


No. \_\_\_\_\_

---

---

**In the  
Supreme Court of the United States**



CHRISTINE MIRE,

*Petitioner*

v.

UNIVERSITY HOSPITAL & CLINICS,  
INCORPORATED, ET AL.,

*Respondents*

---

**On Petition for Writ of Certiorari  
to the United States Court of Appeals for the Fifth Circuit**

---

---

**PETITION FOR WRIT OF CERTIORARI**

---

---

Christine M. Mire

*Petitioner and Member of Supreme Court Bar*

Law Office of Christine M. Mire

401 Claystone Road

Youngsville, LA 70592

(337) 296-0831

cmm@mirelawfirm.com

April 30, 2024

## QUESTIONS PRESENTED

Courts may not impose punitive sanctions upon attorneys to deter colorable arguments that insulate judicial determinations from legitimate challenges without implicating central First Amendment concerns and/or violating the Eighth Amendment prohibition against excessive fines. In this purported civil rights case, Respondents, a private hospital system, attempted to conceal their health care fraud scheme and the lack of federal subject matter jurisdiction by ignoring federal disclosure requirements and through material misrepresentations made to the district court regarding their employment relationship with Plaintiff. Thus, the true catalyst for Respondents' retaliation through punitive sanctions is Petitioner's discovery of the sophisticated healthcare scheme that exposed Plaintiff's employment by a private actor and lack of state action required to bring a claim pursuant to 42 U.S.C. § 1983. Moreover, while this case was pending on appeal for the first time, an intervening and controlling decision was released by the Louisiana Supreme Court and Respondents were judicially determined to be private employers in a vaccine mandate case thereby implicating principles of estoppel and the subject matter jurisdiction of the federal courts.

The Questions Presented Are:

1. Whether the lower courts imposition of punitive sanctions violates Petitioner's rights under the First and/or Eighth Amendments to the United States Constitution where Petitioner made arguments supported by existing law/evidence and complied with her duties as an officer of the court.

2. Whether the lower courts abused its constitutional authority by failing to examine its jurisdiction, uncontroverted evidence in the record, and/or give full faith and credit to an intervening and controlling decision of the Louisiana Supreme Court.

## **PARTIES TO THE PETITION**

### **Petitioner and Appellant below**

---

- Christine M. Mire

### **Respondents and Defendants-Appellees Below**

---

- Lafayette General Health System,  
Incorporated
- Lafayette General Medical Center,  
Incorporated
- University Hospital & Clinics,  
Incorporated

## LIST OF PROCEEDINGS

### DIRECT FEDERAL PROCEEDINGS BELOW

---

U.S. Court of Appeals for the Fifth Circuit

No. 23-30335

J. Cory Cordova, *Plaintiff*, and Christine M. Mire, *Appellant*, v. University Hospital & Clinics, Incorporated; Lafayette General Medical Center, Incorporated; Lafayette General Health System, Incorporated, *Defendants-Appellees*.

Opinion Date: January 31, 2024

Order Denying Recall and Stay of Mandate:  
April 11, 2024

---

U.S. District Court, Western District of Louisiana

Civil Action Number: 6:19-CV-1027

J. Cory Cordova, *Plaintiff*, v.

Louisiana State University Agricultural & Mechanical College Board of Supervisors; Karen Curry; Nicholas Sells; Kristi Anderson; University Hospital & Clinics, Incorporated; Lafayette General Medical Center, Incorporated; Lafayette General Health System, Incorporated, *Defendants*

Judgment on Order of Remand: March 24, 2021

Memorandum Order (Cost and Attorney's Fees):  
April 14, 2021

Memorandum Ruling (Motion to Vacate):  
August 23, 2022

Memorandum Ruling (Cost and Attorney's Fees):  
October 10, 2022

Memorandum Ruling (Sanctions): February 27, 2023

Order Awarding Attorney's Fees: April 13, 2023

**PRIOR PROCEEDINGS**

---

**U.S. Supreme Court**

Supreme Court of the United States

No. 21-1280

In re: J. Cory Cordova, *Petitioner*

Petition for an Extraordinary Writ of Mandamus

Denied: May 16, 2022

**Federal Courts**

U.S. Court of Appeals for the Fifth Circuit

No. 21-30239

J. Cory Cordova, *Plaintiff/Appellant*, versus

Louisiana State University Agricultural & Mechanical  
College Board of Supervisors; Karen Curry; Nicholas  
Sells; Kristi Anderson; University Hospital & Clinics,  
Incorporated; Lafayette General Medical Center,  
Incorporated; Lafayette General Health System,  
Incorporated, *Defendants/Appellees*

On Initial Appeal

Per Curiam Opinion: November 8, 2021

Denial of Rehearing: December 16, 2021

Per Curiam Order: April 13, 2022

Order Denying Motion to Amend Judgment:  
April 13, 2022

---

U.S. Court of Appeals for the Fifth Circuit

No. 22-30548 consolidated with 22-30732

No. 22-30548 caption:

J. Cory Cordova, *Plaintiff-Appellant*, v. Louisiana State University Agricultural & Mechanical College Board of Supervisors; Karen Curry; Nicholas Sells; Kristi Anderson; University Hospital & Clinics, Incorporated; Lafayette General Medical Center, Incorporated; Lafayette General Health System, Incorporated, *Defendants-Appellees*.

22-30732 Caption:

J. Cory Cordova, *Plaintiff-Appellant*, v. Louisiana State University Agricultural & Mechanical College Board of Supervisors; Karen Curry; Nicholas Sells; Kristi Anderson, *Defendants-Appellees*.

Per Curiam Order: April 17, 2023

Order Denying Stay of Mandate: May 4, 2023

---

U.S. Court of Appeals for the Fifth Circuit

No. 23-30186

Christine Mire, *Attorney/Appellant* v. University Hospital & Clinics, Incorporated; Lafayette General Medical Center, Incorporated; Lafayette General Health System, Incorporated, *Defendants-Appellees*.

Premature Dismissal for failure to prosecute:

July 18, 2023

---

U.S. District Court, Western District of Louisiana  
No. 6:19-CV-1027

J. Cory Cordova, *Plaintiff*, v. Louisiana State  
University Agricultural & Mechanical College Board  
of Supervisors; Karen Curry; Nicholas Sells; Kristi  
Anderson; University Hospital & Clinics, Incorporated;  
Lafayette General Medical Center, Incorporated;  
Lafayette General Health System, Incorporated,  
*Defendants*

Judgment on Order of Remand: March 24, 2021

Memorandum Order (Costs and Attorney's Fees):  
April 14, 2021

Memorandum Ruling (Motion to Vacate):  
August 23, 2022

Memorandum Ruling (Cost and Attorney's Fees):  
October 10, 2022

Memorandum Ruling (Sanctions): February 27, 2023

Memorandum Ruling Granting Monetary Award of  
Sanctions: April 13, 2023

Memorandum Ruling Imposing Rule 38 Sanctions on  
Plaintiff: June 29, 2023

Judgment Granting Respondents' Motion for Entry of  
Judgment for Plaintiff's payment of Rule 38 sanctions:  
August 14, 2023

Electronic Order Setting deadline to respond to  
Respondents' Motion for Contempt: December 8, 2023

Order Denying Petitioner's Unopposed Motion to  
Withdraw and Unopposed Extension of Time:  
December 20, 2023



Electronic Order Setting Hearing for January 16, 2024, Ordering Plaintiff's Appearance, Ordering Plaintiff to Produce Financial Information to the Court Under Seal: December 28, 2023.

Judgment Denying Plaintiff's Motion to Dismiss for Lack of Jurisdiction/Bench Warrant for Plaintiff and Petitioner: January 12, 2024

Memorandum Order (Subject Matter Jurisdiction/Personal Jurisdiction): January 12, 2024

Order Granting Respondents' Judgment Debtor Examination: January 22, 2024

Memorandum Order Granting Contempt and Deferring Sanctions: January 24, 2024

### **Louisiana State Courts**

Louisiana Third Circuit Court of Appeals

No. CA 23-353 consolidated with CA 23-354

J. Cory Cordova, M.D., *Plaintiff/Appellant*, v.

University Hospital & Clinics, Incorporated; Lafayette General Medical Center, Incorporated; Lafayette General Health System, Incorporated,  
*Defendants/Appellees*

Opinion: January 31, 2024

---

15th Judicial District, State of Louisiana, Parish of  
Lafayette, Division D

No. 2019-2019

J. Cory Cordova, M.D., *Plaintiff*, v. Louisiana State  
University Health Science Center; Karen Curry;  
Nicholas Sells; Kristi Anderson; University Hospital  
& Clinics, Incorporated; Lafayette General Medical  
Center, Incorporated; Lafayette General Health  
System, Incorporated, Gachassin Law Firm,  
Christopher Johnston, Bezou Law Firm., and  
Jacques Bezou, Sr., *Defendants*.

Judgment on Order of Remand: March 24, 2021

---

15th Judicial District, State of Louisiana, Parish of  
Lafayette, Division L

No. 2022-2976

J. Cory Cordova, M.D., *Plaintiff*, v. Karen Curry;  
University Hospital & Clinics, Incorporated; Lafayette  
General Medical Center, Incorporated; Lafayette  
General Health System, Incorporated, *Defendants*

Order Granting No Right of Action: August 1, 2022

Order Granting Exception of Improper Service:  
August 1, 2022

Order Granting Exception of Res Judicata:  
January 30, 2023

Order Granting Motion for Sanctions: March 3, 2023

Order finding Contempt with Imprisonment until  
Performance: October 9, 2023

## TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED.....	i
LIST OF PROCEEDINGS.....	iv
TABLE OF AUTHORITIES .....	xiv
OPINIONS BELOW .....	1
JURISDICTION.....	2
CONSTITUTIONAL PROVISIONS INVOLVED.....	2
STATEMENT OF THE CASE.....	3
A. Factual Background.....	5
1. An Undisclosed Concurrent Conflict of Interest.....	5
2. The Improper Removal.....	7
B. Procedural History .....	8
1. The Attempted Dismissal of an Indispensable Party.....	8
2. The Summary Dismissal of Plaintiff's State Law Claims in Federal Court.....	8
3. Appeal to the Fifth Circuit in Docket Number: 21-30239 .....	13
4. Proceedings in District Court Related to Motion for Relief of Judgment .....	16
5. Appeal to Fifth Circuit Related to the Motion for Relief of Judgment.....	17
C. The Instant Appeal of Rule 11 Sanctions .....	18

**TABLE OF CONTENTS – Continued**

	Page
1. The Rule 11 Sanctions Hearing Is Set by the District Court While the Denial of the Motion for Relief of Judgment Is Pending on Appeal.....	18
2. A Motion for Sanctions Is Filed with the Fifth Circuit Providing Additional Documentation That the District Court Lacked Subject Matter Jurisdiction.....	20
3. The Fifth Circuit Opinion issued on April 17, 2023.....	22
4. Petitioner’s Appeal to the Fifth Circuit of the Rule 11 Sanctions.....	24
5. Respondents File a Motion for Contempt Before the Federal District Court Seeking Plaintiff’s Arrest.....	27
6. Respondents’ Motion for Contempt Proceeds Before the Federal District Court .....	29
REASONS FOR GRANTING THE PETITION.....	31
I. The Lower Courts Exceeded the Permissible Limitations on the Full Faith and Credit Clause .....	31
II. Sanctioning Colorable Arguments Chills the First Amendment Rights of Lawyers.....	33
III. Imposing Excessive Punitive Sanctions Violates the Eighth Amendment.....	34
CONCLUSION.....	35

**TABLE OF CONTENTS – Continued**

Page

**APPENDIX TABLE OF CONTENTS**

**U.S. Court of Appeals for the Fifth Circuit  
Case No. 23-30335**

Opinion, U.S. Court of Appeals for the  
Fifth Circuit (January 31, 2024)..... 1a

Judgment, U.S. Court of Appeals for the  
Fifth Circuit (January 31, 2024)..... 17a

**U.S. Court of Appeals for the Fifth Circuit  
Case No. 22-30548 Consolidated With 22-30732**

Original Per Curiam Decision,  
U.S. Court of Appeals for the Fifth Circuit  
(April 17, 2023)..... 19a

**U.S. Court of Appeals for the Fifth Circuit  
Case No. 21-30239**

Order Denying Motion to Amend Judgment,  
U.S. Court of Appeals for the Fifth Circuit  
(April 13, 2022)..... 28a

**U.S. District Court, W.D. Louisiana  
Case No. 6:19-CV-01027**

Memorandum Order Denying Motion for  
Attorney’s Fees, U.S. District Court for the  
Western District of Louisiana Lafayette  
Division (April 14, 2021) ..... 30a

Memorandum Ruling Denying Motion to Vacate  
and for Attorney’s Fees, U.S. District Court  
for the Western District of Louisiana  
Lafayette Division (August 23, 2022)..... 36a

**TABLE OF CONTENTS – Continued**

	Page
Memorandum Order Granting Motion for Sanctions, U.S. District Court for the Western District of Louisiana Lafayette Division (February 27, 2023) .....	57a
Order Awarding Attorney’s Fees, U.S. District Court for the Western District of Louisiana Lafayette Division (April 13, 2023) .....	75a

## TABLE OF AUTHORITIES

	Page
<b>CASES</b>	
<i>Allemang v. State of Louisiana, et al.</i> , 2019 WL 3368783 (7/24/19).....	21
<i>Beiser v. Weyler</i> , 284 F.3d 665 (5th Cir. 2002) .....	12, 13
<i>Carter v. Fenner</i> , 136 F.3d 1000 (5th Cir. 1998) .....	17
<i>Derbes v. Louisiana</i> , 2023 WL 4265757 (5th Cir. 6/29/23).....	21
<i>Driscoll v. Stucker</i> , 04-0589, 893 So.2d 32 (La. 1/19/05).....	7
<i>Hayes, et al., v. University Health Shreveport, et al.</i> , 21-1601, 332 So.3d 1163 (La. 1/7/22) .....	31, 32
<i>Johnson v. Muelberger</i> , 340 U.S. 581 (1951) .....	31
<i>Legal Services Corporation v. Velazquez</i> , 531 U.S. 533 (2001) .....	34
<i>Lindke v. Freed</i> , 601 U.S. _____ (2024) .....	32
<i>Lutostanski v. Brown</i> , 88 F.4th 582 (5th Cir. 2023).....	23
<i>Nelson, et al., v. Ochsner Lafayette General</i> , 21-1453, 332 So.3d 1172 (La. 1/7/22).....	31
<i>Steel Co. v. Citizens for a Better Environment</i> , 523 U.S. 83 (1998) .....	12, 23, 24
<i>Timbs v. Indiana</i> , 139 S.Ct. 682 (2019) .....	34

**TABLE OF AUTHORITIES – Continued**

Page

<i>Williams v. New Orleans Public Serv., Inc.</i> , 728 F.2d 730 (5th Cir. 1984) .....	17
---	----

**CONSTITUTIONAL PROVISIONS**

La. Const. art. I, § 5 .....	32
U.S. Const. amend. I .....	i, 33
U.S. Const. amend. VIII .....	i
U.S. Const. amend. XIV .....	7, 21, 23

**STATUTES**

28 U.S.C. § 1254(1) .....	2
28 U.S.C. § 1331 .....	23
28 U.S.C. § 1447 .....	11
42 U.S.C. § 1983 .....	i, 7, 9, 11, 20, 21
42 U.S.C. § 1988 .....	11, 17, 18, 20

**JUDICIAL RULES**

Fed. R. Civ. P. 11 .....	21, 22, 24, 28, 30
Fed. R. Civ. P. 11(b)(1)–(3) .....	20
Fed. R. Civ. P. 11(b)(2) .....	29
Fed. R. Civ. P. 12(b)(6) .....	8, 11
Fed. R. Civ. P. 37(c) .....	10
Fed. R. Civ. P. 38 .....	1, 22, 24, 27, 28, 30
Fed. R. Civ. P. 54(b) .....	11, 13
Fed. R. Civ. P. 56(h) .....	9



**TABLE OF AUTHORITIES – Continued**

	Page
Fed. R. Civ. P. 59(e) .....	14, 15
Fed. R. Civ. P. 60(b) .....	3, 5, 14, 16, 17, 18, 19, 23, 24
Fed. R. Civ. P. 60(b)(6) .....	17



## OPINIONS BELOW

Petitioner seeks review of the U.S. Court of Appeals for the Fifth Circuit decision in Case No. 23-30335, dated January 31, 2024, affirming the imposition of sanctions pursuant to Fed. R. Civ. P. Rule 11 for Petitioner's allegation contained in the Motion for Relief of Judgment that Plaintiff was employed by Respondents, private actors. (App.1a) The Fifth Circuit also imposed additional sanctions for a frivolous appeal pursuant to Fed. R. App. P. Rule 38 and remanded the case back to the district court for the determination of sanctions, attorney fees, and costs. (App.15a)

The U.S. District Court for the Western District of Louisiana, Lafayette Division issued an Order on February 27, 2023, granting the Motion for Sanctions filed by Respondents. (App.57a) The District Court issued an Order on April 13, 2023, calculating the monetary award of sanctions owed to Respondents. (App.75a) Four days after the District Court imposed monetary sanctions, the Fifth Circuit issued a *per curiam* unpublished decision in consolidated Case Nos. 22-30548 and 22-30732 dated April 17, 2023. (App.19a) This opinion affirmed the District Court's denial of Plaintiff's Motion for Relief of Judgment and imposed additional sanctions pursuant to Fed. R. App. P. Rule 38. (App.26a) The Fifth Circuit remanded the case back to the District Court for the determination of sanctions, attorney fees, and costs under Fed. R. App. P. Rule 38. (App.27a)



## **JURISDICTION**

The Fifth Circuit issued its opinion on January 31, 2024. (App.1a). Petitioner invokes the Court's jurisdiction under 28 U.S.C. § 1254(1).



## **CONSTITUTIONAL PROVISIONS INVOLVED**

### **U.S. Const. art. III, sec. 2**

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State,—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

### **U.S. Const. amend. I**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press or the right of the people peaceably to

assemble, and to petition the government for a redress of grievances.

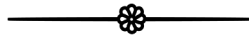
**U.S. Const. amend. VIII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**U.S. Const. art. IV, sec. 1**

**Full Faith and Credit Clause**

Full faith and Credit shall be given in each State to the public acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the manner in which such Acts, Records, and proceedings shall be proved, and the Effect thereof.



**STATEMENT OF THE CASE**

Petitioner, a Louisiana attorney, represented Plaintiff, J. Cory Cordova, M.D. (“Dr. Cordova”), who was wrongfully dismissed from the Internal Medicine Residency Program located at University Hospital and Clinics, Inc. (“UHC”), in Lafayette, Louisiana. However, UHC—a private hospital and Dr. Cordova’s true employer—utilized the complexity of the public private partnership between UHC and Louisiana State University School of Medicine to improperly remove this case to federal court and summarily dismiss Dr. Cordova’s state law claims. [ROA.426] On July 8, 2022, on behalf of Dr. Cordova, Petitioner sought relief pursuant to Fed. R. Civ. P. Rule 60(b) for six mutually exclusive reasons: 1.) The lead counsel for Dr. Cordova and the

lead counsel for the Lafayette General Defendants had an undisclosed concurrent conflict of interest that compromised Dr. Cordova's representation; 2.) The Defendants strategically and improperly removed this case from state court by misrepresenting/misleading the district court as to Dr. Cordova's true employer; 3.) The Defendants failed to inform the district court that all parties agreed to stay discovery prior to summary judgment due to the COVID-19 pandemic; 4.) The Defendants misled and/or misrepresented that the LSU Defendants maintained Dr. Cordova's residency/personnel file when all were aware that the file was maintained by the Lafayette General Defendants; 5.) On January 7, 2022, a Louisiana Supreme Court decision was released wherein the Lafayette General Defendants stipulated it was a private actor in a vaccine mandate case and no federal constitutional claims could be asserted; and 6.) On July 5, 2022, the Lafayette General Defendants filed an exception of federal res judicata based on the district court's rulings and requested dismissal of Dr. Cordova's new claims against the Lafayette General Defendants in state court. [ROA.2895-2930]

Objective evidence that Dr. Cordova was employed by University Hospital and Clinics, Inc. ("UHC") was attached to Dr. Cordova's motion and included: 1.) Dr. Cordova's Form W-4 which lists UHC as his employer; 2.) Dr. Cordova's Louisiana Department of Revenue Form L-4 which lists UHC as his employer; 3.) Dr. Cordova's Immigration Form I-9 which lists UHC as his employer; 4.) Dr. Cordova's Medicare Enrollment Record which lists UHC as his employer; and 5.) Public records establishing UHC as the statutory employer, under Louisiana law, for Dr. Cordova and all named

Defendants. [ROA.2914-2918] [ROA.4619] It is the Rule 60(b) motion that forms the basis for sanctions that Petitioner seeks this Court to review. [ROA.2895-2930]

## **A. Factual Background**

### **1. An Undisclosed Concurrent Conflict of Interest**

The undisclosed concurrent conflict of interest between the lead counsel for Respondents and Dr. Cordova’s own lead counsel was instrumental in facilitating the improper removal of this state court case to federal court. On February 18, 2019, Dr. Cordova hired the Bezou Law Firm to represent him. On March 15, 2019, Jacques Bezou, Jr., an attorney at the Bezou Law Firm, was sued for malpractice and was represented by the attorney for the Respondents. [ROA.3547] On March 29, 2019, Dr. Cordova brought suit in the 15th Judicial District Court against Louisiana State University Health Science Center (“LSUHSC”), University Hospital and Clinics (“UHC”), Lafayette General Hospital, Dr. Karen Curry, Dr. Nicholas Sells, Kristi Anderson, Christopher Johnson, and the Gachassin Law Firm. [ROA.45]. The initial Petition for Damages was signed by Jacques Bezou, Sr., and verified by Dr. Cordova. [ROA.63-65].

On April 5, 2019, James Gibson—attorney for the Bezou Law Firm in an unrelated legal malpractice action—requested an extension from the Bezous to file responsive pleadings on behalf of the Lafayette General Defendants in this case. Despite the concurrent representation by Mr. Gibson, the Bezous did not advise Dr. Cordova of this conflict at any point in this litigation.

Rather, Mr. Bezou, Jr., sent Dr. Cordova a correspondence advising that “Jim Gibson is an old friend and frequent opponent. Glad to see he is defending one of the parties here.” [ROA.3636] On April 23, 2019, the attorneys for Lafayette General Defendants enrolled in the state court proceeding and filed a Dilatory Exception of Vagueness and Nonconformity of Dr. Cordova’s Petition. Mr. Gibson requested that his client/lead counsel for Dr. Cordova cure the filed Exception by amending Dr. Cordova’s petition to allege sufficient particulars for UHC and Lafayette General Medical Center (“LGMC”). [ROA.167] The Lafayette General Defendants further asserted: “Plaintiff does not identify the employers of the other individual defendants, although Drs. Curry and Sells are faculty and Ms. Anderson is Director of Graduate Medical Education of LSU School of Medicine.” [ROA.187] The Lafayette General Defendants also alleged: “Plaintiff never alleges an employment or contractual relationship with UHC or LGMC.” [ROA.187]

Prior to filing the Amended Petition, Mr. Bezou sent an unsigned petition to the attorneys for the LSU and Lafayette General Defendants to determine if the Amended Petition cured the exceptions filed by his then attorney, Mr. Gibson. [ROA.340] On July 22, 2019, Jacques Bezou, Sr., filed a First Amended Petition for Damages that was neither verified by Dr. Cordova nor signed by Petitioner. [ROA.245] Although not requested by the Lafayette General Defendants, Mr. Bezou unilaterally named a new defendant: “The Board of Supervisors of Louisiana State Agricultural and Mechanical College, a state agency.” [ROA.231] Despite being unnecessary to cure the Exceptions filed by the Lafayette General Defendants, the Amended Petition also

removed a defendant named in Dr. Cordova's original petition, Louisiana State University Health Science Center ("LSUHSC"). However, the Amended Petition did not formally dismiss or substitute the original defendant, LSUHSC, thereby leaving LSUHSC a named and served party in the state proceedings. [ROA.209]

## **2. The Improper Removal**

On August 7, 2019, the newly named Board of Supervisors for LSU filed a Notice of Removal stating, "plaintiff specifically alleges that the LSU Defendants' actions violated his 'due process rights established in the federal and state constitutions' citing the case of *Driscoll v. Stucker*, 04-0589 (La. 1/19/05), 893 So.2d 32, in support of the assertion." [ROA.41] The Notice alleged: "A constitutional tort claim under 42 U.S.C. § 1983 is facially removable because it is a civil action founded on claims under the Constitution and/or laws of the United States." [ROA.43] However, neither the original nor the amended petition mentions 42 U.S.C. § 1983 and never alleges that any of the Defendants are state actors or were acting under the color of state law. Plaintiff's sixteen page amended petition filed in Louisiana state court contains sixty paragraphs of facts and allegations. The "Fourteenth Amendment to the United States Constitution" is quoted once, and a violation of Dr. Cordova's "due process rights established in the federal and state constitutions" is alleged only once. [ROA.240-241] With all Defendants domiciled in Louisiana, neither subject matter jurisdiction nor Article III standing was sufficient to wrestle this case from state court.



## **B. Procedural History**

### **1. The Attempted Dismissal of an Indispensable Party**

On August 16, 2019, nine (9) days after removal, the LSU Defendants filed a Rule 12(b)(6) motion stating: “LSUHSC has not been dismissed as a party. Out of an abundance of caution a dismissal of LSUHSC from this litigation is requested.” [ROA.391] However, LSUHSC was never properly before the district court and the removal procedure in this matter was defective since not all of the Defendants named in the state court proceedings provided the necessary consent for removal to federal court. On October 24, 2019, the district court dismissed many of the state law breach of contract claims against the LSU Defendants but did not dismiss LSUHSC. [ROA.528] The district court also dismissed Dr. Cordova’s claim for attorneys’ fees with prejudice as to the now remanded malpractice defendants, Christopher Johnston and the Gachassin Law Firm. [ROA.546]

### **2. The Summary Dismissal of Plaintiff’s State Law Claims in Federal Court**

On March 9, 2020, the LSU Defendants filed a second Rule 12(b)(6) Motion seeking dismissal of Dr. Cordova’s federal due process claims and the remaining state law breach of contract claims. On April 6, 2020, the lead counsel for Respondents sent an email to all counsel memorializing his conversation with lead counsel for Dr. Cordova and requested that all parties agree to continue the trial date/ all deadlines due to the COVID-19 pandemic. One day later, the district court dismissed the procedural due process claims and many

of the substantive due process claims against the LSU Board because “vicarious liability cannot support a claim under Section 1983.” [ROA.626] The district court noted that the LSU Defendants “summarily assert qualified immunity” and deferred its ruling on qualified immunity pending development of the record. [ROA.628] Finally, the district court dismissed Dr. Cordova’s state constitutional claims since the analysis of the federal constitution and Louisiana constitution “are coextensive and provide the same protections.” [ROA.630]

On April 28, 2020, the district court signed an Order granting an Unopposed Motion to Continue filed by the LSU Defendants due to Dr. Cordova’s unavailability and inability to meet with his lawyers as a result of the increased demand placed on residents during the COVID-19 pandemic. [ROA.13] Although no initial disclosures were submitted by any party, no discovery was conducted, and the pandemic necessitated executive and judicial orders, the LSU Defendants filed a Motion for Summary Judgment on October 21, 2020. [ROA.668]

On November 4, 2020, Petitioner enrolled in the federal district court case to assist in opposing the LSU Defendants’ Motion for Summary Judgment. [ROA.1508] Thereafter, on November 12, 2020, the Lafayette General Defendants, filed a Motion for Summary Judgment seeking dismissal of Dr. Cordova’s purported federal claims and state law breach of contract claims. [ROA.1559] Dr. Cordova sought Rule 56(h) sanctions against the LSU and Lafayette General Defendants based on the false allegations contained in the Affidavits to support summary judgment. [ROA.1805]

On November 13, 2020, an electronic order was entered by the district court, *sua sponte*, setting both summary judgments for oral argument at the height of the COVID-19 pandemic. [ROA.17] Despite repeated requests and his trial attorney designation, Mr. Bezou refused to appear at oral argument in violation of the local rules governing trial attorney designations. [ROA.3652.3655.3656.3665] On December 15, 2020, oral argument was held and Petitioner was not allowed into the federal courthouse despite meeting all visitor restrictions. [ROA.3672-3674] Petitioner requested that security personnel contact the district court to explain that Petitioner had neither been in contact with anyone diagnosed with COVID-19 nor was she exhibiting any COVID-19 symptoms. The district court indicated that it would not allow Petitioner to attend oral argument in person for safety reasons. Petitioner requested participation via Zoom and this request was denied. [ROA.6435] Petitioner was given twenty minutes to return to her office to participate by telephone and was the only attorney not allowed into the courtroom.

During the hearing, the district court repeatedly questioned Petitioner—but not the other attorneys introducing evidence and requesting relief—regarding her lack of discovery. [ROA.6454] When Petitioner requested additional time to conduct discovery since she was unaware of the Defendants’ documents until they were filed into the record on summary judgment, the request was denied in contravention to Fed. R. Civ. P. Rule 37(c). [ROA.1870] The district court also denied Petitioner’s request to amend Dr. Cordova’s pleadings. [ROA.1870] On December 17, 2020, the district court issued a memorandum ruling finding that Dr. Cordova “has failed to meet his burden on the

qualified immunity defense or establishing a constitutional violation and the substantive due process claim against Curry must be dismissed.” The district court further found no state action or basis for holding the Lafayette General Defendants liable under the breach of contract claim raised. (App.60a)

The district court, *sua sponte*, set a deadline to submit briefs regarding certification under Rule 54(b) for December 28, 2020. (App.61a) Prior to the judgments being certified as final, Dr. Cordova objected to lack of subject matter jurisdiction and filed a Motion and Amended Motion to Remand pursuant to 28 U.S.C. § 1447. [ROA.2219] On December 31, 2020, the LSU Defendants prematurely sought attorney’s fees pursuant to 42 U.S.C. § 1988. The LSU Defendants—the party who removed this action from state court—declared themselves victor of pure state law claims and sought fees and costs on a theory of recovery Dr. Cordova never pled. The LSU Defendants alleged they were “forced to defend against” “frivolous and groundless federal due process claims.” [ROA.1984] The billing records associated with the LSU Defendants’ Motion for Attorney’s Fees prove that at the time of removal the LSU Defendants were aware Plaintiff’s state court petition was “without allegation[s] of civil rights violation under 42 U.S.C. § 1983 in anticipation of removal and filing of 12(b)(6) motion.” [ROA.1989]

In support of remand, Dr. Cordova argued that the LSU Defendants’ claims of frivolity supported remand for lack of subject matter jurisdiction rather than dismissal since under the substantiality doctrine “a court may find it lacks subject matter jurisdiction over a federal constitutional claim or statutory right if that claim is sufficiently weak.” [ROA.2227] Thus,

Dr. Cordova’s state law case should have been remanded for lack of subject matter jurisdiction rather than dismissed with prejudice since the LSU Defendants admitted that the federal claims were “wholly insubstantial and frivolous.” [ROA.2227]

On January 21, 2021, the district court issued an order that it must determine Dr. Cordova’s lack of jurisdiction objections before rendering a decision on the merits. [ROA.2284] On March 1, 2021, the magistrate judge issued a report and recommendations granting the orders of remand for discretionary considerations but not for lack of subject matter jurisdiction. [ROA.2837] The magistrate appeared to be under the mistaken belief that Dr. Cordova raised only federal claims against the Lafayette General and LSU Defendants. The report and recommendations were silent regarding Article III standing and the remand of Dr. Cordova’s state law claims as to the LSU and Lafayette General Defendants. On March 11, 2021, Dr. Cordova sought *de novo* review from the district court of the magistrate’s determination on jurisdiction and the remand of the state law claims against the LSU and Lafayette General Defendants. [ROA.2849]

On March 15, 2021, Respondents alleged Dr. Cordova’s objections lacked merit, misunderstood the law, and confused jurisdiction with merit. In support, the Lafayette General Defendants cited *Steel Co. v. Citizens for a Better Environment*, arguing that this Court “instructed that “[t]he absence of a valid (as opposed to arguable) cause of action does not implicate subject-matter jurisdiction.”<sup>1</sup> [ROA.2860] The Lafayette General Defendants cited *Beiser v. Weyler* in support

---

<sup>1</sup> 523 U.S. 83 (1998).

of its legal position; however, *Beiser* warns of the awkward and inequitable preclusive posture that the district court's Order granting remand created.<sup>2</sup> That same day, the LSU Defendants filed a response fully adopting the Lafayette General Defendants' arguments *in extensio*. [ROA.2863]

On March 24, 2021, the district court entered a "Judgment" adopting the magistrate judge's Report and Recommendations, granted Dr. Cordova's Motion to Remand and Amended Motion to Remand based on lack of subject matter jurisdiction, and granted the LSU Defendants' Motion for Entry of Judgment pursuant to Rule 54(b). [ROA.2865] The district court placed all of its rulings, both jurisdictional and purported merits determinations, in the order granting Dr. Cordova's remand. On April 14, 2021, the district court denied the LSU Defendants' request for attorney's fees asserting: "Plaintiff spends most of his opposition focused on his subject matter jurisdiction argument, which the court has already rejected and finds frivolous in itself. But this does not mean that the constitutional claims were frivolous." (App.33a) On April 27, 2021, Dr. Cordova filed a Notice of Appeal of the order granting remand and the order granting costs to the LSU Defendants. [ROA.2882]

### **3. Appeal to the Fifth Circuit in Docket Number: 21-30239**

While Dr. Cordova's first appeal was pending before the Fifth Circuit, Dr. Cordova became aware of the concurrent conflict of interest between the Bezous and lead counsel for Respondents. On October 14,

---

<sup>2</sup> 284 F.3d 665 (5th Cir. 2002).

2021—after briefing was complete but before a decision was issued by the Fifth Circuit—Dr. Cordova filed a Rule 60(b) motion to alert the Fifth Circuit to the undisclosed concurrent conflict of interest that compromised his representation. On October 22, 2021, lead counsel for Respondents admitted he represented Dr. Cordova’s attorneys for nine months during the time they represented Dr. Cordova in this litigation. [ROA.3529]

On November 8, 2021, a panel of the Fifth Circuit issued an unpublished *per curiam* opinion that dismissed Dr. Cordova’s appeal of the March 24, 2021 “final” “merits order” as untimely and affirmed the April 14, 2021 award of costs because Dr. Cordova’s brief exclusively argued subject matter jurisdiction but did not brief an objection to the imposition of costs. The Fifth Circuit also denied the Rule 60(b) motion because it was not first presented to the district court. On December 16, 2021, rehearing was denied and on December 24, 2021, a stay was issued by the Fifth Circuit until March 28, 2022, pending a writ of certiorari to this Court. On January 13, 2022, Dr. Cordova filed a timely Post Decision Motion to Amend Judgment due to an intervening change in controlling law issued by the Louisiana Supreme Court on January 7, 2022. [ROA.3339] On January 14, 2022, the Fifth Circuit directed a response from the Defendants. On January 24, 2022, the Lafayette General Defendants filed an Opposition alleging the Rule 59(e) motion was improperly before the Fifth Circuit as a second Rule 60(b) motion stating: “Appellant failed to heed the clear instructions of this Court” to present any further Rule 60(b) motions to the trial court. [ROA.5568] The Lafayette General Defendants further alleged they were

not the same Defendants in the Louisiana Supreme Court decision requiring Petitioner to correct this material misrepresentation by introducing certified public records of the state court proceedings. [ROA.5750]

On March 15, 2022, Dr. Cordova filed a Writ of Mandamus with this Court directed to the Fifth Circuit regarding the pending Rule 59(e) motion. [ROA.4023] On April 13, 2022, while Dr. Cordova's Writ of Mandamus was pending, the Fifth Circuit withdrew and substituted its November 8, 2021 opinion with a new opinion identical in substance and denied the Rule 59(e) motion without reasons. (App.28a) On May 16, 2022, this Court denied Dr. Cordova's Writ of Mandamus. On May 19, 2022, the Fifth Circuit issued the mandate to the district court. [ROA.2888]

Following this Court's denial of Dr. Cordova's writ, Petitioner discovered a complicated scheme exposing prohibited and complex structures by which University Hospitals and Clinics, Inc., ("UHC")—a shell corporation formed on April 18, 2013, wholly owned and funded by Lafayette General Health Systems, Inc. ("LGHS") and Lafayette General Medical Center, Inc. ("LGMC")—colluded with various Louisiana entities to receive Medicare/Medicaid benefits, residency caps, and other federal benefits to which they were not entitled. This scheme involved the improper assignment of the state's Medicaid/Medicare numbers and provider agreements to a private hospital (UHC) and was reported to federal law enforcement on May 22, 2022. [ROA.4129-4678]



#### **4. Proceedings in District Court Related to Motion for Relief of Judgment**

While Dr. Cordova's case was pending on appeal for the first time, Dr. Karen Curry disseminated false information regarding Dr. Cordova's performance when he sought Mississippi and Louisiana medical licensure in June of 2021 and January of 2022. Dr. Curry inappropriately released Dr. Cordova's individual Milestone information in violation of the ACGME declarations that prohibits the release of that information for high stakes decisions even if it is true. [ROA.3561] However, the information released by Dr. Curry was false; therefore, the release of Dr. Cordova's confidential information was in bad faith and violated the Lafayette General Defendants' policies and procedures and Louisiana Revised Statute 23:291.

On June 8, 2022, Dr. Cordova requested declaratory and injunctive relief in state court against the Lafayette General Defendants and Dr. Karen Curry, which was met with a host of exceptions including an exception of federal res judicata. Petitioner requested a stay from the state court and returned to the district court to seek clarification and/or relief from the district court's remand order incorrectly referred to by the Fifth Circuit as a final merits order. [ROA.2895-2930]

The district court did not conduct additional discovery or schedule a hearing on Dr. Cordova's Rule 60(b) motion. In denying relief, the district court determined the motion was untimely and further noted that Respondents "could not be held liable for a due process violation because they are not state actors and did not conspire with the LSU defendants to violate plaintiff's rights." (App.39a) The district court awarded the LSU Defendants attorneys' fees pursuant to 42

U.S.C. § 1988 due to “plaintiff’s unreasonable attempts at continuing this litigation” through both “unfounded allegations of compromised representation and arguments about ancillary issues such as the status of the Lafayette General defendants as private employers.” (App.55a) The district court stated: “Finally, to the extent the plaintiff otherwise seeks clarification of the court’s prior rulings, those should stand for themselves.” (App.53a)

### **5. Appeal to Fifth Circuit Related to the Motion for Relief of Judgment**

Dr. Cordova appealed the district court’s ruling denying the Rule 60(b) motion to the Fifth Circuit in Case No. 22-30548. First, Dr. Cordova argued the motion was timely and raised issues of subject matter jurisdiction and due process which may be brought at any time pursuant to the cases of *Carter v. Fenner*, 136 F.3d 1000, 1005 (5th Cir. 1998) and *Williams v. New Orleans Public Serv., Inc.*, 728 F.2d 730, 735 (5th Cir. 1984). Second, Dr. Cordova argued that the concurrent conflict of interest compromised his representation and the district court overlooked voluminous evidence contained in the record. Third, Dr. Cordova argued that intervening and controlling case law from the Louisiana Supreme Court was preclusive to the lack of federal subject matter jurisdiction and required remand of the case to state court. Finally, Dr. Cordova argued that the motion was meritorious pursuant to Rule 60(b)(6) due to a change in controlling law and intervening development of facts.

In Case No. 22-30732, Dr. Cordova sought review of the collateral order awarding attorney’s fees to the LSU Defendants pursuant to 42 U.S.C. § 1988. Dr.

Cordova argued that attorney's fees were improperly awarded because: 1.) no separate motion was filed by the LSU Defendants; 2.) the district court previously refused to declare the LSU Defendants victors in this purported civil rights' action; and 3.) attorney's fees may not be awarded pursuant to Section 1988 since no subject matter jurisdiction existed. Petitioner alerted the Fifth Circuit to the employment forms and other evidence in the record supporting the argument that UHC, a private actor, was Dr. Cordova's true employer.

### **C. The Instant Appeal of Rule 11 Sanctions**

#### **1. The Rule 11 Sanctions Hearing Is Set by the District Court While the Denial of the Motion for Relief of Judgment Is Pending on Appeal**

On January 13, 2023, while the appeal of the district court's denial of Rule 60(b) relief was pending, the district court, *sua sponte*, entered an electronic order resetting the hearing on Respondents' Motion for Sanctions from March 1, 2023 to February 23, 2023, a date, which all parties were aware, that Dr. Cordova was unable to appear due to preexisting travel plans. On January 30, 2023, Petitioner filed a Motion for Judicial Notice to notify the Fifth Circuit of the sanctions hearing and the potential for Respondents to alter the status of the issues pending on appeal. Petitioner requested a stay of the district court's sanctions hearing to the extent it requested the district court to resolve disputed issues that were pending on appeal.<sup>3</sup>

---

<sup>3</sup> Case No. 22-30548, Document 64.

On February 3, 2023, Respondents filed an opposition to Petitioner’s request for stay stating:

Appellant mischaracterizes the district court’s sanctions analysis as determining “disputed genuine issues of material facts” “pending before this Court.” Actually, under the snapshot rule, the facts and the law are set as of the time Appellant filed the Rule 60(b) motion.<sup>4</sup>

After receiving Respondents’ opposition, the Fifth Circuit denied Petitioner’s stay and allowed the district court to proceed on the issue of sanctions. However, Respondents did not abide by their representations; rather, they facilitated and encouraged the district court to make determinations that were pending on appeal. Respondents immediately introduced new evidence intentionally disregarding their representations to the Fifth Circuit.

At the sanctions hearing on February 23, 2023, Petitioner informed the district court of the signed contract contained in the record establishing that UHC was the statutory employer for Dr. Cordova under Louisiana law. In response, the district court commended Petitioner on her “novel” argument and gave her “kudos.” However, the district court advised that the statutory employer argument “would not revive this case” and Petitioner would “not prevail on that issue” in the pending appeal. Petitioner then explained to the district court that the statutory employer issue was imperative since UHC is a private actor and as Dr. Cordova’s statutory employer “[i]t also stops us from being in federal court” and “we

---

<sup>4</sup> Case No. 22-30548, Document 66.

would never have been allowed to be removed into federal court.” [ROA.6560-6561] In the order that imposed sanctions, the district court declined to sanction Petitioner on the many factual issues raised by Respondents’ Motion for Sanctions and instead sanctioned the one legal issue that proved the district court lacked subject matter jurisdiction.

The district court found that Petitioner’s “meritless arguments and lack of investigation regarding the Lafayette General defendants’ potential liability as employers are so unfounded as to amount to violations of Rule 11(b)(1)–(3).” The district court relied on the new evidence introduced by Respondents asserting “the W-2’s produced at the hearing should be enough to put the issue to rest.” (App.72a) The new evidence produced by Respondents were W-2’s listing Dr. Cordova’s employer as Louisiana State University Health Science Center-New Orleans, the same entity the LSU Defendants previously requested the district court dismiss from this action. (App.71a) LSUHSC is also a private non-profit entity domiciled in Louisiana not subject to suit in federal court pursuant to Section 1983. Nevertheless, the district court awarded Respondents attorneys’ fees and costs to “deter any more frivolous arguments and filings. The same award was made to the LSU defendants pursuant their request under 42 U.S.C. § 1988.” (App.74a)

## **2. A Motion for Sanctions Is Filed with the Fifth Circuit Providing Additional Documentation That the District Court Lacked Subject Matter Jurisdiction**

On March 20, 2023, Petitioner filed a Motion for Sanctions/Damages with the Fifth Circuit, *inter alia*,

for fraud on the court.<sup>5</sup> Petitioner alerted the court to the fraudulent removal in this case and other cases due to the LSU Defendants' misrepresentations that employers involved in the public private partnership were state actors, which was inconsistent with the evidence introduced by Respondents at the Rule 11 sanctions' hearing. Additionally, counsel for LSU Defendants' knowledge of the fraudulent removal in this case is supported by the case of *Allemang v. State of Louisiana, et al.*, wherein counsel argued that a reference to the "14th Amendment and 42 U.S.C. Section 1983" was insufficient to remove a case to federal court when the petition "identifies no particular substantive or procedural due process claims that were allegedly violated."<sup>6</sup> Petitioner argued the district court lacked jurisdiction for the same reasons advanced by counsel for the LSU Defendants in the *Allemang* matter, which was decided by the same district court judge fourteen days prior to the improper removal in this case. Finally, Petitioner notified the Fifth Circuit that counsel for the LSU Defendants had a pattern of improvidently removing cases as the case of *Derbes v. Louisiana Through Landry*, was then pending before the Fifth Circuit.<sup>7</sup> In *Derbes*, counsel for the LSU Defendants made identical allegations to support removal as in this case but later admitted there was no 1983 action despite her Rule 11 assertions.

---

<sup>5</sup> Case No. 22-30548, Document 81.

<sup>6</sup> 2019 WL 3368783 (7/24/19)

<sup>7</sup> 2023 WL 4265757 (5th Cir. 6/29/23).

After Petitioner filed Dr. Cordova's motion with the Fifth Circuit, the Respondents moved to strike the public records attached to the motion. Counsel for the LSU Defendants asserted her request that the district court dismiss the nonremoved entity known as LSUHSC was appropriate because that entity was not a proper party and/or lacked the capacity to be sued. On April 6, 2023, Petitioner supplemented the motion and attached three recent public records/legislative audits identifying the entity, LSUHSC, as a non-profit private company under Louisiana law.<sup>8</sup> The audits contained in the Fifth Circuit record prove that all Defendants in this case are private actors, no subject matter jurisdiction existed, and the case was improperly removed with the assistance of Dr. Cordova's lead counsel who was burdened by an undisclosed concurrent conflict of interest.

### **3. The Fifth Circuit Opinion issued on April 17, 2023**

Eleven days after Petitioner filed the legislative audits into the record and four days after the district court issued its final order on Rule 11 sanctions, the Fifth Circuit issued a *per curiam* unpublished opinion that consolidated the appeals on its own motion. The panel denied the Motion for Sanctions without reasons, issued an opinion affirming the district court's denial of post judgment relief, and awarded Respondents' Rule 38 sanctions for a frivolous appeal. Two of the three members of the panel were the same members that heard Dr. Cordova's previous appeal and issued the mandate to the district court on May 19, 2022. The

---

<sup>8</sup> Case No. 22-30548, Document 98.

panel concluded the Rule 60(b) motion, filed on July 8, 2022, was untimely because 471 days had elapsed before Rule 60(b) relief was sought with the district court. (App.23a)

Without any jurisdictional analysis of Article III standing, the Fifth Circuit concluded that Dr. Cordova “quoted the Fourteenth Amendment and alleged due process violations making the state case plainly removable.” (App.23a) The Fifth Circuit did not determine that the district court established subject matter jurisdiction; rather, the circuit court merely determined that the removal procedure was valid due to the language contained in the unverified Amended Petition signed by Dr. Cordova’s lead counsel—who was burdened with an undisclosed concurrent conflict of interest. The distinction between proper removal and subject matter jurisdiction was not discussed in the Fifth Circuit’s opinion as in the case of *Lutostanski v. Brown*, which was authored by a member of the panel that affirmed the district court’s denial of Rule 60(b) relief in this case. In *Lutostanski*, the Fifth Circuit held “compliance with § 1331 is necessary but not sufficient for federal subject matter jurisdiction. The plaintiffs must also show that they have Article III standing.”<sup>9</sup> Petitioner concedes that Dr. Cordova lacks Article III standing since all Defendants are private actors. Without subject matter jurisdiction, the district court neither possessed the requisite constitutional authority to rule upon the merits of Dr. Cordova’s case nor possessed the power to remand only discrete claims.

---

<sup>9</sup> *Lutostanski v. Brown*, 88 F.4th 582, 588 (5th Cir. 2023) citing *Steel Co.*, 523 U.S. at 103–04, 118 S.Ct. 1003.



As the Fifth Circuit reiterated: “Federal jurisdiction is not a game of whack-a-mole.”<sup>10</sup>

Despite clear precedent, the Fifth Circuit imposed Rule 38 sanctions stating: “Cordova has repeatedly refused to heed the district court’s warnings about ‘unreasonable attempts at continuing this litigation’ with an untimely and meritless 60(b) motion.” (App.26a) The Fifth Circuit remanded the case to the district court to determine the appropriate sanction to be assessed “that both deters vexatiousness and also does not duplicate the other sanctions imposed or to be imposed in this case.” (App.27a)

#### **4. Petitioner’s Appeal to the Fifth Circuit of the Rule 11 Sanctions**

The anomalies and inconsistencies in this case continued through the instant appeal of the district court’s Rule 11 sanctions. On February 27, 2023, the district court issued a Memorandum Order finding liability for Rule 11 sanctions upon Petitioner. (App.57a) Petitioner filed a timely Notice of Appeal and paid the requisite appellate costs of \$505.00. On April 13, 2023, the district court imposed the monetary award of sanctions and Petitioner filed an Amended Notice of Appeal. (App.75a) However, Petitioner was given two docket numbers for the appeal of the district court’s sanctions. Petitioner contacted the Fifth Circuit clerk and discovered that the staff attorney determined the district court’s order imposing liability for sanctions and the award of monetary sanctions listed in Petitioner’s Amended Notice were actually two separate appeals. On May 22, 2023, Petitioner received correspondence

---

<sup>10</sup> *Id.*

from the Fifth Circuit clerk requesting an additional payment of \$505.00 on or before June 6, 2023, to avoid dismissal of her appeal in Case No. 23-30335.

After receiving the request for an additional payment, Petitioner was notified by e-mail that her “second appeal” in Case No. 23-30335 was referred to the Fifth Circuit’s mediation program.<sup>11</sup> Petitioner sought clarification from Respondents and the assigned mediator since the referral of sanctions to the mediation program was inconsistent with the rules governing professional responsibility for lawyers. The referral was also inconsistent with the Fifth Circuit’s jurisprudence holding that settlement of the monetary award of sanctions could render the merits of the sanctions appeal moot. Thus, Petitioner respectfully declined to participate in mediation and was released from mediation on May 31, 2023.

After avoiding an apparent attempt to render the merits of Petitioner’s appeal moot, Petitioner was then unable to pay the additional fee assessed by the Fifth Circuit. The Fifth Circuit’s clerk advised Petitioner that the additional fee should be paid to the district court’s clerk of court. Petitioner contacted the clerk for the district court and was advised that nothing was owed and Petitioner’s credit card payment could not be accepted over the phone since no outstanding payment was owed. Petitioner explained that the Fifth Circuit would dismiss the appeal if the clerk of court did not accept payment. The deputy clerk for the district court advised Petitioner that the fees would need to be paid in person.

---

<sup>11</sup> Case No. 23-30335, Document 51-12.

On June 6, 2023, Petitioner's staff member arrived at the district courthouse with Petitioner's firm payment and the clerk again refused to accept payment because Petitioner owed no fees for the Amended Notice of Appeal. Petitioner's staff member explained that the Fifth Circuit staff attorney had designated the Amended Notice of Appeal as a new Notice of Appeal and required payment of additional costs. Thereafter, the clerk employee contacted Bobby Walker, the appellate clerk assigned to the Cordova appeals. While the clerk employee discussed the issues with Mr. Walker, Petitioner's staff member overheard another clerk, Wendy, engage in a telephone conversation wherein she advised the caller that she had closed her drawer early that day and asked if she reopened the drawer would it still enter the payment as June 6, 2023, or the following day. Due to the confusion and now potential inaccuracy of the date stamp entry for Petitioner's payment, Petitioner's staff member requested a paper receipt to evidence the date, the docket number of the Amended Notice of Appeal, and the amount paid (\$505.00). When none of the clerks responded to this request, Petitioner's staff member explained that a paper receipt would alleviate the necessity of future Affidavits from the clerks to evidence the payment was made timely.<sup>12</sup>

Undeterred, Respondents then made several attempts to persuade Petitioner to file her brief on the merits in the interlocutory appeal that was not properly perfected, *Mire v. University Hospitals and Clinics, Inc.*, Case No. 23-30186.<sup>13</sup> Therefore, Petitioner

---

<sup>12</sup> Case No.: 23-30335, Document 51-18.

<sup>13</sup> Case No.: 23-30335, Document 51-12.

ignored Respondents' requests and filed her merits brief in the proper case number (Case No. 23-30335) to ensure that Respondents did not succeed at mooting the merits of her appeal. However, on July 18, 2023, just days after Petitioner sought intervention from this Court for the second time, the case entitled *Mire v. University Hospitals and Clinics, Inc.*, Docket No.: 23-30186, was prematurely dismissed and the mandate was issued to the district court by the Fifth Circuit clerk "at the direction of the court."<sup>14</sup>

Also on July 18, 2023, a few hours after the interlocutory appeal was prematurely dismissed, Respondents filed a Motion for Entry of Judgment with the district court requesting a separate judgment of the district court's June 29, 2023 Memorandum Ruling awarding Rule 38 sanctions in the amount of \$50,664.74 against Dr. Cordova. Out of fear of more retaliation, Dr. Cordova, who was never personally served with the request for sanctions, did not object to this entry and a second judgment was entered on August 14, 2023, ordering Dr. Cordova to pay the amount of \$50,664.74 within thirty days.

### **5. Respondents File a Motion for Contempt Before the Federal District Court Seeking Plaintiff's Arrest**

On December 7, 2023, one day after Petitioner sought a supervisory writ with the Louisiana Third Circuit regarding her improper arrest in state court, Respondents filed a Motion for Contempt before the

---

<sup>14</sup> Case No.: 23-30335, Document 51-14. The dismissal was entered prematurely in violation of Fifth Circuit Rule 42.3.1.2 because no notice was issued and 15 days had not elapsed.

district court seeking Dr. Cordova's arrest for the nonpayment of the Rule 38 sanctions imposed by the district court without service.<sup>15</sup> In the Motion for Contempt, Respondents made arguments inconsistent with those previously made before the state court. Respondents no longer maintained that an award of sanctions was a money judgment as they alleged to secure Petitioner's improper arrest in state court. Respondents now argued that an award of sanctions was a finding of misconduct that could be enforced by the district court through contempt proceedings.

Dr. Cordova contacted new counsel with more experience in federal contempt proceedings. On December 19, 2023, Petitioner contacted Respondents and filed an Unopposed Motion to Withdraw and Unopposed Extension of Time to respond to the Motion for Contempt. At the time of Petitioner's unopposed motions, no hearings were pending before the district court. On December 20, 2023, the district court denied Petitioner's unopposed motions without reasons, necessitating an expedited request to the Fifth Circuit to stay the district court proceedings to preserve the rights of the affected client. On December 22, 2023, the Fifth Circuit, which was still deciding the Rule 11 appeal, denied Petitioner's request for a stay of the proceedings.

---

<sup>15</sup> See 23A948, Petitioner's Emergency Application for Stay (App.387)

## **6. Respondents' Motion for Contempt Proceeds Before the Federal District Court**

On December 22, 2023, Petitioner filed an opposition to Respondents' Motion for Contempt as ordered by the district court. Petitioner requested dismissal of Respondents' motion due to failure to state a claim and lack of subject matter jurisdiction. On December 28, 2023, the district court issued an electronic order setting a hearing on Respondents' Motion for Contempt, ordered Dr. Cordova to appear at the hearing, and further ordered that Dr. Cordova produce his 2022 federal and state tax returns, along with any W-2s and 1099s received for that year, and his pay stubs for the last three months under seal with the court.

On January 11, 2024, Petitioner objected to the district court's electronic order because the preliminary procedural issues—lack of subject matter jurisdiction and failure to state a claim—had not been heard. Dr. Cordova also objected to insufficiency of service and lack of personal jurisdiction. On January 12, 2024, the district court entered a memorandum ruling denying Petitioner's objection to the district court's jurisdiction stating, "the court will not waste any more time with it. Cordova risks further sanctions under Rule 11(b)(2) by pressing his frivolous legal arguments."

The district court agreed that a summons may not be served electronically and "that no such summons has been issued for Cordova's appearance." Nevertheless, the district court ordered Dr. Cordova to appear under the penalty of a bench warrant. When Petitioner and Dr. Cordova appeared at the January 23, 2024 hearing, the district court advised Petitioner she had "filed one

too many times with the Fifth Circuit,” told Petitioner to sit down because he was tired of hearing from her, threatened Plaintiff with jail time, indicated that Petitioner would not be allowed to withdraw because she started this and Petitioner was responsible for the punitive actions taken against her client.

Out of fear of jail or additional retaliation, Dr. Cordova terminated Petitioner’s services and borrowed money to pay the sanctions order. On February 6, 2024, Petitioner filed a second Motion to Withdraw, which was granted by the magistrate judge on April 25, 2024. On February 7, 2024, Dr. Cordova attempted to pay the sanctions in full and made the check payable to the Lafayette General Defendants and their counsel; however, this check was refused. At the instruction of counsel for Respondents, Dr. Cordova made his second check payable to Ochsner Clinic Foundation, a nonparty to these proceedings, signaling another indispensable party.

On February 22, 2024, the district court entered an electronic order after receipt of the Fifth Circuit’s mandate affirming the district court’s Rule 11 sanctions, granting Respondents’ Rule 38 sanctions, and remanding the case to the district court for determination of the appropriate sanctions, attorney’s fees, and costs. The district court’s electronic order indicated that deadlines for the Fifth Circuit’s Rule 38 sanctions would be set at a later date. On April 26, 2024, two days after Petitioner’s Application for Stay was docketed by this Court in Case No. 23A498, the district court set deadlines for Respondents to brief the appropriate Rule 38 sanctions to be imposed upon Petitioner.



## REASONS FOR GRANTING THE PETITION

The Fifth Circuit and the district court have decided an important federal question in a way that conflicts with a decision by the Louisiana Supreme Court and has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power.

### **I. The Lower Courts Exceeded the Permissible Limitations on the Full Faith and Credit Clause**

The federal purpose of the Full Faith and Credit Clause makes this Court, for both state and federal courts, the "final arbiter when the question is raised as to what is a permissible limitation on the full faith and credit clause." *Johnson v. Muelberger*, 340 U.S. 581, 585 (1951). Petitioner requested the lower courts afford full faith and credit to the Louisiana Supreme Court decisions in *Hayes, et al., v. University Health Shreveport*, 21-1601, 332 So.3d 1163 (La. 1/7/22) and *Nelson, et al., v. Ochsner Lafayette General*, 21-1453, 332 So.3d 1172 (La. 1/7/22), which are legally preclusive as to the issue of Plaintiff's true employer as a resident at University Hospitals and Clinics (UHC) and the application of state law to Plaintiff's claims.

The consolidated cases involved a mandatory employer vaccine policy implemented by the Lafayette General Defendants. The notice was directed to all "physicians, APPs [advanced practice providers,] and all employees, vendors, contracted staff, medical and allied health students, residents, fellows, and agency



staff.” *Hayes* at 1166. In ruling for Lafayette General/UHC, the Louisiana Supreme Court noted “[t]here is no allegation or even the barest insinuation that Employer is a state actor; indeed, the parties in this case stipulated that Employer is a private actor.” *Id.* at 1170. Further, the Louisiana Supreme Court stated that Lafayette General/UHC as a private actor could not present issues of federal law and solely state law applied. Specifically, the Louisiana Supreme Court held: “While courts have found La. Const. art. I, § 5 applicable to government conduct, Louisiana courts have not applied it to private action. Therefore, the validity of these cases is upheld, and this court declines the invitation to extend the scope of La. Const. art. I, § 5 to restrict private actors.” *Id.* at 1171. In keeping with the inherent goals of federalism, the Louisiana Supreme Court decisions should have been afforded full faith and credit as it relates to federal subject matter jurisdiction, involved the medical residents, and was a final decision obtained by the Respondents represented by the same attorneys.

The district court’s lack of subject matter jurisdiction is not a contested issue as Respondents have consistently maintained they are private actors. The Fifth Circuit and district court duly acknowledge that no state action was alleged by Plaintiff against Respondents. (App.3a) This Court recently stated, “state action must be real, not a mirage.”<sup>16</sup> The documentation contained in the record regarding the formation of the public/private partnerships created to bail out the economically unstable charity hospital system in Louisiana illuminates the true nature of the

---

<sup>16</sup> *Lindke v. Freed*, 601 U.S. \_\_\_\_ (2024).

relationship between the LSU and Lafayette General Defendants. The record evidence also reveals a sophisticated scheme exposing prohibited and complex structures by which UHC (a shell corporation formed on April 18, 2013, wholly-owned and funded by Respondents) collaborated with various Louisiana state and private entities to receive Medicare/Medicaid benefits, residency caps, and other federal benefits to which a private hospital is not entitled.

## **II. Sanctioning Colorable Arguments Chills the First Amendment Rights of Lawyers**

The lower courts repeatedly imposed punitive sanctions upon Petitioner for raising arguments related to the constitutional limitations of the federal courts in violation of Petitioner's First Amendment rights. Imposing sanctions upon lawyers who report criminal conduct or question the subject matter jurisdiction of the courts sets the precedent that raising such issues is forbidden, sanctionable, and vexatious. Thus, this case examines the impact that chilling the rights of lawyers may have on our judicial system and provides an appropriate vehicle for this Court to analyze the constitutional protections afforded to lawyers who are duty bound to report concerns within the judicial system not readily apparent to the general public.

While the First Amendment does not safeguard all forms of speech in the context of court proceedings, lawyers may not be punished because their arguments are subjectively considered to be frivolous. The penalty of sanctions should not be used to limit or curb a lawyer's actions where there is a legal argument available to the affected client. It is the lawyer's core function to present a client's colorable arguments/claims in court proceedings. This Court has explained: "By

seeking to prohibit the analysis of certain legal issues and to truncate presentation to the courts, the enactment under review prohibits speech and expression upon which the courts must depend for the proper exercise of the judicial power.”<sup>17</sup>

### **III. Imposing Excessive Punitive Sanctions Violates the Eighth Amendment**

In this case, the sanctions imposed are purely punitive since sanctions were imposed upon Petitioner for raising arguments that are supported by ample and unrefuted evidence contained in the record. This Court reviews what constitutes an excessive fine on a case by case basis, which is fact intensive and based on the totality of the circumstances. In reviewing the imposition of excessive fines, this Court views one consideration as virtually dispositive—if the person sanctioned is entirely blameless, the fine is excessive per se—that is none of the other circumstances matter if the person sanctioned did nothing wrong.<sup>18</sup> This Court has the power and obligation to strike down excessive economic sanctions. The right to be free from excessive governmental fines remains a bulwark against government abuse. Thus, the constitutional prohibition against excessive fines is subjective and not open to discretion.

---

<sup>17</sup> *Legal Services Corporation v. Velazquez*, 531 U.S. 533 (2001).

<sup>18</sup> *Timbs v. Indiana*, 139 S.Ct. 682 (2019).



## CONCLUSION

It is essential that attorneys are protected in raising nonfrivolous arguments and appeals; because if they are not, then the judicial power itself can be undermined. Without attorneys bringing such cases, the judiciary would be powerless to protect those harmed by unconstitutional and abusive actions of those in power. Petitioner respectfully requests that this Court use this case to clarify an attorney's duties and his/her constitutional protections to provide incentive for other attorneys to honor their fundamental duty to their clients and the goals of our judicial system. This is not merely an aspirational goal; it is essential to ensuring judicial independence.

Respectfully submitted,

Christine M. Mire

*Petitioner and Member of Supreme Court Bar*

LAW OFFICE OF CHRISTINE M. MIRE

401 Claystone Road

Youngsville, LA 70592

(337) 296-0831

cmm@mirelawfirm.com

April 30, 2024