

No. _____

IN THE

Supreme Court of the United States

ROSE GLORIOSO-BRANDT

Petitioner

v.

ALEX AZAR, Secretary, Department of
Health and Human Services

Respondent

On Petition for Writ of Certiorari
To The United States Court of Appeals for
The Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Background

When I mention “Vol 1, 2, etc.,” I am referencing testimony, from the hearings’ transcripts (Judge Shubow presiding, Mr. Weld was the Agency’s attorney). When I refer to “Ex 1, 2 etc.,” I am referring to Exhibits in my Memo filed with the District Court in Maryland on May 8, 2017.

I, the Petitioner filed a formal complaint of discrimination because of my disability and my supervisor David Escobedo (David) denying my Request. I testified that “Denise Mason Johnson (Denise), was the staff person approved by David to perform repetitive motion, etc. . . . I was performing consulting duties . . . therefore, I would be performing the same duties from home on Fridays.” (Vol. 5 pgs 115, 123)

In Vol 1, pgs 25&26, when I asked David if Denise helped me he states, “no.” He states on pg 94, “no” when I asked him if he had staff help me. Denise agreed with me in Vol 4 pg 157, when I asked her if “David initiated and directed . . . approved and (was) fully aware of (her) performing repetitive motion.” Judge Shubow, in his decision (Ex 7, pg 18) stated, “Mr. Escobedo allowing Ms. Mason-Johnson to be basically Complainant’s right arm was a very useful accommodation.” Evelyn Lombardo Cusson, “Counsel” for HHS, Memo filed on June 6, 2017, on pg 5 of 10, states Denise is the “best accommodation that David Escobedo could have given.” David denying that he approved someone from the staff to help me, etc., is the reason for my perjury complaint filed with the District Court.

1. How can Judge and Counsel both make statements above, but did not address David’s testimony denying this?

2. Are the Agency and Judges violating my My Civil Rights, "affirmative action and materiality," because they are not addressing my testimony and perjury complaint?

3. Is it obstructing justice if the Judges do not address David's perjury?

4. Should all complaints/violations that were submitted in a Suit be addressed or dismissed?

5. Should the Courts give a ruling on all my complaints/violations?

My disabilities are Bilateral Carpal and Cubital Tunnel Syndromes (BCCTS). Ex. 1 has documents stating this and the Agency stating on a Form that I am covered by the Rehabilitation (Rehab) Act and "the medical documentation . . . for an accommodation substantiates that (my) stated medical condition substantially limits a major life activity." Mr. Weld stated in a Motion dated July 8, 2015, Ex 2, page 1 of 4, that "the Agency . . . continues to contest (my) status as an individual with a disability" and again at the hearings stating, "It calls for legal conclusion." (See Vol 1, pg 18.)

6. Is the Agency calling me a liar?

7. If the Agency has proof of my disability, is this defamation of character?

I received a letter dated December 3, 2014, from the Office of Federal Operations (OFO), Ex 15, pg 5, granting me a hearing. OFO stated, "there are genuine issues of material fact in dispute." I called OFO

and asked how Judge Shubow could be fair since his decision was not to grant me a hearing. (See Ex 15 pg 2, 2nd para, OFO states "AJ found that no disability discrimination occurred.")

8. Is having the same Judge deny me a hearing pre-side over the hearings a conflict of interest?

Ex 16, Mr. Weld also states in a Motion dated March 12, 2015, that "OFO remanded the case for processing on three specific issues."

9. Should I have been allowed to address and ques-tion witnesses on these three specific issues?

The first OFO issue was consulting duties. In Vol 5, pgs 124&125, I testify that there is "mention of con-sulting in my Position Description (PD)." (A copy of my PD in Ex 6). On pg 5 of OFO's letter they state that the "Agency maintains that consulting duties were not part of Complainant's job description."

10. Since my PD, pg 3 of 4 states, "Skill in consult-ing with other Central and Regional Office represen-tatives, project officers, and managers. . . ," should Judge Shubow have acknowledged this in his decision?

The second OFO issue concerned the effectiveness of the accommodations. I testify about the ineffective-ness of the accommodations in Vol 5, pgs 118-137. Vol 1, pgs 370-378, I was trying to explain how Dragon, a hands-free system that you speak into a microphone. It types what you say. Judge Shubow made a state-ment that I "never complained about Dragon . . . Well, not everything is effective." Then Judge Shubow asked David, "If she had come to you telling you that Dragon

Speak didn't work, would you have done something else?" David answered that he would have.

11. Is Judge Shubow saying that I'm lying and never complained about Dragon?

12. Is Judge Shubow speculating what David would have done?

13. Is Judge Shubow's statement and question bias?

14. Should the ineffectiveness of the accommodations have been a factor for the Agency to consider before denying my Request?

The third OFO issue; "It is unclear as to why the Agency did not provide in September 2008, that which it provided in June 2009." OFO is referring to David approving Wednesdays in June 2009. I wanted to question David about this issue but Judge Shubow stated, "We are not going with that . . . No, we are not going into '09." (See Vol 1, pg 421.)

15. Was there a constitutional violation by Judge Shubow by withholding evidence? (See Brady v. Maryland, Appendix F.)

16. Was Judge Shubow indifferent to this violation?

Vol 1, pgs 104-106, I was questioning my supervisor, David Escobedo and Judge Shubow asked him if he had a clue why my doctor would add consultation-only and then asked David if the doctor did not put consultation-only, would he have granted the accommodation and David said yes.

17. Was it appropriate for Judge Shubow to lead the witness and speculate?

Vol 1, pg 351, Judge Shubow stated, "I think **we** have a problem with the word consult."

18. Isn't Judge Shubow stating that **he** also has a problem with the word consult?

19. Isn't this bias and him trying to prove the Agency's burden of proof?

Vol 4, pgs 208-211, Mr. Weld in questioning Denise stated "are you aware that Rose was on worker's comp during 2007?" I objected and stated "Denise doesn't have to know that . . . Now you just told her I was on worker's comp. That's a privacy issue."

20. Is this a violation of my privacy?

21. Did Mr. Weld violate the Health Insurance Portability and Accountability Act of 1996 (HIPAA)?

Vol 4, pgs 13&14, I wanted to say a brief prayer before I started my testimony on August 3rd. Mr. Weld objected and when I stated that I was going to pray quietly to myself, Judge Shubow said "Don't say any prayers."

22. Before testifying, you are sworn in, there is mention of GOD. What was so wrong with saying a prayer?

23. Can a Judge, at hearings, ask witnesses more questions than lawyers?

Vol 1, pg 190, I stated that David already testified that I told him that I would have come in on Fridays and I would have accommodated the Agency if they needed me for special projects, etc. Judge Shubow responded by saying, "Well, that's your opinion."

24. During hearings, is a Judge allowed to suggest or make a comment like Judge Shubow stated above?

25. Before making their decisions and rulings, are Judges suppose to suggest anything at hearings?

Vol 5 pgs 86-94, Judge Shubow requested Mr. Weld and I come up with a definition concerning consulting. Judge Shubow referenced my definition and stated, "doctor was saying is all you could do was talk." Mr. Weld said he had a dictionary but wanted to include the Black Laws version. We went off the record so Judge Shubow could get the Black Laws version and he entered that version as an exhibit for the Agency.

26. Was the statement by Judge Shubow, "doctor was saying" asserting the Agency's defense?

27. Is a Judge allowed to help the lawyers with their evidence?

The following questions reference my complaint in my Civil Suit concerning the Code of Federal Regulations (CFR), my incidents and complaints filed before and during the hearings. See Ex 16.

28. Can HHS and Judge Shubow ignore and not address 29 CFR 1614.106?

29. Should Judge Shubow have ruled on this complaint?

Vol. 1, pgs 196-201, David stated he did not read, review, and was not familiar with the Rehab and Americans with Disability (ADA) Acts before making his decision to deny my Request. Judge Shubow then

makes the following statements to David: "you still reasonably accommodated her by signing your name to that long litany of accommodation . . . so she could do her job and still be accommodated."

30. Why would HHS, the same Agency that established and implemented these Acts, not train their employees or supervisors?

31. Does the Supreme Court receive training concerning these Acts?

32. Are Judges allowed to make statements like Judge Shubow made above?

33. Is the statement made by Judge Shubow showing bias to the Agency?

34. Is his statement considered as leading David to agree?

35. Why do the Judges ignore and not mention/comment, dispute nor contest my rights under the ADA?

In a case involving one of its own employees, an investigator, the EEOC recently reaffirmed that an Agency's long delay in processing a complainant's reasonable accommodation request violates the Rehab Act if the Agency cannot justify the delay. Section 503 of the Rehab Act of 1973 prohibits Federal discrimination on the basis of disability by the Department of Labor. My Request was submitted in May 2008 and was granted in June 2009.

36. I have nothing justifying the Agency's delay. Did the Agency violate the Rehab Act?

ADA, Excerpt 39, states that an employer must provide a reasonable accommodation that is needed because of the side effects of medication, etc. See Appendix F.

37. Why didn't the Judges acknowledge or consider *my pain, my drug usage, and the side effects* when making their decisions to favor the Agency?

38. If the Agency had significant evidence of my drug usage and side effects, should that have been reason enough to approve my Request?

I had two physicians who examined me and provided their medical opinions for my Request. (See Report of Investigation (ROI) 20.4-20.6 & 23.1 & .2.)

39. Should HHS have supported their denial of my Request with their own physician to examine me and provide a medical opinion?

40. Why would an Agency and Judge Shubow **not address** my testimony and complaint of David's perjury Vol 5, pgs 128 & 135 at the hearings?

41. Concerning the previous questions and the Rehab and ADA Acts, did HHS and the Judges violate the Fair Labor Standards Act (FLSA) since they were "empowered to gather all of the facts and make all of the decisions which end up justifying their determinations?"

42. Since I am not a lawyer, does the Supreme Court handle my Petition differently?

43. Are all my questions answered in writing?

LIST OF PARTIES

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

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States District Court appears at Appendix B to the petition and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals decided my case was January 8, 2018. No petition for rehearing was filed.

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

**CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED**

The following are my complaints, violations, etc., that were outlined in my Civil Suit filed with the District Court on December 19, 2016.

— Civil Rights Act—**Appendix D**

- Rehabilitation and Americans with Disabilities Acts—**Appendix F**
- Verbal, Mental, & Physical Abuse and Discrimination—**Appendix E**
- Fair Labor Standards Act—**Appendix G**
- Perjury Committed at Hearing by my Supervisor, David Escobedo—**Appendix C**
- Code of Federal Regulations (CFR)
- Agency Violated Supreme Court Burdens of Proof—**Appendix F**
- Defamation of Character
- DHHS Violated my Privacy
- Hearings Were Unfair and Judge Shubow Showed Biased Towards the Agency—**Appendix D**

STATEMENT OF THE CASE

I, the Petitioner and undersigned, respectfully, submit this Petition. This is a Federal sector employment action in which I have evidence that my former employer, the Department of Health and Human Services (HHS/Agency), discriminated against me on the basis of my disability, Bilateral Carpal and Cubital Tunnel Syndromes (BCCTS). I have evidence, testimony, etc., that supports all the major complaints, violations, etc., by HHS and Administrative Judge Shubow (presided over the hearings) before and during the hearings. The District and Appeals Courts both ruled in favor of the Agency and found no reversible error of my employment discrimination claims. Although both Courts were given information and my burdens of proof concerning all my complaints filed in my Civil Suit, neither Court **addressed, ruled, or dismissed**

any of the other complaints. With all due respect to the Courts, I paid the required fees and submitted all the documents and information timely. According to the Civil Rights Act of 1964, it is my right to file Suits to protect my constitutional rights and expect rulings on all my complaints/violations filed, that I did not receive.

This Petition continues to support the employment discrimination on the basis of my disability under Section 501 of the Rehabilitation Act of 1973 (Rehab) and Americans with Disabilities Act (ADA). This Petition outlines my arguments and evidence and supports my burdens of proof for all my complaints, etc., listed above.

Please note, when I refer to "Ex 1, 2, etc.," I am referring to Exhibits in my Memo filed with the District Court in Maryland on May 8, 2017. When I mention "Vol 1, 2, etc.," I am referencing testimony, from the EEO hearings' transcripts held in the Baltimore Field Office on my discrimination matter on June 22, 23, 30, and August 3, 18, 2016.

REASONS FOR GRANTING THE PETITION

Judge Shubow had the Agency and I agree and compile a witness list for the hearing and indicate the order everyone would testify. Once the hearing started, this list could not be changed. I called the first witness on the first day of the hearing, David Escobedo's (David), my supervisor. This Petition discusses his polarizing testimony and lies. David's deception and perjury tarnished and significantly impacted the hearings and the outcome. I had to change all my questions that I asked witnesses, when finally my truth was confirmed on the next to the last day of the hearing. Judge Shubow stated that I was not allowed to recall David and address his perjury. This is Obstruction of Jus-

tice. Judge Shubow was hiding evidence that interfered with my hearing and this is a crime. David's testimony indicated that my witness and I were lying and defiled our character. David's erroneous testimony is of national importance and conflicts with the decisions of the previous Courts. Neither Courts/Judges addressed David's perjury in their decision which is a criminal offense under both Maryland State and Federal laws. The Judges are empowered to gather all of the facts and make all of the decisions which end up justifying their determinations.

My testimony at the hearings is valid and truthful. If I or anyone else committed perjury, we would be prosecuted. The Courts/Judges are advancing the liberty of one class (David) and not addressing my perjury complaint, which infringes on my liberty and the hearing.

This Petition addresses David not being aware or familiar with the Rehab and ADA Acts and the Agency and Judge Shubow condoning his testimony. David, a supervisor working for the Federal Government, admitted ignorance to not being aware or familiar with the Acts when he supervises me, a disabled employee, is wrong, disrespectful and damaging to the disabled and everyone who works. This also violates our Civil Rights Act of 1964 and the Equal Employment Opportunity Commission, "affirmative action." David and the Agency are stating that they are not aware of any positive action to protect us from discrimination and the issue for most Americans is fairness, does not exist.

This Petition describes the discrimination I experienced. Also the **verbal, mental, and physical abuse and discrimination** that I experienced while working and at the hearings. **I explain the Agency's violation of your Supreme Court burdens of proof**

and the hearings being unfair and Judge Shubow showing bias towards the Agency.

This Petition provides evidence and testimony that I was discriminated against and that I wasn't treated fairly by David, HHS, attorneys, and Judge Shubow. The Judges' decisions centered on the discrimination complaint only. For the reasons in this Petition and since their decisions did not address or rule on the rest of my complaints, I am respectfully requesting that the Supreme Court should grant certiorari and exercise its discretionary jurisdiction.

I. Factual Background

On September 7, 2005, the U.S. Department of Labor (DOL) confirms and accepts my date of injury of March 30, 2005, and my diagnosed conditions of BCCTS as an occupational disease.

I worked as a Grade 13, management analyst for HHS, Centers for Medicare & Medicaid Services (CMS); four ten-hour work days, Tuesday through Friday. After my diagnosis in 2005, the nerve pain, etc., because of performing repetitive motion, etc., due to my DOL accepted BCCTS, became worse. I went on workers' compensation (WC) from **February 2006-July 2006**. The Agency asked, with my surgeon's approval, to provide consulting services by phone and Denise Mason-Johnson (Denise), a coworker on our staff, to perform repetitive motion, etc.

I returned to work, onsite, part-time and continued claiming WC for hours not claimed when working for CMS, from **July 2006-December 2006**, while awaiting my surgeries. David requested and approved that I continue providing consulting duties and Denise continue to help me onsite/offsite. Denise would often

have to call me at home on the days I wasn't scheduled to work so I could tell her exactly what to do. Denise testifies that I was the only person in my Center that knew my job and the fact that I was the lead analyst in my Center and the only accomplished expert; not even David, our supervisor, could do my job. Denise testified also to performing repetitive motion, etc., and that I provided consulting on every aspect of my job. (Vol 4, pgs 157-188.)

David requested and approved me to continue providing consulting services (approximately 15-20 hours biweekly) and requested and approved Denise to continue performing repetitive motion, etc., again when I went on WC for my surgeries from **January 2007-December 2007. David commits perjury under oath and denies many times, the fact that he requested or approved Denise or I, at any time. I will discuss David's perjury in further detail below.**

In Vol. 1, pg 126, the first day of the hearing, David testified that Denise and I were working together and agreed that Denise performed functions while I advised her on what to do when I was out for my **surgeries**. On a later day, Vol 3, pgs 46&47, when Judge Shubow questioned David about what I did at home when I was on WC recovering from my **surgeries**. David now testifies, "I don't know what she was doing at home" and stated that he didn't know what Denise and I were doing. Minutes later on pg 48, David testifies when I asked him if the work, projects were completed properly while I was off with Denise's help and he now answers, "Yes . . . The work was done." I caught him in another lie. If you are telling the truth, you don't have to think or try to keep the stories straight. I have documentation that David signed that will prove that David's testimony

is conflicting throughout the hearings and he keeps wavering because he is lying. David knew exactly what I was doing at home while on WC and David approved Denise to perform repetitive motion as Denise testified. David signed and had to approve and certify what I did and the hours that I claimed performing consulting services for HHS while on WC. I will present this information as evidence in court.

After surgeries, I returned to work, onsite, full-time in **January 2008**. David assigned Denise to continue performing repetitive motion, etc. He asked me to continue providing consulting services. Denise verifies this fact when she testifies. She further testifies that I told her how to do everything, onsite/offsite, for every situation, every aspect of my job and we were both doing this from 2007-2010, when I retired (Vol 4 pgs 157-189).

I filed my Reasonable Accommodation Request (Request) , Ex 5, requesting a Work-at-Home (Consultation Only) Status for Fridays on May 7, 2008. This form was filed 4 months after returning to work full-time from my surgeries. I filed this Request due to the daily chronic pain I was experiencing that was caused by ineffective Accommodations/Modifications (accoms/mods) in Ex 3. Because of the pain, I was increasing my dosage of Oxycodone (Oxy), etc., which was the **main reason** I needed to have this Request approved. My doctor and I were concerned about the side effects that I was having with the drugs and the addicting possibility. My physician and I submitted the Request as consultation only status because I was already providing consulting services and Denise was already performing the repetitive motion onsite.

I met with David, a requirement that the Agency said was needed before I submitted my Request, and

stated that this work-at-home day was needed mainly because of my drug problems and the daily chronic pain due to ineffective accoms/mods. I stated that I could refrain from performing repetitive motion on that day which would reduce the chronic pain. I would not have to take any drugs and use natural pain reducing remedies, like heat and cold therapy to relieve my pain. I told David if he or the Agency needed me to perform repetitive motion on that day, I would certainly do so, just like I was already doing onsite when asked and when Denise was unavailable to perform repetitive motion, etc. David said no and then I filed my Request.

My doctor and I thought this would be a simple request since the only difference would be that I would be performing the exact, full range of management analyst duties at home, offsite, an alternate duty location. Nothing else was needed or required for David to approve this Request. David denied this Request on September 10, 2008, Ex 4. On September 17, 2008, I filed a formal complaint of discrimination with the Federal Government (Report of Investigation (ROI), Tab 2). The ROI was developed by the Agency as a result of my discrimination complaint.

This Petition will validate my burdens of proof and the evidence provided will demonstrate actionable wrong by HHS and my supervisor in denying my Request.

II. Facts and Issues

A. David's Perjury

Perjury also referred to as false statements or false testimony is committed when a person intention-

ally lies under oath, when testifying in court, **during administrative hearings**, giving a deposition or in answers to interrogatories.

On the first day of the hearing, June 22, 2016, Vol 1 pg 14&15, I asked David if he remembered working with the nurse and my surgeon after my surgeries to develop the **list** of accoms/mods, Ex 3. He stated "no." I showed him that he signed and approved them on December 5, 2007. He continued to act confused but could no longer deny knowing of this list. I asked David if Denise did keyboarding or writing for me. He testified, under oath, "NO" (pages 25&26). He continued to lie on pgs 93-96 when I asked David if he assigned anyone from the staff to help me with repetitive typing, writing, lifting, etc., permanent restrictions on the list that he signed. David said, "no" again and then Judge Shubow states, "Didn't you say you had other employees try to help her." Then David responded by saying, "if they wanted to." If you read the transcript, David is so confused, he says no and Judge Shubow, not the Agency's lawyers, "leads" David and keeps questioning him so he can change his answer. First and foremost, no one can assist or help anyone with their job unless it is approved by their supervisor. Many times at the hearings Judge Shubow tried to lead him and other witnesses and showed bias towards the Agency. See Appendix D for more information.

Pg 49, David testified that I provided all **viable solutions** for my Request and was willing to return to work at the office if he needed me to perform any necessary assignments. David also testified that I would work onsite on Fridays when there were special assignments that needed my review or whenever he requested me to work onsite. Later, pgs 327&328, I asked David if I explained what I would be doing

on Fridays, consultation-only. David now states that I didn't explain. David stated a different answer. Pages 44&45, David states that he "was not aware" that Denise was sitting next to me in my cubicle and says "no" when Judge Shubow asked him if it was Denise's job to help me. David also restates on page 94 that he **did not** "have anyone from . . . our staff help me" and he "did not direct somebody" to help me. Denise's testimony (Ex 8—Vol 4 pgs 157, 176, 181) confirms my truth that David "initiated and directed . . . approved and was fully aware" of her "performing repetitive motion while I performed consulting duties" and she "sat next to me" in my cubicle.

I can prove David lied and prove that he is dishonest, disingenuous and cannot be trusted and is not a reliable witness. David lying and committing perjury under oath at the beginning of the hearing changed the direction and questioning of the entire hearing and definitely the outcome. The hearings were conducted from the very start with David's testimony and his lies were pretentious and insincere and he infected the hearing with false testimony. David's perjury destroys his credibility and his entire testimony should be discredited.

Judge Shubow stated in his decision, Ex 7, pg 18, "Mr. Escobedo allowing Ms. Mason-Johnson to be basically Complainant's right arm was a very useful accommodation." Evelyn Lombardo Cusson, hereafter I will refer to as "Counsel" for HHS, referenced in the Memo filed on June 6, 2017, on pg 5 of 10, that Denise is the "best accommodation that David Escobedo could have given." Both acknowledged "in writing" that Denise helped me. They are confirming that Denise and I told the truth and David lied but won't acknowledge David committing perjury. This is Obstruction of Justice!

Judge Shubow ignoring David's perjury violates more than discrimination. My Civil Rights, "affirmative action," was violated. The Agency and Judge Shubow are "deliberately and intentionally" ignoring my testimony and my complaint of David lying many times at the hearings and committing PERJURY. The Agency and Judge Shubow are advancing the liberty of one class (David) and not addressing my complaint, which **infringes on my liberty and justice**.

They are also violating "Materiality," because the bearing and importance of my evidence, etc., that I provided in my testimony at the hearings clearly have been ignored because Judge Shubow did not address or rule on this serious crime. The testimony, evidence, etc., that I provided at the hearing and correspondence to the Courts were submitted to influence the Judges' decision. But yet again, ignored and no decision was issued on my complaint of David's perjury. My main argument is that prejudice grew out of irrelevant and prejudicial lies as a result of David's testimony.

Why did David lie? David lied, committed perjury and denied the truth because the truth is damning. The truth will get him in trouble. "United States v. Miller, 161 F.3d 977, 982-84 (6th Cir. 1998). 63 18U.S.C. 1503 . . . endeavors to influence, obstruct, or impede the due administration of justice . . . Congressional Research Service 11 . . . whoever, in any matter . . . knowingly and willfully . . . conceals, or covers up by any trick, scheme . . . a material fact . . . makes any materially false, fictitious, or fraudulent statement or representation . . . shall be fined . . . imprisoned not more than 5 years . . . Regardless of the offense for which an individual is convicted, his sentence may be enhanced as a consequence of any obstruction of justice for which he is responsible."

The hearings were tainted by David's lies. David is also guilty of fraud; since it was his full intent to deceive everyone. *See Kelly*, 35 F. 3d at 933-934. "The issue is whether the result could have been different had jury known the truth about Valentine Brown's false testimony in the case and the many cases preceding it." My issue is if David did not lie, my questioning of him and all the witnesses would have been different. Due to "newly discovered evidence" (See Appendix C) "could have produced a different result." Judge Shubow denied me the opportunity after Denise testified to recall David for questioning to expose his perjury. David's false, lying, misleading, and deceiving statements were intentionally and willingly and changed the entire direction of my hearing. David failed "to give truthful testimony on material matters that were designed to substantially affect the outcome" (Appendix C) of my hearing.

B. Accommodation Request

My Request was filed, along with a letter from my family physician for over 20 years, Dr. Garg (Ex 5). The subject of Dr. Garg's letter was "Requesting a Work-at Home (Consultation Only) Status for Fridays." My doctor and I used the word "Status" to mean position, standing, situation. We were referring to what I was currently doing at my job, onsite, when I returned to work after my surgeries. We were referencing the "exact" working situation at the time of my Request. As I explained above, if my Request was approved, Denise and I would be doing the "exact" same thing, offsite (alternate duty location) on Fridays, with the only difference being Denise would call me on the phone or I would call her. I would provide consultation

only, unless David or the Agency required me to do otherwise.

Dr. Garg and I needed to emphasize consultation only because of my disability and limitations. My contacts included high ranking representatives in HHS, the Department and other Government Agencies as stated in my Position Description (PD). See Ex 6, pg 4 of 4 (also in ROI—14.6). We were both concerned and needed to ensure that if anyone reported me or became upset with me for not being able to perform any repetitive motion on Fridays, my requested day, David could intervene. Most of these contacts were not aware of my disability and I wanted to keep it private, unless David or I needed to reveal my situation. HHS admitted and David testified at the hearings that he, “absolutely,” didn’t have any problems with my work and I did a good job (Vol 1, page 27). I was very good and reliable at my job and knew what could be delayed for another day. Being at home on Fridays would enable me to have Denise or my contacts perform the necessary repetitive motion, etc.

C. OFO Decision—(Ex 15, dated December 3, 2014, pages 5&6.)

The only reason I received a hearing was due to the Office of Federal Operations’ (OFO) review of my record. OFO concluded that Judge Shubow “should not have granted summary judgment in the Agency’s favor because there are genuine issues of material fact in dispute . . . the Commission REVERSES the Agency’s final order . . . shall hold a hearing.” There are three genuine issues that OFO wanted me to address at the hearings.

The third issue, “It is unclear as to why the Agency did not provide in September 2008, that which it pro-

vided in June 2009." OFO is referring to David finally approving Wednesdays in June 2009, after the mediator told him it was the right thing to do. This was over a year after my May 2008, Request. This third issue is very important and applicable to my burden of proof. Judge Shubow and Counsel could reference and ask questions concerning this issue but I was never allowed. Vol 1, pages 53&54, Judge Shubow states to David, "She worked at home on Wednesdays . . . The only date that you allowed Rose to work at home was on Wednesday" and David answered, correct.

Vol 1, pgs 310-315—When I asked the question of David finally granting me Wednesdays work at home, Judge Shubow became angry and would not allow me to ask the question or David to answer. He kept stating that "what happened in '09 is not relevant." I tried to explain that it was OFO's third issue and it is relevant but he stated it is not relevant and he is the one who makes the decision. Vol 1, pg 421, Judge Shubow stated, "We are not going with that . . . No, we are not going into '09."

Not being able to address this pertinent issue or present my arguments at the hearings was unfair and an Obstruction of Justice. I could not prove that David's approved Wednesdays, was the exact same accommodation that I requested, only a different day. Denise verifies this very fact when she testified that she performed repetitive motion, etc., for me from 2007-2010 (Vol 4, page 189), while I provided consulting duties on every aspect of my job. The years mentioned includes the Wednesdays David finally approved.

The first OFO issue concerned consulting duties. HHS' argument was that consulting was not in my PD. I proved at the hearings that consulting was in my PD. There is mention of consulting throughout my

PD. In my PD, Ex 6, page 3 of 4, it clearly states "Skill in consulting with other Central"

Instructing and advising are synonyms of the word consulting, the word that I preferred using and used in my Request. I further proved that there was further references of consulting in my PD. On page 1, 1st para., 3rd line, page 2, 2nd para., first line, page 3, fourth para., 4th line, it states; "serve as an advisor . . . Evaluates and advises . . . Advises Group Director of progress." Furthermore, in Judge Shubow's decision favoring the Agency, Ex 7, pg 23, he supports my argument that I performed consulting. "Complainant dictated to Ms. Mason-Johnson the spreadsheets . . . dictated . . . emails." Some synonyms for the word dictate are guide, instruct, lead. Judge Shubow and I are saying the same thing, using different words.

Judge Shubow wanted me to admit that I requested to be a Consultant. I kept stating that I am not a Consultant and never requested to be a Consultant. However, I proved that I was always performing consulting duties in my position as a management analyst as is outlined in my PD and stated above. **HHS has "never produced" any evidence of me requesting to be a Consultant.**

Judge Shubow made me uncomfortable in Vol 1, pgs 129&130 when he was convincing David and speculating "would the work be different because complainant would strictly be a consultant." I immediately said that I felt he was "putting words" in David's mouth. Truth being, I was instructed and approved by David to perform consulting duties onsite/offsite from 2007-2010, and consulting is in my PD.

The second OFO issue concerned the effectiveness of the accommodations. David and the Agency needed me to return to work full-time, onsite after my

surgeries. Ex 3 was established and is a list of accoms/mods. This list was designed by my surgeon and nurse, assigned by HHS, to permit me to perform my date of injury position as a management analyst. If this list was not approved, signed, and enforced by David and the Agency, I could not have returned to work, onsite. Instead, I would have remained on WC and continued to work from home, offsite.

In hindsight, David just signed Ex 3 to get me back to work onsite. He kept ignoring his responsibilities on the list, especially Item #12. When I develop any problems with my computer, I needed to contact technical support and my supervisor for resolution. I did just that. I contacted Gerald Sagel, IT person for over 24 years, many times about all the problems I had with the main accommodation, Dragon Item #7. Dragon, the hands-free system/software, was suppose to limit keyboarding. You speak into a microphone and it types what you say.

I constantly complained about Dragon; i.e., slowness, lag time, freezing, etc. Gerald stated in his affidavit (Ex 3, top of 1 of 2) dated December 23, 2008, that it is "true that there is a certain slowness to the CMS system but this is because of the CMS network." David admits knowing of the lag time, slowness, and service in Vol 1, pgs 381&382.

Excel was the main program I used throughout the day for spreadsheets and my acquisition charts. I complained daily to Gerald and David that I could not use Dragon when I used Excel so I had to constantly perform repetitive motion when Denise wasn't available. Denise verifies my frustration with Dragon not working in her testimony in Vol 4, pages 175&176 by stating, "Dragon was terrible . . . did not work for the spreadsheet . . . didn't really work." Gerald states ref-

erencing Excel, "wasn't designed for spreadsheet work . . . Excel really slows Dragon down dramatically. There's no voice recognition product out there that will do Excel well." David testifies in Vol 1, pg 407, that he couldn't solve the problem with Excel and Dragon. David also admits later when being questioned by the Agency in Vol 3, page 102, "Dragon Speak being slow, and clunky and difficult to use."

HHS and David knew that one of the main accoms that would have prevented me from using my hands/ arms, Dragon, was ineffective. I kept telling David/ HHS that I can't use Dragon if it doesn't work. I told them using Dragon and because of the problems I was having was causing me excess chronic pain because I was performing repetitive keyboarding and using the mouse (Item #'s 5&6). Gerald always relayed his findings to David. Dragon, a computer problem was never resolved. Therefore, the evidence above supports both my argument and burden of proof that David intentionally ignored and violated his signed commitment/responsibility, Item #12, when he did not provide a resolution.

Another perjury statement by David is in Vol 1, page 88. David states, "I didn't assign Denise and my assumption was that the Dragon . . . was what you were using." I proved above with Denise's testimony and Judge Shubow and Counsel confirming that Denise helped me and David assigned her. Also, how can David assume Dragon was what I was using when he clearly testifies above confirming the problems I was having. Two lies in one statement.

Item #11 encourages me to "ask for assistance with any task . . . outside . . . physical capabilities." I also state in my affidavit, Ex 12, page 3, #6., 2nd paragraph, that David "has indicated that I should come

to him directly if I have any work problems . . . in a lot of pain and have trouble functioning." I did ask for assistance. I had trouble functioning. I did go to him whenever I had any problems. Because he could not resolve my problems, I submitted a Request that he denied. After submitting my Request, David became angry and just continued ignoring all my complaints and problems thereafter. He became ignorant and rude and abused me verbally, mentally, and physically (see Appendix E).

In reference to Dragon, #8, indicates that a headset/microphone was provided to limit the possible effects of external sounds in the environment and states minimal audible noise outside the cubicle. I told David and HHS and discussed at the hearings that when I dictated using Dragon, about 8 co-workers could hear everything I said and Dragon, at times, would type and pick up on what they were saying. I asked for office space in my area that was vacant to solve this problem that David ignored and would never address. Delphia, who sat behind me testified, that we could hear everybody in the area (Book 1, pg 12, in back.) I told David and HHS if they approved my Request, there would be no distracting noise at home, my alternate duty location, for Dragon to pick up. I told them we could try my Request on a dry-run basis to see if it resolved the other problems I had with Dragon. Neither addressed this issue. Therefore, working at home would have prevented me from using my hands/arms, while protecting my privacy which I am entitled to.

I have discussed the ineffectiveness of all of the items in Ex 3 in detail in all my correspondence with the Courts. Since David and HHS knew about all the problems I had with the accoms/mods in Ex 3, especially DRAGON, this should have been their

red flag to, at least discuss my Request further. "THE AGENCY IS NOT REQUIRED TO PROVIDE COMPLAINANT'S PREFERRED ACCOMMODATION, SO LONG AS THE AGENCY PROVIDES AN EFFECTIVE ACCOMMODATION. SEE EEOC COMPLIANCE MANUAL: ENFORCEMENT GUIDANCE: REASONABLE ACCOMMODATION AND UNDUE HARDSHIP UNDER THE ADA." The key word here is "effective." Ineffective accommodations means David/HHS should have approved, or at least considered my Request.

D. David's Denial of my Request Dated September 10, 2008 (Ex 4)

I was already providing consulting duties, onsite/offsite from 2007-2010. I informed my supervisor and submitted a Request to David that outlined the accom that I required. This accom would allow me to continue to perform my functions and responsibilities as an exceptional employee. I also dispute and provide my burdens of proof below and explain how irrelevant all David's reasons were for denying my Request.

1. Undue Hardship—This was the "only" reason checked on the Management Decision Form for the denial of my Request. The **Supreme Court** laid out the burdens of proof for an individual with a disability and an employer in an ADA lawsuit alleging failure to provide reasonable accommodation. Counsel does not mention nor try to defend this violation in any of their correspondence to the Courts. "In *US Airways, Inc. v. Barnett*, 535 U.S., 122 S. Ct. 1516 (2002), the Supreme Court laid out the burdens of proof for an individual with a disability (plaintiff) and an employer (defendant) in an ADA lawsuit alleging failure to provide

reasonable accommodation. The "plaintiff/employee (to defeat a defendant/employer's motion for summary judgment) need only show that an 'accommodation' seems reasonable on its face, i.e., ordinarily or in the run of cases. Once the plaintiff has shown that the accommodation s/he needs is "reasonable," the burden shifts to the defendant/employer to provide case-specific evidence proving that reasonable accommodation would cause an undue hardship in the particular circumstances."

I have mentioned this Supreme Court decision in all my correspondence to the Courts and no one will address, rule on, or argue why this does not apply to me.

I did what the Supreme Court states above and provided David and HHS multiple documents that my Request was reasonable. The documents are all included in the ROI and discussed in this Petition. However, I was never provided case specific evidence proving that my Request would cause an undue hardship in my circumstance. David and HHS being forced by the mediator to approve me to work at home on Wednesdays starting in June 2009, was HHS' attempt to establish case specific evidence for denying my Request. I testified that the Wednesdays work at home day was helpful and I did perform the "essential functions" of my position, but it was too little too late. David and HHS had no complaints when I worked offsite on Wednesdays. They didn't claim any undue hardship or undue hardship on other employees on his staff or any employees in HHS. I requested Fridays and they approved Wednesdays. Denise testified at the hearings to doing the exact same thing on Wednesdays (David's approved day) that she would have done if I received my preferred request day, Friday.

My request was not considered, discussed, or allowed on a trial basis and, therefore, HHS violated the Supreme Court's burdens of proof.

2. Other Staff Permanently Taking Over Some Functions—David's reason for denying my Request because "other staff would have to permanently take over" is ludicrous. No one could take over any of my functions because no one knew my job, not even David as Denise testifies and as I state above. Denise would continue with performing repetitive motion, etc. She would call me or I would call her. I would continue providing consulting duties, offsite. We were both already performing the exact same duties and functions onsite. Nothing would change and I would be doing the exact same duties and functions that I performed when David finally approved Wednesdays, over a year after my Request.

3. Being a Consultant—Judge Shubow and the Agency kept stating throughout the hearings that David stated in his denial, "being a consultant isn't in Rose's PD." He is absolutely right, I told David and HHS while I was working and kept stating at the hearings that *I never asked to be a "consultant." I am not a consultant.* I state this in all my correspondence to the Courts. In my Request, I asked to provide consulting that David did approve and allowed me to perform from 2007-2010. Consulting is "absolutely" mentioned in my PD as discussed above.

4. 10 Hours of Consulting—David states that there is not 10 hours of consulting work for Rose to do every Friday and on many Fridays there may not be any consulting work for her to do. This statement is erroneous because David's approved, Wednesdays, work at home day in June 2009, I worked 10 hours. Besides not being Friday, it was the exact same

accommodation that I requested back in May 2008. My Request would have allowed me to work from home, an alternate duty location, just like other people on David's staff, in HHS, did and continues to do. David's problem with me, although harsh, is I had a disability that required him to perform extra work. Because I filed a discrimination, made him angry and upset with me and the **physical, mental, and verbal abuse** became worse.

5. Not Using Hands Than Location Is Not An Issue—The following reason that David stated on his Denial Form is so demeaning and discriminating. "Since the type of consulting . . . perform at home would not require the use of her hands . . . obviously be done just as well . . . in the office . . . location . . . is not an issue." This statement shows very clearly that David did not care about me and ignored my disability and my problems. **He ignored and the Judges and David keep ignoring and not addressing or ruling on the main and most important reason that I submitted my Request was to "not take" addicting, harmful, deadly "opioids" on Fridays.** Dr. Garg's letter, that accompanied my Request, (Ex 5, last para. on pg 5 of 6) states, "excess pain and renewed systems; i.e., muscle spasms, nerve pain, and weakness in hands/arms . . . take Oxycodone . . . leaves her drowsy and somewhat disoriented."

I was desperate and the Request I submitted was my family physician and my solution to the fact that I was increasing the dosage of Oxy, etc., because I had chronic nerve pain due to the ineffectiveness of the accoms/mods. **My Request should have been approved on this reason alone.** In addition to the numerous information and evidence that I have already provided to the Courts on the dangers of me

taking drugs and needing my Request, the following supports my burden also.

Good Morning America (GMA) on September 26, 2017 & October 25, 2017—Health Alert—New report women are most at risk when it comes to Opioids; 30% more prescriptions, 40% more surgery patients became persistent users. More people die from Opioid prescription overdose than from Heroin overdose per year. The doctor on GMA states, that the pain suffered, delays surgical healing and recovery. There is a fine balance in giving other options. An option recommended is ice therapy. The doctor states, according to CDC, over 33,000 died from overdoses in 2015. Know the warning signs. If you are constantly nauseated, etc., are signs to seek help.

Everyone was aware and had evidence that I provided at the hearings and in all my correspondence to the Courts of the side effects that I was experiencing. GMA further stated that the symptoms of Opioids can be life threatening and it is seen every single day in women and pain killer addictions. The U.S. for prescription Analysis of the Impact of Opioid Overprescribing in America, states the reason why women are prescribe Opioids more than men is because they suffer more chronic pain, etc. We are in critical and unstable conditions. Talking about the Opioid crisis in this Country, we have to tackle this at the person prescribing level, dispensing level, and at the user level.

Dr. Garg and I “tried” to preempt this crisis by submitting my Request, but no one will acknowledge, address, or rule on my personal battle and my life threatening dilemma; taking drugs and their side effects.

All information in Appendix F supports my discrimination case, putting emphasis on Item 1. In EGRA—

ADA—Excerpt—39. Must an employer provide a reasonable accommodation that is needed because of the side effects of medication or treatment related to the disability, or because of symptoms or other medical conditions resulting from the underlying disability? Yes. The side effects caused by the medication that an employee must take because of the disability are limitations resulting from the disability. Reasonable accommodation extends to all limitations resulting from a disability. Similarly, any symptoms or related medical conditions resulting from the disability that cause limitations may also require reasonable accommodation.

David stating in his Denial that location is not an issue since consulting performed at home would not require the use of my hands and can obviously be done in the office is insensitive and discriminating. David and HHS were both given my Request that was accompanied by Dr. Garg's letter. No one has any excuse for not knowing or being aware of my frightening drug problems. On pg 6 of 6, Dr. Garg states clearly the reasons I needed my Request. "Working from home on Fridays . . . will enable Rose to relieve . . . symptoms . . . with natural pain reducing remedies . . . arms elevated . . . moist heat . . . cold compress as needed throughout the day, eliminating the need for additional drug dosage . . . This accommodation would eliminate the need on Fridays for her to keyboard, turn pages, writing, etc."

I would not have to carry heavy material to meetings and to and from work, perform repetitive motion, get ready for work and blow dry and style my hair, put on makeup, search my closet (simple task for most but not for me), iron my clothes, open and close the heavy doors to get in and out of my car, sometimes having to

drive, carrying my purse, lift and pull my luggage bag with work documents to and from work, lift and pull to put purse, luggage bag, etc. on and off security belt to be examined, etc. Not doing these things could have provided additional relief and it would not require the use of my hands and arms.

6. 10 Hours of Consulting Every Friday And on many Fridays Not Any Consulting; Create Undue Hardship in Accomplishing Organization's Mission—As I state above, I was already performing consulting while Denise performed repetitive motion, etc., at work, onsite, unless it was required of me to perform repetitive motion, etc. I would be working 10 hours per day at home on Fridays, offsite, same as David's approve Wednesdays work-at-home day. So, I disagree with David's statement. I would have performed my full range of management analyst duties, offsite on Fridays. I would be doing exactly what I did on the Wednesdays, offsite, his approved work at home day. David approving this day is a real issue and conflicts with all HHS' arguments. Judge Shubow not allowing me to argue this is so unfair since this was one of OFO's genuine issues to dispute when they granted me a hearing that Judge Shubow kept denying.

7. Take Full Advantage of Accommodations, Specifically Voice Activated Software And Personal Assistant—As I stated above and one of the main reasons I submitted my Request, the Dragon would be slow, freeze, experience lag time, etc. I also stated that Gerald, IT expert, in his affidavit confirmed I was right and there was "a certain slowness to the CMS system." David also testifies knowing of the lag time, slowness, and service. Gerald, David, and Denise all confirmed that Excel was the main program I used throughout the day for spreadsheets

and my acquisition charts and that I could not use Dragon when I used Excel. Therefore, I had to constantly perform repetitive motion when Denise wasn't available. They all verified my burdens of proof when they testified that, Dragon was terrible and did not work for the spreadsheets and Dragon wasn't designed for spreadsheet work. Excel really slows Dragon down dramatically, and there's no voice recognition product out there that will do Excel well. David specifically testified that he couldn't solve the problem with Excel and Dragon and that Dragon was slow, clunky, and difficult to use.

First, how can I use a program that my supervisor and the IT expert state under oath has numerous problems? David testified under oath that he "couldn't solve the problem." David testifies that there are "numerous problems" with Dragon that he cannot solve, and yet states in his Denial, to take full advantage of the accommodations granted to me, specifically voice activated software, which is Dragon—Ex 4, page 2 of 2. David also testifies in Vol 1, pg 384 that "Dragon wasn't involved" in his decision to deny my Request. How can Dragon not be involved in his decision if it was the "main" accom that was to help "limit keyboarding," as described in Ex 3, #7, last two words? Also, #3, states that the "Dragon program is designed to limit . . . keyboarding." For the record, I cannot use Dragon if it doesn't work and if no one can fix or "resolve" the problems. David and HHS knew of the problems. They did not address and did not speak to me about a "resolution." Another word on the list that David ignored and violated in the agreement that he signed, #12, last word. David and HHS both just ignored me and expected me to do the impossible that forced me to use my hands.

My burdens of proof above disproves all of David's reasons, listed on his Denial form, for denying my Request.

III. Statements Made And Complaints Filed in Civil Suit

A. Civil Rights Act

Counsel argues that David, after consultation with the Agency's Office of Equal Opportunity and Civil Rights denied my Request. I am claiming discrimination and that David/HHS violated my Civil Rights by ignoring my burdens of proof mentioned in this Petition. Due to ineffective accoms/mods I had to perform repetitive motion, etc., that led to severe nerve pain and taking drugs to alleviate the pain and the drugs causing major side effects. David/HHS not acting on my problems is more than discrimination. Their negligence is hateful and abusive.

B. Code of Federal Regulations (CFR)

Congress extended EEOC powers to include investigatory authority and creating conciliation programs. Ex 16, addresses complaints filed before and during the hearings that includes incidents/complaints, responses, etc., that were all filed timely. I relentlessly asked Counsel, HHS, and Judge Shubow for the status of these complaints before and during the hearings. No one would acknowledge or address my complaints. No final action or dismissal of the incidents/complaints were ever given to me by Judge Shubow. 29 CFR 1614.106, states that "The agency is required to conduct an impartial and appropriate

investigation of the complaint within 180 days of the filing." I filed this complaint in my Civil Suit and the Courts also never provided a ruling or dismissal of this complaint. The Agency and Judge Shubow both "intentionally" ignored and never investigated and I was never offered a resolution to any of my reported incidents/complaints which violated the CFR. The Courts are advancing the liberty of the Agency and Judge Shubow and not addressing or prosecuting, which infringes on my liberty and justice.

C. Fair Labor Standards Act (FLSA)

Appendix G has details concerning this violation.

D. Rehabilitation Act (Rehab), Americans with Disabilities Act (ADA)—Appendix F

I stated several excerpts from the Rehab and ADA Acts in my questions to David at the hearings. I asked him if he remembered me quoting the excerpts and how they applied to me. David kept denying that I quoted any excerpts and he kept stating that he wasn't aware of any excerpts in the ADA—Vol 1, pg 196. Judge Shubow supported his answer by stating, pg 201, "He said he is not familiar with the law . . . That's not his talent." Besides this statement being rude, it is condescending and implies that disabled people and I do not matter.

I know for a fact that when I was working and currently, there are mandatory training classes for all employees and supervisors and the Rehab and ADA Acts are discussed. I would have proven David committed perjury again with this issue also if Judge Shubow would have let me continue with my questioning.

It doesn't matter if it wasn't David's "talent." It was David's job and duty as my supervisor to know and apply these Acts before denying my Request. David admitting to me quoting these excerpts and attending training about these Acts would have proven his neglect and he would have had to explain why he denied my Request.

E. Defamation of Character

The Agency and Mr. Weld, an attorney representing HHS at the hearing, contested "my status as an individual with a disability" after I retired. This claim has nothing to do with my Federal employment. The claim has everything to do with questioning my character and being called a liar. It has everything to do with the Agency/Mr. Weld lying that they don't know about my disability. Also, I "never withdrew" because I "never" initially asserted claims of age and gender discrimination. Whenever I am asked—See Ex 12, page 7, 1st paragraph, about my discrimination, I indicate **disability only**.

Ex 1, is a letter dated September 7, 2005, from the U.S. Department of Labor (DOL) that confirms my date of injury of March 30, 2005, and my diagnosed conditions of BCCTS. This letter also states my conditions are accepted conditions with the DOL and an occupational disease and any wage loss is compensated. The other document is a Management Decision Form for Reasonable Accommodation Request signed in June 2009, by David acknowledging that my medical condition substantially limits a major life activity and that I am covered by the Rehab Act.

The Agency and Mr. Weld cannot claim ignorance and cannot claim they did not know! Also,

in Ex 1 there is a "Medical Inquiry Form" dated May 6, 2008, that was completed by my physician Dr. Garg. This form **clearly states** the major life activities that are affected. It also explains my "difficulty doing . . . day to day work, limited movements of arms/lifting/carrying, reaching, etc." It clearly states that my impairment is **permanent**. I have also included in Ex 1, a letter dated August 26, 2008, from Robert A. Smith, M.D. The DOL sent me to Dr. Smith and he describes the percentage of deficit and states on pg 3, I have **specific permanent restrictions** which are described on Form OWCP-5c. David, the Agency, and Mr. Weld had knowledge of all this information in the ROI that explains my disability.

To continually contest my status as an individual with a disability is damaging and abusive. Mr. Weld stated in a Motion dated July 8, 2015, that "the Agency on behalf of the undersigned continues to contest her status as an individual with a disability." Judge Shubow stated at the hearing that he never questioned my illness but Mr. Weld keeps objecting when I bring it up at the hearing and states that "It calls for legal conclusion." See Ex 2, page 1 of 4 and then Mr. Weld's testimony, also in Ex 2 (Vol 1, pg 18), for proof of both statements made by Mr. Weld on behalf of the Agency. The Agency admits my disability in a Form signed on June 2009, and then continually contest my disability. This is **defamation**. The Agency is questioning my character and calling me a **liar**.

Not holding anyone accountable for these violations is OBSTRUCTION OF JUSTICE! This is also discrimination and violates my Civil Rights, "affirmative action."

F. Privacy

I have mentioned examples how HHS violated my privacy above. Vol 4, pgs 208-211, Mr. Weld and Ms. Sicard violated my right to privacy at the hearing on August 3rd when questioning Denise. They asked the question, "are you aware that Rose was on worker's comp during 2007?" I objected and told them that it was, my decision only, if I wanted the witness to know that. I stated that, I never told Denise that I was on WC and that "Denise doesn't have to know that . . . Now you just told her I was on worker's comp. That's a privacy issue." The Office of Civil Rights (OCR) protects the privacy and security of health information. The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Privacy Rule establishes national standards to protect individuals' medical records and other personal health information. The Rule requires appropriate safeguards to protect the privacy of personal health information, and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. It is my right to not tell anyone that I was on WC and Judge Shubow ignored my right and did not address this complaint either.

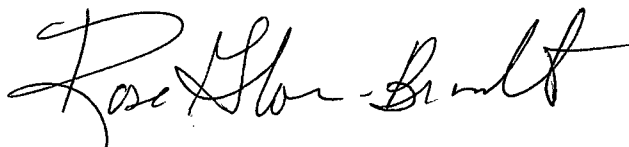
Conclusion

I have proven that my Request was reasonable and should have been approved. Unlike HHS and the attorneys that have represented them, all my complaints have merit and I provide actual testimony, evidence, etc. I had witnesses that corroborated my evidence and can provide additional witnesses and evidence that will validate further all my complaints.

I have addressed David's perjury, a criminal offense under both Maryland State and Federal laws, and all my complaints that I filed in my Civil Suit. I have proved that Judge Shubow was unfair and showed bias to the Agency. The travesty is David was the first witness that started the hearing. He lied to protect himself from discrimination and abuse. My hearing started on David's lies and ended with Judge Shubow confirming my truth. The Courts and the Judges decisions were incomplete and erroneous. I was not allowed to recall David as a witness at the hearing and address his lies/perjury. The Judges' decisions did not address any of the other complaints filed in my Civil Suit except for the discrimination. Therefore, I respectfully request the Supreme Court to rule that I should have been granted a jury trial. Thank you, in advance, for taking the time to read this Petition.

The petition for a writ of certiorari should be granted.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Rose Glorioso-Brandt". The signature is fluid and cursive, with the first name "Rose" being the most prominent.

Rose Glorioso-Brandt

Date: 5/16/2018