

I

On October 15, 2018, Mr. Harned filed a *pro se* action in the Superior Court of Fulton County. He sued Piedmont and other medical providers over medical treatment received in 2016. On December 10, 2018, the Superior Court entered an order requiring Mr. Harned "to obtain permission from the Court before filing a civil

lawsuit, subpoena, criminal filing and/or application for arrest warrant relating to the subject matter" of the case. The Superior Court dismissed the action in April of 2019.

On October 25, 2021, Mr. Harned, proceeding *pro se* again, filed a separate action in the Superior Court against the Georgia Attorney General. This action violated the earlier court order restricting Mr. Harned's ability to file, among other things, complaints related to the alleged conspiracy to protect Piedmont from liability. In February of 2022, the Superior Court dismissed the action against the Georgia Attorney General without prejudice. Mr. Harned alleges that, on August 26, 2022, he attempted to file a motion to set aside the Superior Court's latest order but was prevented from doing so when employees of the Clerk's Office misinterpreted the filing restriction order from his previous case.

On August 29, 2022, Mr. Harned filed the *pro se* action underlying this appeal in the Northern District of Georgia. Mr. Harned brought two claims pursuant to § 1983, one against the Clerk's Office, including its employees in their individual capacities, and another against the DA's Office. Mr. Harned alleged that his Fifth and Fourteenth Amendment rights were violated when the Clerk's Office allegedly prevented him from filing a motion to set aside the dismissal of his action against the Attorney General, and the DA's Office allegedly refused to prosecute Piedmont.

The district court dismissed the action and imposed additional filing restrictions, including a Rule 11 bond. First, the district court ruled that Mr. Harned had failed to state a claim against the

Clerk's Office because the Office is not an entity subject to suit. Second, the district court explained that Mr. Harned's claims against employees of the Clerk's Office were barred by absolute, quasi-judicial immunity. Third, the district court concluded that any claims against the DA's Office, or its employees, were similarly barred by the Eleventh Amendment and sovereign immunity. Mr. Harned now appeals.

II

On appeal, we consider only whether the district court correctly dismissed Mr. Harned's claim against the Clerk's Office and its employees. Specifically, we address (1) whether the Clerk's Office is an entity capable of being sued and (2) whether employees at the Clerk's Office enjoy absolute, quasi-judicial immunity when sued in their individual capacities. As for Mr. Harned's claim against the DA's Office, any arguments have been abandoned.

A

We review a district court's dismissal of a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) *de novo*. *See Almanza v. United Airlines, Inc.*, 851 F.3d 1060, 1066 (11th Cir. 2017). To survive a motion to dismiss, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). This plausibility standard requires that the "factual content [pled] allow the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citations omitted). We accept the factual

allegations as true, and draw all reasonable inferences in Mr. Harned's favor. *See Twombly*, 550 U.S. at 555–56.

B

We begin by addressing whether the Clerk's Office is an entity subject to suit. For all parties who are not individuals or corporations, the "[c]apacity to sue or be sued" in federal court is determined "by the law of the state where the court is located." Fed. R. Civ. P. 17(b).

Georgia law recognizes three classes of legal entities subject to suit: "(1) natural persons; (2) an artificial person (a corporation); and (3) such quasiartificial persons as the law recognizes as being capable to sue." *Cravey v. Southeastern Underwriters Ass'n*, 105 S.E.2d 497, 500 (Ga. 1958) (citations omitted). Importantly, under Georgia law, "there is no legal provision that designates a trial court clerk's office as either a person or corporation capable of being sued." *Seibert v. Alexander*, 829 S.E.2d 473, 477 (Ga. App. 2019). Accordingly, the Georgia Court of Appeals has held that a clerk's office "has no legal status" and "cannot be a legal party to litigation." *Id.* A court therefore "correctly dismisse[s] [a] case as against the clerk's office on the basis that it is not a legal entity subject to suit." *Id.*

Because Mr. Harned cannot sue the Clerk's Office, we need not consider the merits of his § 1983 claim against the Office.

C

We next address whether the employees of the Clerk's Office enjoy absolute, quasi-judicial immunity when sued in their individual capacities. Though Mr. Harned did not name any employees individually as defendants, most of his allegations were directed toward Ms. Cathelene Robinson in her role as the Superior Court Clerk of Fulton County. To the extent that Mr. Harned attempts to assert claims against Ms. Robinson and any other employees, we agree with the district court that absolute quasi-judicial immunity bars these claims.

Mr. Harned argues that he was deprived of his constitutional rights when a Clerk's Office employee allegedly prevented him from filing a motion to set aside a court order dismissing his case against the Georgia Attorney General. He asserts that, in doing so, the employee misinterpreted the terms of the earlier filing restriction order which covered civil lawsuits, subpoenas, criminal filings, and applications for arrest warrants, but not motions. He further claims that the order was not in effect at the time of his attempted filing.

Accepting these allegations as true and drawing all reasonable inferences in favor of Mr. Harned, his claims against the employees still fail as a matter of law. We have held that "nonjudicial officials are encompassed by a judge's absolute immunity when their official duties have an integral relationship with the judicial process." *Roland v. Phillips*, 19 F.3d 552, 555 (11th Cir. 1994) (citation and internal quotations omitted). *See also Schopler v. Bliss*, 903 F.2d 1373, 1380 (11th Cir. 1990) ("Officials who perform

judicial . . . functions traditionally have been afforded absolute immunity from suit.") (citations omitted). This "absolute quasi-judicial immunity derives from absolute judicial immunity" and is determined "through a functional analysis of the actions taken by the official in relation to the judicial process." *Roland*, 19 F.3d at 555 (citation and internal quotation marks omitted). "Like judges, these officials must be acting within the scope of their authority" to receive immunity. *Id.* (citation omitted).

Here, Ms. Robinson and the other employees of the Clerk's Office were acting "within the scope of their authority" when they allegedly misinterpreted the court order and refused to file Mr. Harned's motion. "Enforcing a court order or judgment is intrinsically associated with a judicial proceeding." *Id.* (citation omitted). *See also Mullis v. U.S. Bankr. Ct. for Dist. of Nevada*, 828 F.2d 1385, 1390 (9th Cir. 1987) ("[F]iling a complaint or petition is a basic and integral part of the judicial process . . . [and] [t]he clerk of court and deputy clerk are the officials through whom such filing is done."); *Valdez v. City & Cnty. of Denver*, 878 F.2d 1285, 1288 (10th Cir. 1989) (collecting cases on the issue). The alleged conduct here is therefore "encompassed by a judge's absolute immunity." *Roland*, 19 F.3d at 555 (citation and internal quotation marks omitted). And because the Supreme Court has told us that a "judge is absolutely immune from liability for his judicial acts even . . . [when] grave procedural errors" result, Ms. Robinson and the other employees at the Clerk's Office are immune from Mr. Harned's claim even if

they mistakenly declined to file his motion. *See Stump v. Sparkman*, 435 U.S. 349, 359 (1978).

IV

We have "long held that an appellant abandons a claim when he either makes only passing references to it or raises it in a perfunctory manner without supporting arguments and authority." *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014). "Issues not raised in an initial brief are deemed forfeited and will not be addressed absent extraordinary circumstances." *Anthony v. Georgia*, 69 F.4th 796, 807 (11th Cir. 2023) (citation omitted). *See also United States v. Sineneng-Smith*, 590 U.S. 371, 379 (2020) (holding that only "extraordinary circumstances" may justify a departure from the principle of party representation). This rule is deeply embedded in our case law and applies to represented parties and *pro se* litigants alike. *See, e.g., Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008) (per curiam) ("While we read briefs filed by *pro se* litigants liberally, issues not briefed on appeal by a *pro se* litigant are deemed abandoned.") (citations omitted).

With these principles in mind, we consider whether Mr. Harned abandoned arguments concerning his claim against the DA's Office by not raising them in his initial brief on appeal. As a general principle, "we rely on the parties to frame the issues for decision and assign to courts the role of neutral arbiter of matters the parties present." *Greenlaw v. United States*, 554 U.S. 237, 243 (2008). We depart from that principle only "when extraordinary

circumstances so warrant." *Wood v. Milyard*, 566 U.S. 463, 471, (2012). *See also Sineneng-Smith*, 590 U.S. at 379 (holding that only "extraordinary circumstances" may justify departure from the principle of party representation).

Here, Mr. Harned failed to brief any arguments regarding his claim against the DA's office. And "[n]o extraordinary circumstances apply to warrant [such] consideration, because a refusal to consider [Mr. Harned's claim] would not result in a miscarriage of justice, the issue is not one of substantial justice, the proper resolution is not beyond any doubt, and the issue does not present significant questions of general impact or of great public concern." *Anthony*, 69 F.4th at 808.

V

We affirm the district court's order dismissing Mr. Harned's claims against the Clerk's Office and its employees and against the DA's Office.

AFFIRMED.

APPENDIX B

DOCKET NO. 40

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

IRVING A. HARNED, JR.,	*	
	*	
Plaintiff,	*	
	*	
v.	*	1:22-CV-03476-ELR
	*	
FULTON COUNTY CLERK OF THE COURT'S OFFICE, et al.,	*	
	*	
	*	
Defendants.	*	
	*	

ORDER

There are several matters presently before the Court. The Court sets forth its reasoning and conclusions below.

I. Factual Background

This case is one of many Plaintiff Irving A. Harned, Jr., has filed related to treatment he allegedly received at a facility operated by Piedmont Healthcare in 2016. See Compl. [Doc. 1]; see also, e.g., Harned v. Hawkins, Parnell and Young LLC, Civil Action No. 1:22-CV-03199-ELR, slip op. at 1–2, 20–21 (N.D. Ga. Oct. 18, 2022) [hereinafter "3199 Dismissal Order"] (detailing Plaintiff's extensive litigation history). In this case, Plaintiff brings two (2) claims pursuant to 42 U.S.C. § 1983, one each against Defendant Fulton County Clerk of the Court's Office (the

"Fulton Clerk") and Defendant Fulton County District Attorney's Office (the "Fulton DA"). See Compl. at 3–7. Each of Plaintiff's two (2) claims is based on purported violations of his rights to due process and equal protection of the law guaranteed by the Fifth and Fourteenth Amendments to the Federal Constitution. See generally id. And both are based on an alleged conspiracy between former Fulton County, Georgia Clerk of Superior & Magistrate Courts Cathelene "Tina" Robinson; Fulton County, Georgia District Attorney Fani Willis; Attorney General of Georgia Christopher Carr; a number of judges of the Superior Court of Fulton County, Georgia (the "Fulton Superior Court"); and others. See id. Plaintiff claims that this conspiracy exists to protect Piedmont Healthcare from liability for its supposedly wrongful conduct. See id.

Plaintiff's claim against the Fulton Clerk stems from his attempt to file a motion to set aside a February 25, 2023 order of Fulton Superior Court Judge Robert McBurney dismissing without prejudice the action in that court styled Harned v. Carr, No. 2021CV355989 (Fulton Cnty. Super Ct.). See id. at 9–12. Plaintiff alleges that, on August 26, 2022, Fulton Clerk employee Chyvaun Ferguson prohibited Plaintiff from filing his motion to set aside because of a December 10, 2018 order Judge Kimberly Adams (the "December 2018 Order") entered that required Plaintiff "to obtain permission from the [Fulton Superior] Court before filing a civil lawsuit,

subpoena, criminal filing and/or application for arrest warrant relating to" his alleged 2016 treatment at the Piedmont Healthcare facility.[1] See id.

Plaintiff's claim against the Fulton DA stems from contact he had with that office in the summer of 2022. See id. at 12–14. At some point, the Fulton DA scheduled a July 7, 2022 interview with Plaintiff regarding the alleged harm he suffered during the 2016 treatment he received from Piedmont Healthcare. See id. at 12. Plaintiff asserts that when this interview was scheduled the Fulton DA "informed [Plaintiff] that any action [the office might take] against Piedmont [Healthcare] would depend on the content and reliability of evidence [he] presented" and "assured [Plaintiff that] he would be contacted with the results of the [office's] investigation." See id. at 14. Plaintiff claims that his July 7, 2022 interview with Raymond Nieves—"a high ranking investigator" with the Fulton DA—and Sonya Allen and Sue Chan—two "high ranking prosecutors" for the same—"was recorded and lasted over an hour" and that, during it, "Plaintiff presented conclusive verbal and Court Records evidence [sic] that the Cardiac Services [unit] of Piedmont Hospital Atlanta has been in violation of" Ga. Comp. R. & Regs. 111-8-40-.20 "for three or more decades." See id. at 12 (anomalous punctuation and spacing corrected). Plaintiff does not describe what, if any, actions the Fulton DA took

[1] Plaintiff frequently terms this order Judge Adams' "Interim Order." A copy of the full order is available at docket entry 5-7 in Harned v. Piedmont Healthcare, Inc., Civil Action No. 1:22-CV-01322-ELR.

following his July 7, 2022 interview. See generally id. However, based on Plaintiff's repeated allegation that the Fulton DA is "protecting Piedmont Hospital" "like the Brunswick, Ga[.] district [attorney] who protected Mr. Ahmaud Arbery's murder[er]s[,]" the Court assumes that the Fulton DA took no further action following the July 7, 2022 interview. See id. at 3, 7–8.

II. Procedural History

On August 29, 2022, Plaintiff initiated this case against Defendants. See id. Plaintiff timely served each Defendant on November 21, 2022. [Docs. 8; 9; 18 at 1–2 & n.1]. In response, the Fulton Clerk timely filed a "Motion to Dismiss" that Plaintiff opposes. [Docs. 10, 13]. The Fulton DA did not timely respond to Plaintiff's Complaint. [See Doc. 18 at 1–2]. After prompting from the Court, on April 10, 2023, Plaintiff moved for an entry of default against the Fulton DA. [See Docs. 18, 21, 22]. The Court entered default as to the Fulton DA on April 27, 2023. [See Doc. 26]. On May 5, 2023, Plaintiff filed a "Motion for Default Judgment" against the Fulton DA, and, on May 15, 2023, the Fulton DA filed a "Motion to Set Aside Default" that Plaintiff opposes. [Docs. 27, 29, 32].

Between November 22, 2022, and June 13, 2023, Plaintiff filed eleven (11) motions of various types listed in the chart below. The Fulton DA does not oppose any of these motions. The Fulton Clerk opposes six (6) of them as indicated below.

Citation	Title	Opposition
[Doc. 7]	"Omnibus Motion for Fraud on the Court Against Judge Ross and Motion to Set Aside Dismissed Pauper Plaintiff's Complaint Against Office of the Clerk of Fulton County Superior Court"	None
[Doc. 11]	"Motion for Fraud on the Court Against Ms. Cathle[ne] Robinson. to Schedule an[] Emergency Hearing to Address This Godless Fraud on the Court and Abomination to God and Enter a Summary Judgment as the Appropriate Sanction"	None
[Doc. 12]	"Amended Motion for Fraud on the Court Against Ms. Cathle[ne] Robinson. to Schedule an[] Emergency Hearing to Address This Godless Fraud on the Court and Abomination to God and Enter a Summary Judgment as the Appropriate Sanction"	None
[Doc. 15]	"Motion for Summary Judgment"	[Doc. 23]
[Doc. 16]	"Motion for Fraud on the Court Against Paul Weathington. Jesse Broocker. and Allison Richardson Based on Events Before the Superior Court of Cherokee County. Case No. 18CVE1805"	[Doc. 20]
[Doc. 17]	"Request Leave of Court to Amend Complaint"	[Doc. 24]
[Doc. 30]	"Request to File a Pauper's Complaint Based on the Clerk's Office of the Superior Court of Fulton County Not Allowing Plaintiff to File Complaints"	[Doc. 34]
[Doc. 31]	"Motion for Permission to File a Pauper's Complaint for Deprivation of Rights: Corrupt Conspiracy Sanctioned by 42 U.S.C. Section 1983"	[Doc. 34]
[Doc. 33]	"Emergency Motion to Set-Aside Dismissal of Ex Parte Order 2023EX000573 Based on O.C.G.A. Section 9-11-60(a)"	[Doc. 34]

Citation	Title	Opposition
[Doc. 35]	"Emergency Omnibus Motion Based on Prima Faci[e] Evidence Long in Judge Ross' Possession—Cease and Desist Persecuting Pro Se Whistleblower—Cease and Desist from Protecting Piedmont—Deal with the—Aro[c]ity—Set-Aside All Restrictions Placed on Plaintiff by This Court—Set-Aside Dismissal of Plaintiff's Pauper Complaint and or Rule in Favor of Plaintiff in Case Before This Court"	None
[Doc. 37]	"Motion for Fraud on the Court Against Robert McBurney—Kimberly E[s]mond[] Adams—Paige Reese Whitaker—Charles Eason"	None

Each of the fourteen (14) motions presently pending in this case is ripe for the Court's review.

III. The Fulton Clerk's "Motion to Dismiss" [Doc. 10] and Plaintiff's "Motion for Summary Judgment" [Doc. 15] and "Request Leave of Court to Amend Complaint" [Doc. 17]

The Court begins with the Fulton Clerk's "Motion to Dismiss" [Doc. 10] and Plaintiff's "Motion for Summary Judgment" [Doc. 15] and "Request Leave of Court to Amend Complaint." [Doc. 17]. The Court sets forth the applicable legal standards before applying them to the facts of this case.

A. Legal Standards

1. Motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6)

To survive a Rule 12(b)(6) motion to dismiss, a complaint must "contain sufficient factual matter, accepted as true, 'to state a claim to relief that is plausible

on its face.'" See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). Put differently, a plaintiff must plead "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." See id. This so-called "plausibility standard" is not akin to a probability requirement; rather, the plaintiff must allege sufficient facts such that it is reasonable to expect that discovery will lead to evidence supporting the claim. See id.

When considering a Rule 12(b)(6) motion to dismiss, the Court must accept as true the allegations set forth in the complaint, drawing all reasonable inferences in the light most favorable to the plaintiff. See Twombly, 550 U.S. at 555–56; United States v. Stricker, 524 F. App'x 500, 505 (11th Cir. 2013) (per curiam). Even so, a complaint offering mere "labels and conclusions" or "a formulaic recitation of the elements of a cause of action" is insufficient. See Ashcroft, 556 U.S. at 678 (quoting Twombly, 550 U.S. at 555); accord Fin. Sec. Assurance, Inc. v. Stephens, Inc., 500 F.3d 1276, 1282–83 (11th Cir. 2007). Rather, "a pleading must contain a short and plain statement of the claim showing that the pleader is entitled to relief" so as to satisfy "the pleading requirements of Rule 8." See Parker v. Brush Wellman, Inc., 377 F. Supp. 2d 1290, 1294 (N.D. Ga. 2005) (citing FED. R. CIV. P. 8(a)(2)).

2. Motions to amend pursuant to Federal Rule of Civil Procedure 15

Pursuant to Federal Rule of Civil Procedure 15, a party may amend its pleading "once as a matter of course" within certain time limitations and, "[i]n all other cases, . . . [with] the court's leave." FED. R. CIV. P. 15(a)(1)–(2). "The Court should freely give leave when justice so requires." FED. R. CIV. P. 15(a)(2). "The Supreme Court has emphasized that leave to amend must be granted absent a specific, significant reason for denial[.]" Spanish Broad. Sys. of Fla., Inc. v. Clear Channel Commc'ns, Inc., 376 F.3d 1065, 1077 (11th Cir. 2004) (citing Foman v. Davis, 371 U.S. 178, 182 (1962)); see also Pioneer Metals, Inc. v. Univar USA, Inc., 168 F. App'x 335, 337 (11th Cir. 2006) ("This Court has indicated that it views with great distaste district court denials of amendments without stated reasons."). The "specific, significant reason[s]" for which a court may deny a plaintiff leave to amend include "undue delay, undue prejudice to the defendants, and futility of the amendment." See Abramson v. Gonzalez, 949 F.2d 1567, 1581 (11th Cir. 1992). Relevant here, "denial of leave to amend is justified by futility when the complaint as amended is still subject to dismissal." Hall v. United Ins. Co. of Am., 367 F.3d 1255, 1263 (11th Cir. 2004).

B. Discussion

In its motion dismiss, the Fulton Clerk argues that Plaintiff's Complaint is subject to dismissal because (1) it fails to allege that Plaintiff was prevented from

making any filings in Fulton Superior Court and (2) the Fulton Clerk is entitled to absolute judicial immunity. [See generally Doc. 10-1]. In opposition to the Fulton Clerk's motion, Plaintiff contends that (1) he has adequately alleged that he was prevented from making filings by the Fulton Clerk and (2) the Fulton Clerk is not entitled to absolute immunity because the December 2018 Order does not prevent Plaintiff from filing motions. [See generally Doc. 13].

Upon review and consideration, the Court finds that Plaintiff fails to state a claim against the Fulton Clerk as a matter of law. As the Court has already explained to Plaintiff in at least one other case, (1) it is not clear whether the Fulton Clerk is a legal entity that is subject to suit and (2) even if the Fulton Clerk is a legal entity subject to suit, "it is not a 'person' that can be liable pursuant to § 1983 because 'the law is well settled that state courts are not persons within the meaning of 42 U.S.C. § 1983.'" See Harned v. Fulton Cnty. Off. of Clerk of Ct., Civil Action No. 1:22-CV-02805-ELR, slip op. at 12–13 (N.D. Ga. Oct. 18, 2022) (explaining these points more fully) (quoting Lowe v. Alabama, No. 2:13-CV-721-WKW, 2013 WL 6816382, at *2 (M.D. Ala. Dec. 24, 2013)).

Additionally, to the extent Plaintiff is attempting to assert claims against Ms. Robinson, Ms. Ferguson, or any other member of the Fulton Clerk's staff personally, those claims are barred by absolute, quasi-judicial immunity. "Nonjudicial officials have absolute immunity for their duties that are integrally related to the judicial

process." Jenkins v. Clerk of Ct., 150 F. App'x 988, 990 (11th Cir. 2005) (citing Roland v. Phillips, 19 F.3d 552, 555 (11th Cir. 1994)). Thus, whether a non-judicial official is entitled to immunity is "determined by a functional analysis of their actions in relation to the judicial process." See id. Here, any claims the Plaintiff might have against the Fulton Clerk or its employees are based on the supposed failure of the Fulton Clerk's employees to properly file certain of Plaintiff's pleadings. See Compl. at 9–12. A court clerk's "fil[ing of] pleadings and documents in compliance with applicable . . . procedural rules" and orders is "an integral part of the judicial process." See Malloy v. Weller, No. 2:21-CV-332-ECM-KFP, 2022 WL 472151, at *4 (M.D. Ala. Jan. 25, 2022), report and recommendation adopted, 2022 WL 569973 (Feb. 24, 2022); accord Coleman v. Farnsworth, 90 F. App'x 313, 317 (10th Cir. 2004) (collecting circuit court cases in support of this proposition). Accordingly, any employees of the Fulton Clerk against whom Plaintiff might assert claims in this case are entitled to quasi-judicial immunity. See Jenkins, 150 F. App'x at 990.

Because (1) the Fulton Clerk may not be sued pursuant to § 1983 and (2) any claims that Plaintiff might have against the Fulton Clerk's employees are barred by quasi-judicial immunity, the Court grants the Fulton Clerk's "Motion to Dismiss." [Doc. 10]. And because the new allegations Plaintiff proposes to make via his "Request Leave of Court to Amend Complaint" do not alter the Court's conclusions

regarding the viability of Plaintiff's claims, the Court finds that Plaintiff's proposed amendments are futile. [See Doc. 17]; see also Hall, 367 F.3d at 1263. Therefore, the undersigned denies Plaintiff's "Request Leave of Court to Amend Complaint." [Doc. 17]. Finally, for the two (2) reasons mentioned in the first sentence of this paragraph, Plaintiff is not entitled to judgment against the Fulton Clerk or any its employees as a matter of law. The Court accordingly denies Plaintiff's "Motion for Summary Judgment." [See Doc. 15]; see also FED. R. CIV. P. 56(a) ("The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.").

IV. Motions Aimed at Purported Litigation Misconduct by Counsel for the Fulton Clerk

The Court next addresses Plaintiff's "Motion for Fraud on the Court Against Ms. Cathle[ne] Robinson, to Schedule an[] Emergency Hearing to Address This Godless Fraud on the Court and Abomination to God and Enter a Summary Judgment as the Appropriate Sanction" [Doc. 11] and "Amended Motion for Fraud on the Court Against Ms. Cathle[ne] Robinson, to Schedule an[] Emergency Hearing to Address This Godless Fraud on the Court and Abomination to God and Enter a Summary Judgment as the Appropriate Sanction."[2] [Doc. 12]. In each of these

[2] The Court finds that a hearing would not aid it in deciding Plaintiff's sanctions-related motions or any of the other motions the Court considers herein. See LR 7.1(E), NDGa.; [Doc. 3 at 8]. To the extent any Party has requested a hearing in the voluminous pleadings filed in this case, the Court denies that request. See id.

pleadings, Plaintiff alleges that counsel for the Fulton Clerk made misrepresentations to the Court in the Fulton Clerk's brief in support of its motion to dismiss Plaintiff's Complaint and that Plaintiff is consequently entitled to sanctions. [See Docs. 11, 12].

"[A]ll federal courts have the power, by statute, by rule, and by common law, to impose sanctions against recalcitrant lawyers and parties litigant." Carlucci v. Piper Aircraft Corp., 775 F.2d 1440, 1446 (11th Cir. 1985). Because Plaintiff challenges the statements the Fulton Clerk's counsel made in a pleading they signed, the Court evaluates Plaintiff's sanctions request pursuant to Federal Rule of Civil Procedure 11. See FED. R. CIV. P. 11; Battles v. City of Ft. Myers, 127 F.3d 1298, 1300 (11th Cir. 1997); Lechter v. Aprio, LLP, 622 F. Supp. 3d 1297, 1304 (N.D. Ga. 2022). "A motion for sanctions [pursuant to Rule 11] must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b)." See FED. R. CIV. P. 11(c)(2). "The motion must be served" on the alleged violator "under Rule 5." See id. However, "[t]he motion for sanctions is not . . . to be filed" with the court "until at least 21 days . . . after being served" on the alleged violator. See id. 11(b)–(c) advisory committee's note to the 1993 amendment. And "[i]f, during this" twenty-one (21) day so-called "safe harbor" "period, the alleged violation is corrected . . . the motion should not be filed with the court" at all. See

id. "Courts generally strictly construe Rule 11's procedural requirements." Martin v. Allied Interstate, LLC, 192 F. Supp. 3d 1296, 1309 (S.D. Fla. 2016).

Here, there is no indication that Plaintiff served his present motions on the Fulton Clerk or its counsel prior to filing the same. [See Docs. 11, 12]. Plaintiff thus failed to comply with Rule 11's "safe harbor" requirement. [See id.]; see also FED. R. CIV. P. 11(b)–(c) advisory committee's note to the 1993 amendment. The Court accordingly denies Plaintiff's present requests for sanctions against the Fulton Clerk and its counsel. [Docs. 11, 12].

V. Plaintiff's "Motion for Default Judgment" [Doc. 27] and the Fulton DA's "Motion to Set Aside Default" [Doc. 29]

The Court next turns to the Fulton DA's "Motion to Set Aside Default" [Doc. 29], which, if granted, would necessarily moot Plaintiff's "Motion for Default Judgment." [Doc. 27]. The Court begins by setting forth the applicable legal standard.

A. Legal Standard

Pursuant to Federal Rule of Civil Procedure 55(c), "[t]he [C]ourt may set aside an entry of default for good cause[.]" FED. R. CIV. P. 55(c). "'Good cause' is a mutable standard, varying from situation to situation." Compania Interamericana Export–Import, S.A. v. Compania Dominicana de Aviacion, 88 F.3d 948, 951 (11th Cir. 1996) (internal quotation marks omitted) (quoting Coon v. Grenier, 867 F.2d 73, 76 (1st Cir. 1989)). "It is also a liberal one—but not so elastic as to be devoid

of substance." Id. (internal quotation marks omitted) (quoting Coon, 867 F.2d at 76). In undertaking a "good cause" analysis, courts generally consider: "whether the default was culpable or willful, whether setting it aside would prejudice the adversary, and whether the defaulting party presents a meritorious defense." See id. Also relevant is whether the defaulting party promptly corrected the default. See id.

Courts in the Eleventh Circuit "have a strong preference for deciding cases on the merits—not based on a single missed deadline—whenever reasonably possible." Perez v. Wells Fargo N.A., 774 F.3d 1329, 1332 (11th Cir. 2014). Accordingly, default judgments are "a drastic remedy which should be used only in extreme situations." See Mitchell v. Brown & Williamson Tobacco Corp., 294 F.3d 1309, 1316–17 (11th Cir. 2002) (citing Wahl v. McIver, 773 F.2d 1169, 1174 (11th Cir. 1985)).

B. Discussion

The Fulton DA argues that the default the Court entered against it should be set aside because (1) the Court lacks jurisdiction to enter a default against it or (2) alternatively, good cause exists to set aside the same. [See Doc. 29-1]. In response, Plaintiff contends that "[i]t is not credible that the District Attorney and staff did not know the Office was being [s]ued by Plaintiff" and argues that his claims are meritorious. [See Doc. 32].

Upon review and consideration, the Court is unpersuaded by the Fulton DA's first argument. While the Court may lack jurisdiction to enter a judgment against the Fulton DA, see infra part VI, a clerk's entry of default is not a judgment. See Alexander Produce, Inc. v. DGR Sales, LLC, No. 2:21-CV-495-JLB-KCD, 2022 WL 17370251, at *1 (M.D. Fla. Sept. 20, 2022) ("Entry of a clerk's default does not alone warrant a judgment."), report and recommendation adopted, 2023 WL 2930826 (Jan. 19, 2023). Instead, it is simply a finding by a court or its clerk that a defendant "has failed to plead or otherwise defend" that allows a plaintiff to later move for default judgement. See FED. R. CIV. P. 55(a); see also UMG Recordings, Inc. v. Stewart, 461 F. Supp. 2d 837, 840 (S.D. Ill. 2006) (explaining the process of obtaining a default judgment).

However, the Court finds that good cause exists to set aside the Clerk's entry of default as to the Fulton DA for four (4) reasons. First, the Fulton DA has submitted sworn testimony that its default in this matter was the product of "human error or oversight" and that it "has not attempted to avoid service in this case, . . . intentionally delayed [in] responding to the case, [or] . . . willfully ignored service or any deadlines in the case." See Declaration of Dexter Bond ("Bond Decl.") ¶¶ 8–9 [Doc. 29-2]; see also Auto-Owners Ins. Co. v. Env't House Wrap, Inc., No. 3:17-cv-817-J-34PDB, 2018 WL 6680937, at *1 (M.D. Fla. Oct. 11, 2018) (determining that good cause existed to set aside a clerk's entry default because the default was

"caused" by "[h]uman error"). Plaintiff's unsworn accusations that the Fulton DA's proffered testimony is implausible and that the Fulton DA has "acted in bad faith" do not convince the Court that the Fulton DA's default was "was culpable or willful." [See generally Doc. 32]; see also Compania Interamericana, 88 F.3d at 951.

Second, Plaintiff does not claim he will be prejudiced if the Court sets aside the Fulton DA's default, and the Court does not see how he could be so prejudiced given that this case has yet to advance beyond the pleading stage. [See generally Doc. 32]; see also Worldwide Distrib., LLLP v. Everlotus Indus. Corp., No. 3:16-CV-26-J-39JBT, 2016 WL 8999083, at *2 (M.D. Fla. May 20, 2016) (setting aside defaults where the "[p]laintiff ma[d]e[] no argument or sufficient showing that it w[ould] be unduly prejudiced" by that relief).

Third, as further explained below, the Fulton DA has a meritorious Eleventh Amendment immunity defense to this case. See infra part VI; Bond Decl. ¶ 12; see also Hammett v. Paulding Cnty., Civil Action No. 4:14-CV-00260-HLM, 2014 WL 12623023, at *2 (N.D. Ga. Dec. 9, 2014) (noting that "having a meritorious defense counsels in favor of" setting aside a default and taking that action with respect to various defendants that had immunity defenses).

Fourth, the Fulton DA promptly moved to set aside the default. The Court entered default against the Fulton DA on April 27, 2023, and the Fulton DA moved to set aside the same less than three (3) weeks later, on May 15, 2023. [See Docs. 26,

29]; see also Carasquero v. Intrepid Glob. Imaging 3D, Inc., No. 3:08-CV-241-J-34JRK, 2008 WL 11335174, at *6 (M.D. Fla. Nov. 10, 2008) (concluding that "action [taken] to correct [a] default[] . . . less than a month" after the default was entered was prompt); see also McDaniels v. EquityExperts.Org, LLC, Civil Action No. 1:18-CV-03535-TCB-JCF, 2019 WL 3526505, at *2 (N.D. Ga. May 14, 2019) ("[B]ecause Defendant's answer and . . . motion [to set aside the Clerk's entry of default] were filed less than a month after the default was entered, its efforts in curing the default can be considered prompt."), report and recommendation adopted, 2019 WL 3526371 (June 3, 2019).

In short, good cause exists for the Court to set aside the default previously entered against the Fulton DA. For that reason and in view of the "strong preference" in this Circuit "for deciding cases on the merits . . . whenever reasonably possible," the Court grants the Fulton DA's "Motion to Set Aside Default," sets aside the default previously entered against the Fulton DA, and denies as moot Plaintiff's "Motion for Default Judgment." [Docs. 27, 29]; see also Perez, 774 F.3d at 1332.

VI. *Sua Sponte* Review of the Fulton DA's Immunity Defenses

As noted, by its motion to set aside, the Fulton DA asserts that Plaintiff's claims against it "are barred by the Eleventh Amendment and sovereign immunity." Bond Decl. ¶ 12; [accord Doc. 29-1 at 4–5]. Because the Supreme Court has "stressed the importance of resolving immunity questions at the earliest possible

stage in litigation," the Court *sua sponte* considers the merits of the Fulton DA's immunity defenses and the immunities its employees may take advantage of. See Hunter v. Bryant, 502 U.S. 224, 227 (1991) (discussing this principle in the context of qualified immunity); see also Smith v. Shorstein, 217 F. App'x 877, 880 (11th Cir. 2007) (affirming a district court's *sua sponte* dismissal of claims based on prosecutorial immunity); Vinson v. Clarke Cnty., 10 F. Supp. 2d 1282, 1298 n.14 (S.D. Ala. 1998) (citing Ford Motor Co. v. Dep't of Treasury, 323 U.S. 459 (1945)) (observing that because "sovereign immunity is considered tantamount to a jurisdictional matter" a court can consider "Eleventh Amendment immunity *sua sponte* . . . at any stage of . . . litigation").

Pursuant to the Eleventh Amendment to the Federal Constitution, a state "is immune from suits brought in federal court by her own citizens as well as by citizens of another [s]tate" unless (1) Congress validly overrides the state's Eleventh Amendment immunity or (2) the state waives the same. See Kentucky v. Graham, 473 U.S. 159, 169 (1985); see also Edelman v. Jordan, 415 U.S. 651, 663–64 (1974). "[B]ecause . . . a judgment against a public servant in his official capacity imposes liability on the entity that he represents," Eleventh Amendment immunity extends to "[s]tate officials [who] are sued for damages in their official capacity." Graham, 473 U.S. at 169 (cleaned up).

"State employees sued in their individual capacity do not receive the Eleventh Amendment's protection." Moncus v. Lasalle Mgmt. Co., LLC, 423 F. Supp. 3d 1358, 1365 (M.D. Ga. 2019) (citing Jackson v. Ga. Dep't of Transp., 16 F.3d 1573, 1575 (11th Cir. 1994)). However, state officials sued in their individual capacity can take advantage of other forms of immunity, including prosecutorial immunity and qualified immunity. See id.; see also Lawrence v. Gwinnett Cnty., 557 F. App'x 864, 868 (11th Cir. 2014) (applying prosecutorial immunity to individual capacity claims even though Eleventh Amendment immunity did not apply to such claims).

"[A] prosecutor is entitled to absolute immunity for acts undertaken in preparing for the initiation of judicial proceedings or for trial, and which occur in the course of his role as an advocate for the state." Kassa v. Fulton Cnty., 40 F.4th 1289, 1293 (11th Cir. 2022); accord Rivera v. Leal, 359 F.3d 1350, 1353 (11th Cir. 2004) (citing Buckley v. Fitzsimmons, 509 U.S. 259, 273 (1993)) ("A prosecutor is entitled to absolute immunity for all actions he takes while performing his function as an advocate for the government."). A court takes a "functional" approach to determining whether prosecutorial immunity shields a defendant from suit and "looks to the nature of the function performed, not the identity of the actor who performed it." See Buckley, 509 U.S. at 269. Because "[t]he prosecutorial function includes the initiation and pursuit of criminal prosecution and most appearances before the court, including examining witnesses and presenting evidence," absolute

immunity extends to prosecutors only when they perform such functions; only qualified immunity extends to actions a prosecutor takes while performing other, non-prosecutorial functions. See Rivera, 359 F.3d at 1353 (citing Burns v. Reed, 500 U.S. 478, 492 (1991) and Imbler v. Pachtman, 424 U.S. 409, 431 (1976)); Jones v. Cannon, 174 F.3d 1271, 1281–82 (11th Cir. 1999). In accordance with these principles, the Eleventh Circuit "ha[s] previously extended absolute immunity to prosecutors for 'filing an information without investigation, filing charges without jurisdiction, filing a baseless detainer, offering perjured testimony, suppressing exculpatory evidence, refusing to investigate complaints about the prison system, and threatening further criminal prosecutions." Kassa, 40 F.4th at 1293 (quoting Hart v. Hodges, 587 F.3d 1288, 1295 (11th Cir. 2009)).

Here, the Court finds that any claims Plaintiff might have against the Fulton DA or any of its employees in their official capacities are barred by the Eleventh Amendment. Pursuant to Georgia statute, district attorneys' offices are arms of the state and their employees are state officials. See Mullinax v. McElhenney, 672 F. Supp. 1449, 1451 (N.D. Ga. 1987) (citing O.C.G.A. §§ 15-18-1 to -27 (1982)). And neither of the two (2) above-mentioned exceptions to Eleventh Amendment immunity apply. In passing § 1983, Congress did not override Georgia's (or any other state's) Eleventh Amendment immunity. See Graham, 473 U.S. at 169 ("The Court has held that § 1983 was not intended to abrogate a [s]tate's Eleventh

Amendment immunity."). Neither has the state of Georgia waived its immunity with respect to § 1983 claims in general or with respect to this suit in particular. See Ferguson v. Ga. Dep't of Corrs., 428 F. Supp. 2d 1339, 1352 (M.D. Ga. 2006) (observing that Georgia has not waived its immunity with respect to § 1983 generally); [see also generally Doc. 29-1] (asserting that the Fulton DA has a meritorious Eleventh Amendment immunity defense to this action).

Additionally, absolute prosecutorial immunity defeats any claims Plaintiff might be asserting in this case against Ms. Allen, Ms. Chan, Ms. Willis, Mr. Nieves, or any other employee of the Fulton DA in his or her individual capacity. Plaintiff does not articulate the precise conduct upon which he bases his claims against the Fulton DA. See generally Compl. However, those claims appear to be based on the Fulton DA's purported failure to investigate Plaintiff's complaints against Piedmont Healthcare to his satisfaction and bring charges related to the same. See id. at 3, 7–8. Because a prosecutor engages in prosecutorial functions when deciding whether to investigate certain charges and whether to bring the same in court, a prosecutor (including any non-lawyer employee of a prosecutor) is immune from claims related to such decisions. See Kassa, 40 F.4th at 1293; see also Buckley, 509 U.S. at 269 (explaining that prosecutorial immunity analysis "looks to the nature of the function performed, not the identity of the actor who performed it"). And because Plaintiff's claims here appear to relate to decisions of whether to investigate certain complaints

or bring certain charges, those claims are barred by absolute prosecutorial immunity. See Kassa, 40 F.4th at 1293; Compl. at 3, 7–8.

Because either Eleventh Amendment immunity or prosecutorial immunity prevents any claims Plaintiff might have against the Fulton DA and any of its employees, the Court *sua sponte* dismisses those claims. And because the Court has already dismissed Plaintiff's claims against the Fulton Clerk, see supra part III.B, all of Plaintiff's claims in this case have been dismissed. The Court accordingly dismisses Plaintiff's Complaint in its entirety.

VII. Fraud Motion Against Weathington, Broocker, and Richardson [Doc. 16]

Next, the Court addresses Plaintiff's "Motion for Fraud on the Court Against Paul Weathington, Jesse Broocker, and Allison Richardson Based on Events Before the Superior Court of Cherokee County, Case No. 18CVE1805." [Doc. 16]. By this motion, Plaintiff does not seek any particular relief. [See id.] Instead, he makes allegations about private individuals who are not parties to this suit that are unrelated to the allegations he makes in the Complaint. [See id.] The Court accordingly denies this motion. See FED. R. CIV. P. 7(b)(1) (prescribing that "[a] request for a court order must be made by motion" and that "[t]he motion must . . . state with particularity the grounds for seeking the order[] and . . . state the relief sought").

VIII. Motions Directed at Fulton Superior Court Judges [Docs. 33, 37]

By his "Emergency Motion to Set-Aside Dismissal of Ex Parte Order 2023EX000573 Based on O.C.G.A. Section 9-11-60(a)" Plaintiff apparently requests that the Court set aside a show cause order Fulton Superior Court Chief Judge Ural Glanville entered on May 12, 2023, that required Plaintiff to appear for a hearing on June 12, 2023. [See Doc. 33 at 2, 4]. The Court denies as moot Plaintiff's "Emergency Motion to Set-Aside Dismissal of Ex Parte Order 2023EX000573 Based on O.C.G.A. Section 9-11-60(a)" because the time for Plaintiff to comply with the order he challenges expired more than a month ago. [See id.]

By his "Motion for Fraud on the Court Against Robert McBurney—Kimberly E[s]mond[] Adams—Paige Reese Whitaker—Charles Eason," Plaintiff apparently requests that the Court set aside six (6) orders of the Fulton Superior Court dismissing the same number of lawsuits he brought in that court. [Doc. 37]. As the undersigned has repeatedly explained to Plaintiff in other cases, this Court lacks jurisdiction to set aside state court orders. See May v. Morgan Cnty., 878 F.3d 1001, 1004 (11th Cir. 2017) ("[F]ederal district courts and courts of appeals do not have jurisdiction to review state court decisions."); see also, e.g., 3199 Dismissal Order at 9–14. For this reason, the Court denies Plaintiff's "Motion for Fraud on the Court

Against Robert McBurney—Kimberly E[s]mond[] Adams—Paige Reese Whitaker—Charles Eason." [Doc. 37].

IX. Motions Seeking Reconsideration of the Court's Previous Orders [Docs. 7, 30, 31, 35].

The Court concludes with Plaintiff's "Omnibus Motion for Fraud on the Court Against Judge Ross and Motion to Set Aside Dismissed Pauper / Plaintiff's Complaint Against Office of the Clerk of Fulton County Superior" [Doc. 7], "Request to File a Pauper's Complaint Based on the Clerk's Office of the Superior Court of Fulton County Not Allowing Plaintiff to File Complaints" [Doc. 30], "Motion for Permission to File a Pauper's Complaint for Deprivation of Rights; Corrupt Conspiracy Sanctioned by 42 U.S.C. Section 1983" [Doc. 31], and "Emergency Omnibus Motion Based on Prima Faci[e] Evidence Long in Judge Ross' Possession—Cease and Desist Persecuting Pro Se / Whistleblower—Cease and Desist from Protecting Piedmont—Deal with the—Aro[c]ity—Set-Aside All Restrictions Placed on Plaintiff by This Court—Set-Aside Dismissal of Plaintiff's Pauper Complaint and / or Rule in Favor of Plaintiff in Case Before This Court." [Doc. 35]. Each of these motions appears to, in essence, request that the undersigned reconsider or set aside previous Orders the Court issued in other cases dismissing those cases and imposing filing restrictions on Plaintiff. [See Docs. 7, 30, 31, 35].

Because more than twenty-eight (28) days passed between the undersigned's last Order in Plaintiff's other cases this Court and the filing of his present motions

seeking reconsideration of the same, the only device Plaintiff can use to ask the Court to reconsider its previous Orders is Federal Rule of Civil Procedure 60(b).[3] See FED. R. CIV. P. 59(e) (providing that Rule 59 "motion[s] to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment"); LR 7.2(E), NDGa. ("Whenever a party or attorney for a party believes it is absolutely necessary to file a motion to reconsider an order or judgment, the motion shall be filed with the clerk of court within twenty-eight (28) days after entry of the order or judgment."). That rule provides:

> On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:
>
> > (1) mistake, inadvertence, surprise, or excusable neglect;
> >
> > (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
> >
> > (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
> >
> > (4) the judgment is void;
> >
> > (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

[3] The most recent Order the Court issued in any case of Plaintiff's in this district is dated October 24, 2022, twenty-nine (29) days before the first motion Plaintiff filed in this case requesting that the Court alter or set aside one of its previous judgments or Orders. Compare Hawkins, Parnell and Young, Civil Action No. 1:22-CV-03199-ELR, slip op. (Oct. 24, 2022), [with Doc. 7].

(6) any other reason that justifies relief.

FED. R. CIV. P. 60(b).

Plaintiff's argument for relief from various of this Court's prior Orders and judgments focuses on the third prong. [Docs. 7, 35]. "To get relief under Rule 60(b)(3), the moving party must prove by clear and convincing evidence that the adverse party obtained the [relevant judgment or order] through fraud, misrepresentations, or other misconduct." Jenkins v. Anton, 922 F.3d 1257, 1270 (11th Cir. 2019) (internal quotation marks omitted). "The moving party must also demonstrate that the conduct prevented [him] from fully presenting his case." Id. A district court "enjoys considerable discretion in determining whether to grant relief pursuant to Rule 60(b)(3)." Circuitronix, LLC v. Kapoor, 440 F. Supp. 3d 1345, 1363 (S.D. Fla. 2020).

Upon review and consideration, the Court finds that Plaintiff fails to show by clear and convincing evidence that any of the judgments or Orders the Court entered in his previous cases in this district were "obtained . . . through" an adverse party's "fraud, misrepresentations, or other misconduct" that "prevented [Plaintiff] from fully presenting his case." See Anton, 922 F.3d at 1270. Eight (8) of the nine (9) previous cases Plaintiff brought in this district Plaintiff either voluntarily dismissed himself or were dismissed by the Court following a *sua sponte* review of subject matter jurisdiction or a frivolity determination pursuant to 28 U.S.C.

§ 1915(e)(2)(B). See 3199 Dismissal Order at 20–21 (summarizing the disposition of Plaintiff's various cases in this Court). Because the final judgments or Orders in such cases were caused by Plaintiff's own actions or by the Court's analysis developed without any information or argument from a party adverse to plaintiff, those judgments and Orders necessarily could not have been "obtained . . . through" an adverse party's "fraud, misrepresentations, or other misconduct[.]" See Anton, 922 F.3d at 1270.

Neither did any "fraud, misrepresentations, or other misconduct" from the defendant in Harned v. Hawkins, Parnell and Young LLC—the only one of Plaintiff's nine (9) previous cases in this district dismissed upon the motion of a defendant—cause the Court to dispose of that case. See id. There, the Court accepted Plaintiff's allegations as true for purposes of its analysis, incorporated some facts drawn from the public record in Plaintiff's extensive state court litigation, and dismissed Plaintiff's claims either because the Court lacked jurisdiction to adjudicate them or because Plaintiff failed to state a claim as a matter of law. See 3199 Dismissal Order at 8–18. None of the Court's reasoning in dismissing the Hawkins, Parnell and Young LLC case relied on any factual representations made by the defendant in that case, and, though the Court addressed some of the defendant's arguments in its analysis, that analysis was independent and did not rely any of the defendant's arguments or representations without interrogation or research. See id.

Additionally, Plaintiff's frequent refrain that the undersigned committed fraud on the Court in issuing various Orders is simply wrong. Though Plaintiff may disagree with this Court's rulings, his disagreement in no way renders those rulings incorrect or fraudulent. The Court has carefully reviewed its Orders and the corresponding judgments entered in Plaintiff's cases in this district and finds there to be no basis to alter them or set them aside. Instead, the Court reaffirms its previous dismissals of Plaintiff's cases and the filing restrictions it has imposed on Plaintiff.

Accordingly, the Court **ORDERS** that, for the next twenty-four (24) months, Plaintiff must:

(1) Post a $1,000.00 Rule 11 bond with the Clerk of Court before he files any lawsuit in this district or removes a state court case to the same. To be clear, Plaintiff must a post a $1,000.00 Rule 11 bond for each new case he seeks to file. This bond is in addition to the $402.00 filing fee that, on several occasions, Plaintiff has already demonstrated his ability to pay;

(2) Either obtain counsel or leave of Court before initiating any lawsuit in this district related to either his 2016 treatment at any facility operated by Piedmont Healthcare or any litigation or attempted litigation Plaintiff pursued in state or federal court related to that 2016 treatment;

(3) Either obtain counsel or leave of Court before initiating any lawsuit in this district against any of the following defendants: Judge Kimberly Adams;

Ché Alexander; Sonya Allen; Jesse Broocker; Christopher Carr; Sue Chan; Judge Charles Eaton, Jr.; Chyvaun Ferguson; the Office of the Fulton County Clerk of Superior and Magistrate Courts; the Office of the Fulton County District Attorney; the State of Georgia; Chief Judge Ural Glanville; David C. Hanson; Hawkins, Parnell, and Young, LLP; Christine Mast; Judge Scott McAfee; Judge Robert McBurney; Heather C. McGrotty; Presiding Judge M. Yvette Miller; Raymond Nieves; Judge Trea Pipkin; Allison Richardson; Chief Judge Brian M. Rickman; Cathelene "Tina" Robinson; Shatavia Scott; Fani Willis; Molly Weathington; Paul Weathington; the Weathington Law Firm, LLC; or Judge Paige Whitaker.

See 3199 Dismissal Order at 18–23 (explaining the factual and legal bases for these restrictions). Though the Court initially set the above-referenced filing restrictions to expire in October 2024, the Court finds it appropriate to extend those restrictions through July 2025 now in light of the volume of frivolous motions and other filings Plaintiff has made in this case as described elsewhere in this order. The Court **DIRECTS** the Clerk to submit any document that Plaintiff wishes to file that falls into categories (2) and (3) above directly to the undersigned for preliminary review before docketing.

Additionally, the Court **ORDERS** that Plaintiff is prohibited from filing any motion, pleading, paper, or other document in this case or any other of the following cases, all of which are closed: Civil Action Nos. 1:22-CV-01146-ELR, 1:22-CV-01322-ELR, 1:22-CV-02042-ELR, 1:22-CV-02155-ELR, 1:22-CV-02156-ELR, 1:22-CV-02364-ELR, 1:22-CV-02805-ELR, 1:22-CV-03199-ELR, and 1:22-CV-03794-ELR. See Maid of The Mist Corp. v. Alcatraz Media, LLC, 388 F. App'x 940, 941 (11th Cir. 2010) (affirming a district court's "injunction restricting [a *pro se* plaintiff] from filing any further motion, pleading, or other paper in relation to" a given civil action). The Court **DIRECTS** the Clerk to submit any future proposed filing Plaintiff attempts to make in this or any of the other cases listed in this paragraph directly to the undersigned for the Court's consideration prior to filing the document on the Court's docket.

Finally, in light of the hundreds of emails and numerous phone calls that the undersigned's staff has received from Plaintiff while he has had active cases before the Court, the Court **ORDERS** Plaintiff not to contact the undersigned's staff or chambers by any means for any purpose. [See Doc. 18 at 2–3] (describing Plaintiff's contact with the undersigned's staff during a six (6) month period and imposing a similar requirement).

As it has before, the Court warns Plaintiff that he may be subject to monetary penalties if the undersigned determines that a document or lawsuit Plaintiff requests

permission to file is frivolous or vexatious or if Plaintiff otherwise violates the terms of this order. See O'Neal v. Allstate Indem. Ins. Co. Inc., No. 20-14712, 2021 WL 4852222, at *4 (11th Cir. Oct. 19, 2021) (affirming a district court's imposition of monetary sanctions against a *pro se* plaintiff for that plaintiff's "costly, abusive, and vexatious filing behavior"). To date, the undersigned has expended enormous resources on the voluminous and entirely frivolous litigation Plaintiff has brought in this Court. The Court will not look kindly on similar actions by Plaintiff that further clog its already crowded docket or that further drain the Court's resources.

X. Conclusion

For the foregoing reasons, the Court **GRANTS** Defendant Fulton County Clerk of the Court's Office "Motion to Dismiss" [Doc. 10] and Defendant Fulton County District Attorney's Office "Motion to Set Aside Default." [Doc. 29].

Next, the Court **DENIES** Plaintiff's "Omnibus Motion for Fraud on the Court Against Judge Ross and Motion to Set Aside Dismissed Pauper / Plaintiff's Complaint Against Office of the Clerk of Fulton County Superior" [Doc. 7]; "Motion for Fraud on the Court Against Ms. Cathle[ne] Robinson, to Schedule an[] Emergency Hearing to Address This Godless Fraud on the Court and Abomination to God and Enter a Summary Judgment as the Appropriate Sanction" [Doc. 11]; "Amended Motion for Fraud on the Court Against Ms. Cathle[ne] Robinson, to Schedule an[] Emergency Hearing to Address This Godless Fraud on the Court and

Abomination to God and Enter a Summary Judgment as the Appropriate Sanction" [Doc. 12]; "Motion for Summary Judgment" [Doc. 15]; "Motion for Fraud on the Court Against Paul Weathington, Jesse Broocker, and Allison Richardson Based on Events Before the Superior Court of Cherokee County, Case No. 18CVE1805" [Doc. 16]; "Request [for] Leave of Court to Amend Complaint" [Doc. 17]; "Request to File a Pauper's Complaint Based on the Clerk's Office of the Superior Court of Fulton County Not Allowing Plaintiff to File Complaints" [Doc. 30]; "Motion for Permission to File a Pauper's Complaint for Deprivation of Rights; Corrupt Conspiracy Sanctioned by 42 U.S.C. Section 1983" [Doc. 31]; "Emergency Omnibus Motion Based on Prima Faci[e] Evidence Long in Judge Ross' Possession—Cease and Desist Persecuting Pro Se / Whistleblower—Cease and Desist from Protecting Piedmont—Deal with the—Aro[c]ity—Set-Aside All Restrictions Placed on Plaintiff by This Court—Set-Aside Dismissal of Plaintiff's Pauper Complaint and / or Rule in Favor of Plaintiff in Case Before This Court" [Doc. 35]; and "Motion for Fraud on the Court Against Robert McBurney—Kimberly E[s]mond[] Adams—Paige Reese Whitaker—Charles Eason." [Doc. 37].

Further, the Court **DENIES AS MOOT** Plaintiff's "Motion for Default Judgment" [Doc. 27] and "Emergency Motion to Set-Aside Dismissal of Ex Parte Order 2023EX000573 Based on O.C.G.A. Section 9-11-60(a)." [Doc. 33].

In accordance with the above rulings, the Court **DIRECTS** the Clerk to set aside the default previously entered against Defendant Fulton County District Attorney's Office. The Court **DISMISSES** Plaintiff's Complaint in its entirety. [Doc. 1]. The Court **ORDERS** Plaintiff to adhere to and the Clerk to enforce the filing restrictions described on pages 28–31 of this order. Finally, the Court **DIRECTS** the Clerk to close this case.

SO ORDERED, this 21st day of July, 2023.

Eleanor L. Ross
United States District Judge
Northern District of Georgia