

JUN 22 2024

OFFICE OF THE CLERK

No. 24-69

IN THE
SUPREME COURT OF THE UNITED STATES

VISHRUT AMIN and JIGARBHAI N AMIN

Petitioners,

v.

GEICO INDEMNITY COMPANY, SUBROGEE OF CARLA
THOMAS

Respondent.

**On Petition for a Writ of Certiorari to the District
Court of Appeals, Fifth District of Florida**

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Discovery process is an important aspect of adversary court system followed by United States. In criminal cases, Government's disclosure of material exculpatory and impeachment evidence is part of the constitutional guarantee to a fair trial. *Brady v. Maryland*, 373 U.S. 83, 87 (1963); *Giglio v. United States*, 405 U.S. 150, 154 (1972). However in civil cases, Defendant's rights and plaintiff's obligations to participate in discovery process has not been constitutionally defined and recognized by Supreme Court. Instead Discovery process is governed through Civil Rule procedure at federal and state level. The court has inherent authority or rule based sanction to deal with discovery violations committed by recalcitrant discovery litigants in case of non compliance of court order.

Respondent, GEICO Indemnity Company (GEICO) after filing the complaint (July 2022) has maintained absolute silence by not responding to any discovery request propounded by Petitioners. Trial and Appellate Courts of state of Florida has declined to issue any order against GEICO through denial of motion(s) and writs filed overlooking irreparable harm being cause to Pro Se petitioners.

The questions presented are:

- (a) Whether Trial court abused its judicial power prior and post rendering of the order denying the motion to compel discovery and violated constitutional rights granted under 14th Amendment of US Constitution.
- (b) Whether Circuit court, Fifth Judicial circuit of Florida abuse its judicial authority by exceeding its authority and look beyond the scope of writ of certiorari in justifying the denial order on writ

submitted overlooking the failure of submission of reply by respondent and irrefutable proof that discovery was propounded under Rule 1.350 and not under rule 1.340(e) as stated as justification in order which is not supported by facts and not cited in trial court order.

- (c) Whether District court abuse its judicial authority by issue of order without opinion despite being aware of due process violation committed by respondent including lying in court and subsequently refuse to render opinion when asked to do so under provision of Fla.R.App.P. 9.330.
- (d) Weather Supreme Court of Florida Order issued violates the provision of Article V, 2(a) of Fla. Const. Also Does denial order issued on filing of notice only violates the constitutional provision of Article I, section 9 and 21 of Florida Constitution.
- (e) Does amendment of provision of Article V, Section 3(b) of Florida constitution violates the provision of Article V, 2(a) and Article I, Section 9 and 21 and 14th amendment of Constitution of United States.
- (f) Weather referendum conducted on 11 March 1980 during The Presidential Preference Primary Election instead of the General election to adopt changes of Article V, Section 3(b) of Fla. Const. is constitutional or not being Florida a close primary state and possibility of exclusion of certain class of voters exists which may make measure null and void due to non inclusion of eligible voters.

**PARTIES TO THE PROCEEDING AND RULE 29.6
STATEMENTS**

Petitioners Vishrut Amin and Jigarbhai N Amin are Defendants/Petitioners/Appellants in trial court/ circuit court and district courts of Florida respectively.

Respondent GEICO Indemnity Company (GEICO), Subrogee of Carla Thomas is Plaintiff/ Respondent/ Appellee in trial court/ circuit court and district courts of Florida respectively.

**CORPORATE DISCLOSURE STATEMENT UNDER
RULE 29.6**

The parent corporation of Government Employees Insurance Company and GEICO Indemnity Company is GEICO Corporation. GEICO Corporation is an indirect subsidiary of Berkshire Hathaway.

There is no publicly held corporation that owns ten percent or more of the stock in Government Employees Insurance Company or GEICO Indemnity Company. The parent corporation of GEICO General Insurance Company is Government Employees Insurance Company. There is no publicly held corporation that owns ten percent or more of the stock in GEICO General Insurance Company.

STATEMENT OF RELATED PROCEEDINGS

This case directly relates to the following proceedings:

Vishrut v. GEICO, No. 2022-CC-3697, County Court of Lake County. Order entered on July 07, 2023.

Vishrut v. GEICO, No. 2023-CA-2450, Circuit Court of Fifth Judicial Circuit, Florida, Order entered on September 28, 2023.

Vishrut v. GEICO, No. 5D23-3064, District court of Appeals Fifth District of Florida, order entered on April 04, 2024 and denial order on motion for rendering an opinion entered on May 08, 2024.

Vishrut v. GEICO, No 2024-0780, Supreme Court of Florida, Order entered on May 24, 2024

TABLE OF CONTENTS

	Page
PETITION FOR WRIT OF CERTIORARI	1
OPINIONS BELOW	1
JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED	2
STATEMENT	4
A. Factual and Legal Background	4
B. Procedural History	8
REASONS FOR GRANTING THE PETITION	11
I. Violation of Constitutional Rights of Petitioners	11
II. Apex court will have opportunity to evaluate injustice and discrimination caused to pro se petitioners, a class never recognized vis a vis class of attorneys	12
III. Opportunity to expose unethical practice and atrocities routinely committed by insurance company against selectively targeted defenseless people of state	12
IV. Restoration of checks and balances and accountability in state courts through correct interpretation of state constitution.	13

V. Elimination of additional burden placed
on federal supreme court imposed via
unconstitutional amendment of article v,
section 3(b) of direct review of decisions of
inexperienced district court judges of Florida. 13

CONCLUSION 14

TABLE OF APPENDICES

Appendix A: Order, Vishrut v. GEICO, District Court of Appeals Fifth District of Florida, No. 5D23-3064 dated May 08, 2024

Appendix B: Order, Vishrut v. GEICO, District Court of Appeals Fifth District of Florida, No 5D23-3064 dated 04 April 2024

Appendix C: Order, Vishrut v. GEICO, Circuit Court of Fifth Circuit, Florida, No. 2023-CA-2450. Dated September 28, 2023

Appendix D: Order, Vishrut v. GEICO, County Court, Lake County, No 2022-CC-3697 dated July 07, 2023.

Appendix E: Order, Vishrut v. GEICO Supreme Court of Florida, No. 2024-0780 dated May 24, 2024.

Appendix F: Extract of Para 1 of Exhibit "A" of Appendix attached with writ of certiorari submitted to circuit court of fifth judicial circuit, Florida

Appendix G: Relevant Constitutional and Statutory Provisions.

TABLE OF AUTHORITIES

	<u>Pages</u>
<u>CASES</u>	
Grate v. State, 750 So. 2d 625 (Fla. 1999)	2
<u>CONSTITUTIONAL AND STATUTORY AUTHORITIES</u>	
4 th Amendment of US Constitution	9,10,11
14 th Amendment of US constitution	3,8,9,11
Article V, Section 2(a)of Florida Constitution	2,7,8
Article V, Section 3(b) of Florida constitution	2,3,13
Article I, Section 9 of Fla. Const.	2
Article I, Section 21 of Fla. Const.	2,8
<u>OTHER AUTHORITIES</u>	
Fla. R. App. P. 9.330	3,7
Fla. R. Civ. P. 1.280	5
Fla. R. Civ. P. 1.340(e)	5,6
Fla. R. Civ. P. 1.350	5,6,9
Fla. R. Civ. P. 1.380	3,4,5,11
Supreme Court of Florida Opinion SC 2023-0962	4

PETITION FOR WRIT OF CERTIORARI

Vishruth Amin and Jigarbhali N Amin respectfully petition for a writ of certiorari to review the order of the District Court of Appeals, fifth district of Florida in this case.

OPINIONS BELOW

The order on motion for rendering opinion or rehearing of the District Court of Appeals of fifth district of Florida is reproduced at App. 1.

The order for petition of writ of certiorari of the District Court of Fifth District of Florida is reproduced at App. 2.

The order of circuit court of fifth judicial circuit of Florida is reproduced at App 3.

The order of County Court of Lake County, Florida is reproduced at App. 7.

The order of Supreme Court of Florida is reproduced at App. 8.

JURISDICTION

The order of Supreme Court of Florida was entered on May 24, 2024. App. 8.

The order of the 5th DCA of Florida denying motion to render opinion issued on 08 May 2024.App.1

The order of the 5th DCA of Florida denying petition of writ of certiorari was entered on 04 April, 2024. App.2.

This Court has jurisdiction under 28 U.S.C. Section 1257.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitution of state of Florida under Article V, Section 2(a) clearly states that "...and a requirement that no cause shall be dismissed because an improper remedy has been sought...". Contrary to this, interpreting the Article V, Section 3(b) of Florida Constitution which defines the jurisdiction, Supreme Court interpreted that court lacks the jurisdiction of reviewing of orders and judgments of district court in which district court has not rendered any opinion.

Opinion of Supreme Court of Florida in a case *Grate v. State*, 750 So. 2d 625 (Fla. 1999) cited is enumerated below:

"Regardless of how a petition seeking review of a district court decision is styled, this Court does not have jurisdiction to review per curiam decisions rendered without opinion and this Court's holding in Jenkins cannot be circumvented simply by seeking relief by filing an extraordinary writ petition. Therefore, today we extend this Court's ruling in St. Paul and hold that those provisions of the Florida Constitution governing this Court's jurisdiction to issue extraordinary writs may not be used to seek review of an appellate court decision issued without a written opinion. See Article V, Section (3)(b)(7)-(9), Fla. Const. Accordingly, we hereby dismiss Grate's mandamus petition for lack of jurisdiction."

Petitioners believe that provision of Article V, Section 2(a) and Article I, section 9 and 21 of Fla. Const.

supersedes the provision of Article V, Section 3(b) which warrants mandatory review of state Supreme Court.

Article v, Section 3(b) of Fla. Const. do not caters for review of orders of district courts in which judges have abuse their judicial authority/discretion and issued orders without opinion to avoid scrutiny of Supreme Court.

The Supreme Court of state of Florida conveniently though having power to correct this fundamental error has not taken any corrective action to restore the checks and balance on lower judiciary in order to prevent potential abuse of judicial authority/discretion. Instead it enacted a Appellate Rule 9.330 and included contradictory and conflicting requirements for seeking written opinion of judges giving power back in the hand of judges to abuse discretion.

The incorrect interpretation of provision of state constitution which deprives the right of judicial oversight of apex court on lower court to prevent abuse of judicial authority or abuse of discretion is unconstitutional and violates the constitutional rights granted under 14th amendments to citizens.

Secondly, Judiciary of Florida till date did not have mandatory discovery disclosure requirement similar to Rule 26 of federal Rule Civil Procedure. This has encouraged lawyers to abuse the discovery process to deny all vital information(s) to opponents detrimental to their cases until court intervenes and force them to comply. The practice is more prevalent if opponent is Pro Se.

Florida Rule Civil Procedure 1.380 was created as safeguard to prevent abuse of discovery process through which either party as matter of right seeks court's

intervention to compel opponent to provide access to discovery information. The provision of sanction is included as deterrent to recalcitrant discovery litigants. However implementation of rule 1.380 has become arduous task for court itself which is evident from dockets of District Courts of Florida which are full of contradicting and biased opinions generally issued in favor of strongest contender irrespective of fact of case under disguise of merit and case specific. The abuse of judicial discretion reached at the level that it has surpassed the standard of past confederate courts of southern states.

This did not force Supreme Court of Florida to revise Florida civil rule procedure in line with federal rule 26 until insurance lobby who were at the receiving end of this discovery abuse forced Supreme Court to bow and change its stand to revise the procedure and bring it in line with federal rule of civil procedure 26 which shall be effective from January 1, 2025(Reference SC opinion No. SC2023-0962 dated May 24, 2024).

Since provision of mandatory discovery disclosure is not retrospective, Petitioners are not entitled and thus compelled to seek relief through grant of petition and issue of GVR order from Supreme Court of United States..

STATEMENT

A. Factual and Legal Background

This is a subrogation case arises out of automobile accident in which GEICO, a prominent player of insurance market after filing a civil case as plaintiff has denied all discovery effort of Pro Se defendants to assess the legality of allegations made in complaint nor submitted any

evidence despite having burden of proof till date. See Fla. R. Civ. P. 1.280 and Rule 1.350.

The state Courts including Apex court of state unilaterally siding with plaintiff also has denied all effort of defendants to compel plaintiff to allow discovery overlooking merit of request and harm suffered by petitioners. Judges of Florida did not care about constitutional rights of Pro Se petitioners and behaved like they do not exist and they are above the law. Supreme Court of Florida blinded by self interest has created a discretionary barrier to select or deny PER CURIAM decisions of DCAs.

The abuse of judicial power by state judiciary is clearly evident from the fact that, Attorney of Plaintiff never filed any response in trial court against motion to compel discovery filed under Fla. R. Civ. P. rule 1.380 nor filed a request for protective order. Trial court fully aware of this default and overlooking the provisions of local administrative order denied motion to compel discovery which was propounded under Fla.R.Civ.P rule 1.350 by petitioners which do not have provision of certificate of service. This forced Petitioners to file writ of certiorari in Circuit court, fifth judicial circuit of Florida. The circuit court issued show cause notice to Respondent GEICO which *prima facie* is proof of meeting the burden of acceptance of writ of certiorari.

Attorney of GEICO did not file response to show cause notice issued by Circuit court in appellate capacity. (App.3). Writ was denied by administrative judge acting as trial judge in appellate role by citing new defense of non compliance of Fla.R.Civ.P rule 1.340(e) neither raised by nonmoving party nor cited by trial judge in order and including it in support of opinion (App 5) overlooking actual

fact that discovery was propounded under Rule 1:350 which was mentioned in exhibit attached with writ submitted. (Refer line 13 at App.4 and Appendix F of this petition).

Circuit court did make a reference of it but never read exhibits prior rendering the opinion. Prima facie the most important point here is that reference of discovery request attached with motion made by circuit court fulfills the requirement of completion of service on Plaintiff of rule 1.340(e) having been served with motion and hence entire judgment which is based on non compliance of Rule 1.340(e) does not stand scrutiny of law.

Trial judge on learning of filing writ of certiorari on July 23, 2024, immediately swing in to action and issued ex parte denial order dated august 03, 2023 on all other pending discovery motions effectively closing all door of discovery without any notice and without awaiting response of plaintiff citing reason that time limit to complete the discovery of Case management Order is over. The same order dated 03rd August 2023 also denied the request of extension of case management order as deemed fit by court. This extra ordinary gesture of trial judge is against the basic principle of law which generally stayed proceedings in lower court till judgment is rendered on appeal on similar issues. Petitioners were thus compelled to seek review of district court by filing writ of certiorari with a belief that such glaring errors would be corrected by experience panel of judges.

Attorney of GEICO did not serve reply brief on Petitioners and also committed perjury by submitting false response in district court stating that she never received any discovery request from petitioners nor was in receipt of show cause notice issued by circuit court. Attorney of GEICO conveniently forgot the fact that she has filed this

case remotely through court electronic docket system which enabled her to receive all docket information in real time.

The lies presented to court was exposed by petitioners through submission of USPS first class mail receipts of mails sent to attorney as proof of completion of service to district court. Despite this clear and convincing evidence, Panel of judges of district court, fifth district Florida issued denial order without rendering any opinion.

Petitioners have no words to describe this act of injustice and leave this task to readers of this petition to decide real motive behind rendering of denial order without opinion. The order simply state "DENIED". The preceding word "PER CURIAM" was purposefully omitted unanimously by panel of judges. Petitioners did ask a blunt question to these judges that whether their collective act qualifies for filing a case under provision of 18 U.S.C. 242 which was unanswered while submitting a request to render opinion or clarification under Fla. R. App. P Rule 9.330.

The district court also conveniently overlooked the gravest error committed by Circuit court while rendering order as appellate court. The order was issued by single administrative judge and not by panel of judges which is a norm for any appellate procedure. The Supreme Court vide order no SC-2024-0780 administratively dismiss the notice of appeal citing reason of lack of jurisdiction over district court of state which is in contravention with provision of Article V, Section 2(a) and doctrine of "Record Proper" adopted to review PER CURIAM decisions. At minimalist, Supreme Court should have allowed petitioners of filing of brief before summarily dismissing the cause on administrative ground. The action itself violates the rights

granted under 14th amendments of US Const. and provision of Article V, Section 2(a) , Article I, Section 21 of Fla. Const.

Meanwhile without submitting any evidence or conducting pretrial meeting, GEICO filed motion of "case at issue" overlooking the fact that motion to dismiss and other motions and review of Certiorari was still pending in trial court and district court respectively. New Trial Judge has till date ignored all pleas of petitioners of schedule of hearing of various motions including conduct of pretrial meeting. Defenseless Defendants thus are compelled to evoke jurisdiction of Supreme Court of United States as a last resort to seek justice and protection of their constitutional rights.

B. Procedural History

Respondent filed case in county court in July 15, 2022.

Petitioners filed motion to dismiss and motion for summary judgment on August 15, 2022 without awaiting service of summon. The action was result of issue of unconstitutional case management order of court dated July 29, 2022 which set the deadlines and period of 12 month to complete trial. No response was ever filed by respondent and court never heard the motion nor scheduled any hearing.

Petitioner filed answer to pleading on 17 August 2022 to avoid default for which respondent immediately submitted online response. Attorney of Plaintiff was fully aware of the fact that submission of response on motion to dismiss will automatically trigger the necessity of hearing and thus voluntarily decided not to do so. Trial judge well aware of this gamesmanship and tactics also did not

schedule hearing exercising its discretionary power. The collusion of judge and attorney was a belief that Pro Se Petitioners lacks requisite knowledge of law and were forced to pay the court assisted extortion effort. No service of documents was performed through mail by respondent on petitioners till date but piecemeal response(s) submitted to trial and appellate courts proves that Attorney has real time access to docket and was acting on need to basis.

Discovery request propounded under provision of F.R.Civ.P. 1.350 was sent to Attorney of Plaintiff through USPS certified mail on 22 August 2022 by pro se defendants being not subscribers of electronic docket system.

A receipt as evidence was submitted in district court in response and to expose lies of attorney of respondent submitted in defense through reply brief.

Liability insurer (PROGRESSIVE) of Petitioners who initially refuse to join the case injected an attorney named Mr. Timothy N Bench without knowledge and approval of Petitioners when intended default did not happen. The liability insurer working in tandem with GEICO was forced to take this step with a single aim to stop the petitioners from conducting discovery till time limit of case management order expires (270 days).

As planned, after successful tolling of discovery deadline of case, Mr. Timothy unilaterally withdrew from case through filing of motion and appearance remotely on March 15, 2023. Motion filed in opposition with memorandum of opposition and motion to request to appear in person was denied without assigning any reason. Denial of request of in person hearing is unconstitutional being ordered in violation of 4th and 14th amendment of US Const.

The petitioners clearly stated that prior approval has not been obtained nor were consulted by Mr. Timothy before filing of motion and scheduling of remote hearing. Moreover court does not have any jurisdiction over personal property (mobile phone, communication device) of petitioners ordering its use for judicial proceedings without consent and thus order is in violation of rights granted under 4th amendment.

Petitioners informed court that they will not attend this unconstitutional hearing in order to protect their constitutional rights unless court order in person hearing or cite orders authorize court to force Pro Se litigants to use their personal property in court proceedings against their will. Court did not respond and at later stage denied motion seeking clarification on same issue conveniently quoting incorrect case reference in order to deceive petitioners. Request for rehearing of motion on question of constitutional right is still pending.

Notwithstanding to this, court proceeded and allow Mr. Timothy to withdraw that to without prejudice on 15 March 2023. The order was filed electronically on 08 May 2023 drafted by tortfeasor attorney which was never submitted to Pro Se petitioners as opposing party for consenting or opposing. No service was performed despite court being aware that petitioners are not registered user of electronic service and preferred method of service is through mail only. Mr Timothy also used personal email of one of petitioners without permission in order drafted thus exposing the private PII information to public.

Trial court also without correcting this error in draft order published it and thus makes the private information public. No service was ever performed on petitioners.

Petitioners within 30 days limit granted to hire new attorney were compelled to proceed Pro Se being unable to find any defense attorney. Petitioners after resuming the discovery effort, filed Notice and motion to compel discovery under provision of Fla.R.Civ.P 1.380 as per local AO of 5th circuit court published governing motions.

A fresh time limit of 30 days was given to comply or initiation of action under F.R.Civ.P Rule 1.380. Respondent did not file any response and after expiry of time limit, court was requested to issue ex parte order as per local administrative order published by court. Court denied the motion with vogue order that discovery was not propounded as per Fla. R.Civ.P. without pinpointing which rule was violated by petitioners (Refer App.7).

Writ of certiorari to circuit court and District courts were denied on September 28, 2023 and May 04, 2024 respectively.

Supreme Court of Florida administratively dismissed cause through issue of administrative order on notice submitted on 24th May 2024.

REASONS FOR GRANTING THE PETITION

I. VIOLATION OF CONSTITUTIONAL RIGHTS OF PETITIONERS. Judicial Process and actions of judges are against the set rules, procedures and precedence of courts which has resulted in violation of constitutional rights of petitioners granted under 4th, 5th and 14th Amendments of US constitution. Discovery is an essential and integral tool of finding of facts on which court has to rely and when there is absolute denial to access of information despite having a burden of proof by Respondent justify the need of granting of this petition summarily on

ground of GRANT; VACATE, REMMAND (GVR) standard of Supreme Court.

II. APEX COURT WILL HAVE OPPORTUNITY TO EVALUATE INJUSTICE AND DISCRIMINATION CAUSED TO PRO SE PETITIONERS, A CLASS NEVER RECOGNIZED VIS A VIS CLASS OF ATTORNEYS. Grant of Petition will force the Respondent to file responsive brief which itself will be suffice to bring the truth and will expose the lies committed and roles performed by various private & state actors in the entire process to hide a large scale fraud being committed on name of subrogation by prominent insurance corporate against poor citizens of states who lacks the ability to represent and defend themselves in hostile and pro attorney court.

III. OPPORTUNITY TO EXPOSE UNETHICAL PRACTICE AND ATROCITIES ROUTINELY COMMITTED BY INSURANCE COMPANY AGAINST SELECTIVELY TARGETED DEFENSELESS PEOPLE. The grant of petition will open the door for filing of RICO case and Class action lawsuit against largest insurer of United States and will put a forever stop on unethical and corrupt practice of subrogation exploiting innocent citizens on day to day basis across the states just for profit. Applicability of subrogation principle be it equity or contractual in automobile insurance industry itself is questionable where government forced mandatory insurance and policies aimed at provide safety and just compensation should not be aimed at profit but to maintain balance between premium received from many to compensate few unfortunate ones suffered due to unforeseen and often unfortunate incidents called accidents. Unfortunately, rather investing profit back to policy holders after deducting business expenses, these

profits become a investment vehicle for richest people of united states on year to year basis keeping coffer always empty. Such companies on year to year basis operate without complaint but vanish overnight or drop policies like fly or filed for bankruptcy on single year of loss. Government did not dare to create a policy through which profit would have remain with company to be utilized for single purpose of insurance only barring these companies from investing the profit to other industries.

IV. RESTORATION OF CHECKS AND BALANCES AND ACCOUNTABILITY IN STATE COURTS THROUGH CORRECT INTERPRETATION OF STATE CONSTITUTION.

Supreme Court of United States have jurisdiction and power to restore check and balances by questioning an abusive practice of district courts of Florida of issue ruling without expressing opinion/past precedence/ references in order to avoid judicial scrutiny of state apex court and question the constitutional provision of state of Florida which has created situation where petitioners have to approach The Supreme Court of United States for review of orders/opinions directly by passing the state apex court thus increasing the workload of Supreme Court of United States directly and put additional financial burden on petitioners. This current situation needs immediate intervention of Supreme Court of US for correction and to restore judicial checks and balances.

V. ELIMINATION OF ADDITIONAL BURDEN PLACED ON FEDERAL SUPREME COURT IMPOSED VIA UNCONSTITUTIONAL AMENDMENT OF ARTICLE V, SECTION 3(B) OF DIRECT REVIEW OF DECISIONS OF INEXPERIENCED DISTRICT COURT JUDGES OF FLORIDA. The state may create additional courts to reduce the caseload of Supreme Court

but has no power to eliminate the supervisory role of state apex court and place that additional burden on the highest court of country for which highest court has not been designed for nor has role. The grant of petition will restore this balance, harmonize the appeal process and make Supreme Court of Florida more responsible and answerable to citizen of state directly.

CONCLUSION

The Court should grant the petition.

Respectfully submitted,



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July 2024.