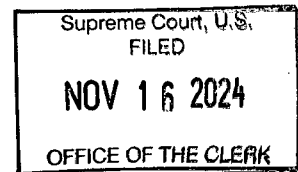


ORIGINAL

No 24-1138



In the  
Supreme Court of the United States  
of America

RAFAEL BELTRE

*Petitioner*

VS.

FIT GUYS WALK LLC.

*Respondent*

ON THE PETITION FOR WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

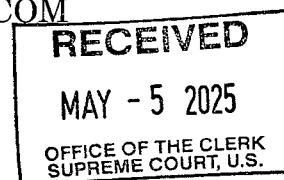
RAFAEL BELTRE

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TAMPA FL, 33674

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RALFBELTRE2020@GMAIL.COM



## QUESTION(S) PRESENTED

The opposing counsel upon recognition of principle case intel, decide to base their opening approach presumptuously to a case that has already been initiated as an Assault, Libel, Slander with a motion to dismiss on misnomer Cause of Action by papers instituted by the Clerk of Courts 42 U.S.C 1983 appropriated accordingly, with other documents used to commence and initiate a case primarily. After establishing case as an Assault, Libel, Slander, and giving reason to logic and confusion, after specific instruction by Magistrate Judge Thomas G. Wilson, upon meticulous consultation with opposing counsel on case managing and specific case management order therefore by Magistrate Judge, the case managing was set, ordered, then stricken by request of the Clerk of Courts and granted by Magistrate Judge Thomas G. Wilson based on factors that were vague, inconclusive, and in general, contradict ones own order in one being Magistrate Judge himself on case managing orders according to the rules and regulations of the Middle District Court of Florida and the Federal Rules of Civil Procedure. Immediately afterwards, the case was then dismissed upon merit and prejudice for failure to state a cause of action without leave to amend. The case was transitioned to the U.S Court of Appeals of the Eleventh Circuit and was set forth, in, fronted of panel judges Jill Pryor, Branch, and Black, Circuit Judges. Opinions of the Court therefore otherwise were in affirmation of the Middle District Court of Florida.

The Questions presented are:

1. Opposing counsels' motion to dismiss on misnomer Cause of action.
2. The district courts discretion in determining factors on appointing counsel.
3. Case management deficiencies.
4. Dismissal based on merit and prejudice in favor of defendant for failure to state a cause of action and the,
5. Affirmation there otherwise by the U.S Court of Appeals of the Eleventh Circuit based on the impressions of the Middle District Court of Florida's on impartiality....
6. Jurisdiction.?

## PRELUDE

*The U.S Constitution, what it represents, and why it is represented. It is to ask whether to be or not to be. For one to know one's right as a citizen of birthright are the principles of institution. Not to be confused for justification to purposes outside what the fundamentals of the U.S Constitution are, and what they stand for*

*The First Amendment paves a pathway to the introduction leading to freedom of expression and in pursuance thereof. It also engraves the natural born rights for every person entitled, justifiably, to seek in quest, as their in the horizons are life, liberty [ownership] and happiness how one sees fit.*

*In knowing this, and being as it may, in one's pursuance, never forgetting foundations etched in the scriptures of time before reaching the age of civility, one's quest for the right to just trials through tribulations, in their own rights, within the courts are surely at hand.*

*The Seventh Amendment goes on to institute these rights and array a gathering of regulations and procedures in law, to provide these rights in pursuance of a more civil and just society.*

*As knowingly, and in continuance to the etchings of  
the scriptures of time and civility, one seeks the  
same equal protection and due process that the  
Fourteenth Amendment of the Constitution entitles  
and promises all civilians whether it be through the  
trials, jury, and /or judgement, at the hands of justice*

*As it continues.....*

*..... I, HEREBY, DUE SOLEMNLY SWEAR, BY THE  
AFFIRM ACTIONS OF THE UNITED STATES COURT  
OF APPEALS OF THE ELEVENTH CIRCUIT, BROUGHT  
THEREFORTH BY THE UNITED STATES MIDDLE  
DISTIRCT COURT OF FLORIDA, TO REFUTE THE  
BASIS SET FORTH BY THE MIDDLE DISTRICT  
COURTS OF FLORIDA, AND TO CONTEST THE  
RULING BY THE U.S COURT OF APPEALS OF THE  
ELEVENTH CIRCUIT TO THE BEST OF MY  
KNOWLEDGE ACCORDING TO THE CONSTITUTION  
OF THE UNITED STATES OF AMERICA.....*

**PARTIES TO THE PROCEEDINGS**



*RAFAEL BELTRE*



*Vs.*



*FIT GUYS WALK LLC.*



*THE IMMEDIATE PARTIES TO THE  
PROCEEDINGS ARE AS FOLLOWS:*

*THE PLAINTIFF RAFAEL BELTRE, FIT GUYS WALK  
LLC.D/B/A PLANET FITNESS, THE OPPOSING  
COUNSEL FOR FIT GUYS WALK LLC. D/B/A PLANET  
FITNESS, THE MIDDLE DISTRICT COURT OF  
FLORIDA & THE U.S COURT OF APPEALS OF THE  
ELEVENTH CIRCUIT.*

## LIST OF PARTIES

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

☒ All parties do not appear in the caption of the case on the cover page.

This disclosure statement is an updated list of all parties provided within the proceedings mentioned in this writ of certiorari. This disclosure statement includes attorney(s), claimants, respondents, witnesses, trial judges, association of persons, firms, partnerships, corporations, all other interested parties and/or also, under 7(1)(a) of the Federal Rules of Civil Procedure & Rule 29(6) of the Supreme Court of the United States, identifies parent corporations and/or lists any publicly held company that owns 10% or more of the corporation's stock. All [other] parties are included in this disclosure statement and are listed accordingly in the aforementioned list of parties.

The list of all the parties to the proceeding(s) in the court whose judgement is the subject of this petition along with all parties according to Rule 24(b) of the Supreme Court are as follows:

1. Aon PLC ("AON") – Owner of K&K Insurance Group Inc.
2. ASC – PLNTF Holdings, Inc. Owner of Pinnacle Service Brands, LLC
3. Atlantic Street Capital III, LP – Owner of ASC-PLNTF Holdings, Inc.
4. Badalamenti, John L. – United States District Court for Middle District Judge, Fort Myers
5. Banker Lopez Gassler P.A – Counsel for Fit Guys Walk, LLC d/b/a Planet Fitness
6. Beltre, Rafael – Appellant/Plaintiff
7. Benjamin, Michael Andra – Complainant and associate of Planet Fitness
8. Bennett, Marie Halie – Witness and Former Employee of Planet Fitness
9. Fit Guys Holdings LLC – Owner of Fit Guys Walk, LLC d/b/a Planet Fitness
10. Fit Guys Walk, LLC d/b/a Planet Fitness – Appellee/Defendant
11. James, Jeffrey - Counsel for Fit Guys Walk, LLC d/b/a Planet Fitness

12. Judge Scott Farr – Adjudicating Judge on Trespass in Conveyance of the 13<sup>th</sup> Judicial Circuit in Hillsborough County, Florida
13. K&K Insurance Group Inc. – Claims Administrator for National Casualty Company
14. Kantor, Adam – Counsel for Fit Guys Walk, LLC d/b/a Planet Fitness
15. Lugo Ezequiel – Counsel for Fit Guys Walk LLC d/b/a Planet Fitness
16. MCPF Enterprises, Inc. – Owner of Pinnacle Service Brand, LLC
17. Menedez, Carmen - Manager of the affiliated limited liability company Fit Guys Walk LLC d/b/a Planet Fitness
18. Miscellaneous employee # 1 – Front Desk Attendee on or about 9/11/2021
19. Miscellaneous employee #2 Front desk attendee on or about 9/12/2021
20. Miscellaneous employee #3 Front desk employee on or about 9/16/2021 at around 12-5pm
21. National Casualty Company Appellee/Defendant's Insurer
22. Nationwide ("NWFAX") – Owner of National Casualty Company

23. Officer Allison Atkins – Responding Officer of the Tampa Police Dept. on Trespass Warning (9/15/2024)
24. Officer Colby Diers – Arresting officer of the Tampa Police Dept. on (9/16/2024)
25. Officer Courtney Baldwin – Arresting officer of the Tampa Police Dept. on (9/16/2024)
26. Officer Jay Meyers – Arresting officer on (9/16/2024) of the Tampa Police Dept.
27. Officer Jonah Daniel – Arresting officer on (9/16/2024) of the Tampa Police Dept.
28. Officer Holly Burroughs – (As stated on Complaint Arrest Affidavit) Reporting Officer of the Tampa Police Dept (at the current time)
29. Officer Michael Landry – (As stated on Complaint Arrest Affidavit) Reporting Officer (on 9/16/2024)
30. Officer of the Tampa Police Dept, on Day of Arrest (9/16/2024; Unidentified)
31. Patrol Deputy Daniel Furner – Responding Patrolmen of the Tampa Police Department on Trespass Warning (9/15/2024)
32. Pennington, Kyle – American Arbitration Association Arbitrator
33. Pinnacle Service Brand, LLC – Owner of Fit Guys Holdings LLC d/b/a Planet Fitness

34. Reams, Nicole Jamie – Claimant and Former  
Employee of Planet Fitness

35. United States Court of Appeals of the Eleventh  
Circuit - Jill Pryor, Branch, and Black, Circuit  
Judges.

36. Wagenblast, Theodore – Counsel for Fit Guys Walk,  
LLC d/b/a Planet Fitness

37. Wilson, Thomas – United States District Court;  
Middle District Magistrate Judge

/s/ Rafael Beltre

Attorney for Counsel:

---

**RELATED CASES**

**Rafael Beltre v. Fit Guys Walk llc**

**8:23-CV-01554-TGW**

**Middle District Court of Florida**

**Judgement in case:**

Order of Dismissal by Magistrate Judge Thomas G. Wilson

on Proceedings

in the Middle District Court of Florida

**Issue date:**11/27/2023 **File date:** 11/28/2023



**Rafael Beltre v. Fit Guys Walk llc**

**23-14094-HH**

**United States Court of Appeals of the Eleventh**

**Circuit**

**Judgement in case:**

Affirmed Decision in favor

of Magistrate Judge Thomas G. Wilson  
by panel judges Jill Pryor, Branch, and Black, Circuit

Judges for failure to state a cause of action

**Issue date:** 8/28/2023

**File date:** 8/28/2023

Petition for rehearing/enbanc **was denied** on 10/17/2024

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**. Cognitive Bias, the Middle District Court of Florida's improper proceedings and order by Magistrate Judge Thomas G. Wilson in favor of the Middle District Court of Florida.**

1. Based on *ratione materiae*, the improper procedures on case 8:23-cv-01554-TGW, in accordance to the rules and regulations, provided in the Middle District Court of Florida, and the Federal Rules of Civil Procedures under the Constitution of the United States.
2. The discretions of the Middle District Courts of Florida on the impressions of impartiality

**. Cognitive Bias, Magistrate Judge ruling on Appointment of Counsel.**

1. Request on Plan for bono
2. Denial by Magistrate Judge
3. Requirements met by plaintiff in plan for pro bono
4. Denial upon exceptional circumstances by Magistrate Judge

**. Cognitive Bias, Magistrate Judge Thomas G. Wilson by way of the Middle District Court of Florida's improper ruling on a misnomer Cause of Action.**

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2. Determining factors on decisions of cause of action
3. Ruling in favor of defendants for failure to state a cause of action

**. Cognitive bias, The U.S Court of Appeals of the Eleventh Circuits affirmations on the opinions of impartialities on the ruling within the Middle District Court of Florida.**

1. The United States Court of Appeals of the Eleventh Circuit Courts failure to consider relevance of procedural rules and orders and law implemented in the facts set forth and there otherwise by the plaintiff within the U.S Court of Appeals of the Eleventh Circuit
2. The U.S Court of Appeals of the Eleventh Circuits acceptance on the perceptions of impartialities of the Middle District Court of Florida.

3. Opinions by the United States Courts of Appeals of the Eleventh Circuit before judgement on insinuations of instrumentalities of Planet Fitness; Inaccurate allegations by panel judges that Plaintiff stated that Planet Fitness d//b/a Fit Guys Walk llc. were citizens of the State of Florida, not ones doing business within the State of Florida specifically.

**. Opinions by the United States Courts of Appeals of the Eleventh Circuit before judgement on insinuations of instrumentalities of Planet Fitness**

**. The Constitutionality of a State Statute**

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**CONSTITUTIONAL AND STATUTORY  
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~.....~

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Seventh Amendment of the U.S Constitution

Fourteenth Amendment of the U.S  
Constitution  
Equal Protection Clause

Due Process Clause

[42 U.S.C 1983]

Fed. R. Civ. P. 5(d)(1)(A)

Fed. R. Civ. P. 26(a)(1)(A)

Fed. R. Civ. P. 33(a)(1)

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Slander

TITLE XLVI CRIMES  
CH. 836 DEFAMATION, LIBEL,  
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**SECTION .11**  
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TITLE XXXVI BUSINESS  
ORGANIZATIONS  
CH.621. PROFESSIONAL SERVICE  
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**SECTION .07**  
LIABILITY OF OFFICERS, AGENTS,  
EMPLOYEES, SHAREHOLDERS, MEMBERS, AND  
CORPORATION OR LIMITED LIABILITY  
COMPANY

Art III Sec. 2 Cl. 1 of the U.S Constitution

~.....~

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

Petitioner(s) respectfully preys that a writ of  
certiorari is issued to review the judgement below.

OPINIONS BELOW

☒ For the case from **Federal Courts:**

The opinion of the United States Court of Appeals of  
the Eleventh Circuit appears at Appendix I to the  
petition and is;

☐ reported at www.law.justia.com,  
www.casetext.com, www.pacemonitor.com &  
www.govinfo.gov ; and/or,

☐ has been designated for publication but is not yet  
reported; and/or,

☒ is unpublished

The judgement of the United States District Court  
appears at Appendix H to the petition and is;

☐ reported at www.dockets.justia.com,  
www.pacemonitor.com & www.law360.com, or,

☐ has been designated for publication but is not yet  
reported; or,  
☒ is unpublished

☐ For cases from state courts:

The opinion of the highest state court to review the  
merits appear at Appendix to the petition and is;

☐ reported at \_\_\_\_\_; or,

☐ has been designated for the publication but is not  
yet reported; or,

☐ is unpublished.

The opinion of the  
\_\_\_\_\_ appears  
at Appendix \_\_\_\_\_ to the petition  
and is;

☐ reported at

☐ has been designated for publication but is not yet  
reported; or,

☐ is unpublished.

## JURISDICTION

☒ For cases from the federal courts:

The date on which the United States Court of Appeals of the Eleventh Circuit decided my case was;

☐ No petition for rehearing was timely filed in my case.

☒ a timely petition for rehearing was denied by the

United States Court of Appeals on the following date, 10/17/2024 and a copy of the order denying rehearing appears at Appendix J.

☐ An extension of the time to file the petition for a writ of certiorari was granted and including (date) on \_\_\_\_\_ in Application No. \_\_\_\_\_,

The jurisdiction of this court is involved under 28 U.S.C 1254(1) and/or;

☒ a notary to the Attorney General was brought to The Supreme Court of the United States on 05/02/2025 (date) on the instatement of the Constitutionality of State Statutes from the above courts.

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_ and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_

☐ An extension of time to file the petition for a writ of certiorari was granted to \_\_\_\_\_ and including \_\_\_\_\_ on \_\_\_\_\_ (date) in Application No. \_\_\_\_\_

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a). and/or,

☐ a notary to the Attorney General was brought to \_\_\_\_\_ on \_\_\_\_\_ (date) on the question(s) of the Constitutionality of a State Statute from the above courts.

## INTRODUCTION

In matter where the 13<sup>TH</sup> Judicial Circuit Court of the State of Florida denounced and deprived the civil procedures there set forth and given in its accessibility by the 13<sup>th</sup> Judicial Circuit Courts of Florida (More specifically the clerk of the courts administrators who are set forth to implement and serve the public's declarative implementations to plaintiff on courts only handling small claims at the current time {{off record}}, and in performing and taking action in this matter, brought to the Middle District Courts of Florida, in which in its jurisdiction and selection, appropriated to a Diversity of Citizenship (plaintiff being a citizen of the State of Florida and defendants being ones doing business within the State of Florida). Simon v. Southern Railway 236 U.S 115 1915;

*A judgement against a person on whom no process has been served is not erroneous and voidable, but upon the principles of natural justice, and also under the due process clause of the Fourteenth Amendment is absolutely void. Of course, the jurisdiction of the United States Courts could not be lessened or increased by state statutes regulating [venue] or establishing rules of procedure. But manifestly, if a new and independent suit could have been brought in a*

*state court to enjoin {party} from enforcing this {judgement}, a like new and independent suit could have been brought for a like purpose in a Federal Court, which was then bound to act within its jurisdiction and afford redress....*

.... Relevance pertaining to Jurisdiction  
where the deprivations and misconstruction of procedures by the 13<sup>th</sup> Judicial Circuit Courts of the State of Florida's clerk administrators ((off record)) leads to the docketing of case 8:23-cv-01554-TGW in the Middle District Courts of Florida ((on record)) in review there otherwise ...

Though the Middle Districts perceptions of a case (through documentation and vague explanations) of instating fundamental rights as a requirement to file a lawsuit within their court system, in its appropriation, through proper documentation, under formatting provided by the Middle District Court of Florida's website and other forms appropriated to the best of plaintiff's knowledge (provided by the Clerk of Courts of the Middle District Court of Florida), the case was officially initiated before the Middle District Court of Florida as a 320 Assault, Libel, Slander, Jurisdiction Diversity, Cause 28: 1332 Diversity – Personal Injury. Marshall v. Holmes 141 U.S. 589 (1891);

*It is for the Federal Court, after the cause is docketed there, and upon final hearing, to determine whether, under the allegations and proof, a case is made which entitles the plaintiff to the relief asked*

.... Relevance pertaining to Jurisdiction where the deprivations and misconstruction of procedures by the 13<sup>th</sup> Judicial Circuit Court of the State of Florida's clerk administrators ((off record)) led to the docketing of case 8:23-cv-01554-TGW in the Middle District Courts of Florida on subject matter ((on record)) ....

Therefore, the ruling following the procedures in the Middle District Courts of Florida, according to the rules and regulations implemented and instituted already by Magistrate Judge Thomas G. Wilson (in the Middle District Courts of Florida) are clear conceptions of misconceived accusations. This matter in being dismissed in the Middle District Courts of Florida by Judge Thomas G. Wilson with prejudice meritoriously, was prematurely injunctive upon one of many, in reason being that judgment was elusive and inaccurate on its own terms and show no counts of meritorious value but prejudice and bias amongst the procedures and are clearly evasive in argument. From misnomer accusations by defendants, to the rulings on appointment of counsel by the Judge, then

case management deficiencies that were ensued by the Striking of the Clerk of Courts, and ultimately, a final judgement in diversion from mandated "case management order" that was then ordered by Magistrate Judge Thomas G. Wilson on dismissal for failure to state a cause of action.

### STATEMENT ON THE CASE

Defendants claim to constituents on papers that were consolidated, reviewed, and then commenced in its appropriation as an Assault, Libel, Slander being of another Cause of Action (based on discretions in chronological sequence), gives a fallacious perception to a pretentious argument of principal institutions (to the case) in its conception to the case being under other constituents (more specifically documents labeled 42 U.S. code 1983 issued by the courts) in knowing that the case was already implemented and initiated by the Clerk of Courts of the Middle District of Florida and reviewed by the District Judge and Magistrate Judge as an Assault, Libel, Slander prior to procedures and arguments, and in general, if unrecognized, and for whatever purpose there was any doubt of the nature of the case through Cause of Action, defendant, by order of District then Magistrate Judge, had an additional 21 days at minimum upon receipt of the service of summons to

evaluate case intel before presumptuously filing a motion to dismiss discreetly (through merit and therefore otherwise). As this was initially the cause to the effects bestowed before you that later led to judgement, leaving no questions in all circumstances to a judgement for failure to state the cause of action being premature and improper upon standings of the case intel and according to the procedures set forth by District Judge John Badalamenti and Magistrate Judge Thomas G. Wilson in the Middle District Court of Florida and should of impugned the ruling until further evaluation of the case.

#### INTERLUDE

#### 28 U.S. Code § 455 - Disqualification of justice, judge, or magistrate judge

- (a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

Reed v. Reed 404 U.S 71 (1971); *Chief Justice Burger's opinion said: To give a mandatory preference to members of either {sex} over members of the other, merely to accomplish the elimination of the hearings merit, is to make the very kind of arbitrary legislative choice*

*forbidden by the equal protection clause of the Fourteenth Amendment; and whatever may be said as to the positive values of avoiding {intrafamily} controversy, the choice in this context may not lawfully be mandated solely on the basis of {sex}*

.... Relevance pertaining to the meritous values on case omissions and evaluations in its equivalency to members of each party, on subject matter, according to The Fourteenth Amendment, Equal Protection Act/Clause, and the Due Process Clause provided by the Constitution of the United States....

In being so, upon meritious bias, because of an inaccurate judgement, based on misnomer values in this judgement, according to the appropriated procedures of the Middle District Courts of Florida already instilled in the dismissal for failure to state a cause of action, the ruling in the Middle District Court of Florida deprived all procedures leading to an Appeal by the plaintiff brought forth to the United States Court of Appeals of the Eleventh Circuit, as it initiated.....

~MANIFESTATIONS ~

Barrow v. Hunton 99 U.S. 80 (1878); *The character of cases sought to be {removed} to the*

*courts of the United States is always open to examination, to determine whether ratione materiae, they are competent to take jurisdiction thereof. State {rules} on the subject cannot deprive them of it;*

..... Relevance pertains to the procedures of the 13<sup>th</sup> Judicial Circuit Courts of the State of Florida ((off record)) and commencement of the case within the Middle District Courts of Florida ((on record)) (ref. Civil Cover Sheet & Civil Docket Sheet for case no. 8-23-cv-01554-TGW ) and opinions of the U.S Court of Appeals on standings of the federal court ((on record)).

As it proceeds....

~ PROCLAMATIONS ~

*~Case now declared under the renderance of the United States Court of Appeals of the Eleventh Circuit~*

However, the case now being reviewed by the Court of Appeals of the Eleventh Circuit by way of panel Jill Pryor, Branch, and Black, Circuit Judges in affirmation to the ruling by the Middle District Courts of Florida in judging circumstances under the same preconditions with no consideration in all to the Laws, Rules, and/or Orders instituted within the procedures

by the Middle District Courts of Florida being pretentious for one, only gives way to orders already presumed. Even though the panel is in contrary to plaintiff's point of view, the United States Court of Appeals "panel of judges" then go on to liberally construe themselves an argument in hypotheticals to an affirmation of the same principles as the district courts, despite already being enlightened to the facts given to them before review, and even in being so, contrary to plaintiff in Pro Se point of view in argument initially, are still contradictory to their own arguments by opposing an argument that they to by way of the sake of acknowledgement, consent to most if not all of plaintiff's point of view and still assert themselves despairingly to affirmation of plaintiff's opposition. Rafael Beltre -v- Fit Guys Walk llc. 23-14094-HH Docket 23-1 2024;

The district court did not err in dismissing Beltre's complaint. See *Castro v. Sec'y of Homeland Sec.*, 472 F.3d 1334, 1336 (11th Cir. 2006) (reviewing dismissal for failure to state a claim de novo, accepting the allegations in the complaint as true and construing them in the light most favorable to the plaintiff). As an initial matter, the basis of Beltre's complaint is unclear. While the form he was using presupposed the claim was brought under §

1983 or Bivens, he selected neither § 1983 or Bivens on the form and the website maintained by the district court does not state the particular form is only for § 1983 complaints. See All Forms – Litigants without Lawyers Forms, United States District Court Middle District of Florida, <https://www.flmd.uscourts.gov/forms/all/litigants-without-lawyers-forms> (last accessed July 26, 2024). (providing various fillable form complaints on the website, including a “Complaint for Violation of Civil Rights (Non-Prisoner)” but not stating any form is to be used only for § 1983 actions). On the contrary, Beltre, on his civil cover sheet, cited that he was filing under Florida Statute § 621.07.<sup>2</sup> Besides his use of the “Complaint for Violation of Civil Rights (non-Prisoner)” form, the only indication that Beltre intended to bring a claim under § 1983 was that he alleged that Fit Guys Walk acted under color of state law because it “acted under Florida Statute 621.07. Liberally construing his complaint, Beltre may have intended to bring claims under either § 1983 or Florida Statute § 621.07. See *Albra v. Advan, Inc.*, 490 F.3d 826, 829 (11th Cir. 2007) (stating pleadings by pro se litigants are liberally construed). First, under § 1983, Beltre would

have to allege "that [Fit Guys Walk], acting under color of state law, deprived [him] of a right protected by the Constitution or by a federal statute." Club Madonna, 924 F.3d at 1378. Beltre did not "point to a violation of a specific federal right" Because his vague and conclusory factual allegations make it impossible to determine the basis of his complaints. Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (Stating courts are not required to give credence to conclusory allegations); Whiting, 85 F.3d at 583. His later explanation that he was deprived of rights under the First and Fourteenth Amendments because his "willingness to express [his] innocence in the matter [was] taken from" him is not properly considered in deciding the motion to dismiss, as it does not appear in the complaint itself. See Fin. Sec. Assur., Inc. v. Stephens, Inc., 500 F.3d 1276, 1284 (11th Cir. 2007) (stating unless the plaintiff incorporates another document by reference in their complaint, "we do not consider anything beyond the face of the complaint and documents attached thereto when analyzing a motion to dismiss")

**Ref: Civil Cover Sheet in Civil Docket Case no.  
8-23-cv-01554-TGW.**

Furthermore, by way of the United States Court of Appeals of the Eleventh Circuit the inclusion of opinions that Planet Fitness being citizens of the State of Florida is only an opinion and not factual grounds. Planet Fitness in their own rights being incorporated and registered agents within the State of Florida does not intel that the principalities of their foundation are derivations of the State of Florida by law, but contrary to beliefs by the panel on the matter, Fit Guys Walk llc. are simply agents doing business as Planet Fitness within the State of Florida amongst a railway of locations of its corporation worldwide, and in this matter, more specifically, an affiliation of the incorporation doing business as their principle corporation in the State of Florida (Planet Fitness). In the opinions of the Court of Appeals of the Eleventh Circuit pgs. 5&6 the panel goes on to mention in Beltre v. Fit Guys Walk llc. Case no. 23-14094-HH of the Court of Appeals of the Eleventh Circuit;

If, in the alternative, Beltre alleged a claim under Florida Statute § 621.07, then dismissal was also appropriate. If the suit was brought under a Florida Statute, the district court would have lacked subject matter jurisdiction as he alleged a violation of Florida law and Beltre alleged that he and Fit Guys Walk were

citizens of the same state. 28 U.S.C §§ 1331-32 (Providing federal courts have jurisdiction over actions brought pursuant to federal law and actions “where the matter in controversy exceeds the sum or value of \$75,000” and the litigants are “citizens of different States”). Thus, the district court did not err in dismissing Beltre’s complaint.

For the sake of docketing purposes, as noted in the js44 Civil Cover Sheet, the jurisdiction of both parties were as follows: [II] Basis Of Jurisdiction- Diversity (Indicate Citizenship of Parties on Item III); [III] CITIZENSHIP OF PRINCIPAL PARTIES (Place an “X” on One Box for Defendant) – {1} PTF Citizen of this State {4} DEF Incorporated or Principal Place of Business In This State; an as Fit Guys Walk “doing business as” Planet Fitness was within the State of Florida, plaintiff stands on choice of procedure in being appropriate in identifying where the origins of Fit Guys Walk llc were partaking there “business” in this specific Cause of Action. Regardless of whether there considerations of were there true “PLACE OF BUSINESS” derives, there “incorporated place” (not the incorporation) of where they were doing business was in the State of Florida, and at no point were there any arguments that Fit Guys Walk d/b/a Planet Fitness were citizens of the State of Florida. The panel

in opinion on the subject, from the Court of Appeals of the Eleventh Circuit are inaccurate and misleading. (See Civil Cover Sheet). And in continuation to defense on the matter, Plaintiff in Pro Per Se responds, if for in its purpose, Planet Fitness was part of the state, by way of Instrumentalities, governed by the State of Florida (hypothetically), "The mere essence of Instrumentalities is the becoming of" and should be incorporated under legalities of the corporation and/or incorporation instilled by the government of the State of Florida, and not theoretical opinions by misguided accusation for the sake of argument. Simon v. Southern Railway 236 U.S. 115 (1915)] – unquoted.

The criteria in examination, in being deficient and improper at this point in its procedures, according to the regulations already implemented by the Clerk of Courts, then Magistrate Judge on case management, prior to judgement ruling on defendants claim for failure to state a cause of action, should give light to those facts for a just procedures & trial, and in being that the United States Court of Appeals of the Eleventh Circuits final decisions are in affirmation of Magistrate Judge Thomas G. Wilson (of the Middle District Court of Florida) on failure to state a cause of action (regardless of the pretenses being false or not), final judgement should still be eradicated based

on judge'(s) discretions on the impressions of impartiality and affirmation so on and so forth upon the Eleventh Circuit Court of Appeals.

Marriage of Carlsson 163 Cal.App.4<sup>th</sup> 281) "It is a cardinal principle of our jurisprudence that a party should not be bound or concluded by a judgement unless he had his day in court. This means that a party must be duly cited to appear and afforded an opportunity to be heard and to offer evidence at such hearing in support of his contentions, his right to a hearing does not depend upon the will, caprice, or discretion of the {trial judge} who is to make a decision upon the issues, an order or judgement without such an opportunity is lacking in all the attributes of judicial determination. [ ] [ ] refusal to permit counsel.... To present evidence and make a reasonable argument in support of his [client] position [i]s not a mere error in procedure. it amount[s] to a deprivation of substantial statutory rights...." (*Spector v. Superior Court* (1961) 55 Cal.2d 839, 843-844[ [ 13Cal.Rptr. 189, 361 P.2d 909] (*Spector*).

*"Only judge when you have heard it all."*

*- Greek Proverb*

## REASONS FOR GRANTING THE PETITION

**. Cognitive Bias, the Middle District Court of Florida's improper proceedings and order by Magistrate Judge Thomas G. Wilson in favor of the Middle District Court of Florida.**

Upon commencement of the procedures instilled by the courts, Judge John L. Badalamenti implements **civil action order to govern action**. Defendants then abruptly introduce a motion to dismiss. Following motion to dismiss by defendants, defendants enter their **disclosure statement** followed by **notice of {pendency}(related) of other actions** accordingly. In concurrence, introduced by the Middle District Court of Florida, plaintiffs' **corporate disclosure statements** and "**notice of related actions**" to the procedures according to the specific detail in **disclosures statements** through **Civil Action Order** by District Judge and the **Federal Rules of Civil Procedure** (which were filed improperly by the courts), were also introduced, following **objection to dismissal** by plaintiff. Motion then to subpoena the production of documents, information, and/or objects was denied by "**matter of course**" according to Magistrate Judge prior to any objections by defendant, in which then followed objection by defendant in "moot" by way of course.

Hearing on case managing was then requested, as **case managing** was in progress and the necessity to clarify certain matters with the courts was at hand, which was also denied as a matter of course, disregarding plaintiffs input to the matter (off record at the time), and assuringly, an objection was then followed by defendant, and then granted. In continuing consultation with the defendants, case managing was completed, and now case managing reports according to rule **3.02 of the local rules** were presented to Magistrate Judge, as the purpose of the Middle District Court of Florida in case managing was to make the procedures within the Middle District of Florida the least time-consuming and effective as possible. Immediately following, Magistrate Judge implements specific order to **case management details in case management order**. In review of case management order (**ratione materiae**), it is unreasonable to say that the case management order set forth, then stricken by the courts in consent by Magistrate Judge within the procedures of the Middle District Courts of Florida were proper by ones own **Rules & Order** (in one being Magistrate Judge). In fact, in accordance to **Court Order** by Magistrate Judge on case managing, the rules and regulations provided within the Middle District Court of Florida, and the Federal Rules of Civil Procedures, the **Motion to Strike** by the Middle District of Florida and order

by Magistrate Judge Thomas G. Wilson granting that motion in being condescending for one, contradicts immediate protocol prior motion to strike and is clearly evident that the procedures by the Middle District Court of Florida were being avoided in further delay of the procedures ongoing leading to depositions and interrogatories. In being that **case management order** through **consultation** with defendant, and consent there otherwise by Magistrate Judge Thomas G. Wilson (in specific detail through order) was finalized, the necessity to exchange information was expendable and nonessential, as case managing was now finalized by both parties, issued to the courts, and established by order from Magistrate Judge Thomas G. Wilson awaiting preliminaries (to plaintiffs knowledge) in being that Magistrate Judge accepted all criteria presented by defendants through consultation by both parties. Interrogatives introduced to the clerks separately, following **mandated initial disclosures**, are given to the courts prior to dead lining from case managing. according to Fed. R. Civ. P. 5(d)(1)(A), 26(a)(1)(A) 33(a)(1) and **Local Rule 3.04** of the Middle District of Florida. The **LOCAL RULES** presented by the **UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA; FEBURARY 2021**), which was to plaintiffs' knowledge, the most updated version of the rules provided within the

Middle District Court of Florida at the current time, stated vaguely, "*a deposition by oral examination or written questions and a subpoena duces tecum require fourteen days' written notice*". **Initial disclosures** and **interrogatives** (which were filed separately), according to federal rule of civil procedure 26(a)1)(A)(ii); were made available to the defendants by way of the courts, (as were the defendants) for if there were to be any further objections following **case management order**, they could be addressed appropriately through preliminaries, which leaves, in conformity and in compliance to **Local Rule 3.04** of the Middle District Court of Florida and the Federal Rules of Civil Procedures, and deficient at the hands of the courts under these circumstances. The courts **strike**, straying and disregarding Magistrate Judge Thomas G. Wilson's **case management orders** on the basis of rules that were outdated, altered, and modified (**Local Rule 3.03 WRITTEN INTERROGATORIES; FILING OF DISCOVERY MATERIAL; EXCHANGE OF DISCOVERY REQUEST BY COMPUTER DISK** dated back to **Oct 1 ,1999**), within the Middle District Court of Florida to then current **LOCAL RULE 3.03; Disclosure Statement**. By order, Magistrate Judge Thomas G. Wilson then consents to the **STRIKING BY THE CLERKS**, contradicting ones own order

initially through case managing and the current rules set forth by the Middle District Courts of Florida and the Federal Rules of Civil Procedure biasedly an under false pretense. The discretions of the Middle District Courts of Florida on the impressions of impartiality obviously leaves uncertainty and questions to the next step ordered by the courts. Nevertheless, for it is not in one's own nature to go against one's own magisterial, <whether or not it is considered that the courts were in fact partial to the situation,> the fact of the matter is, cognitive to one's own orders (being Magistrate Judge himself), and then motion to strike by the court, Magistrate Judge's favoritism, and decision to grant the Clerk of Courts motion to strike was in fact predisposedly prejudice, and partial under these circumstances on the matter and give a clear message upon the facts through case managing and motions to strike thereafter of cognitive bias and leave very little on impressions of impartiality.

**Cognitive Bias, Magistrate Judges ruling on Appointment of Counsel.**

Magistrate Judge Thomas G. Wilson proposed specific criteria conspiring in first order to requirements that plaintiff must prove in order to meet the "standards" insisted by Magistrate Judge and nothing else stated

on the matter for the time being. )i( Plaintiff, by standards, meet by facts presented to the Middle District Court of Florida, the requirements by Magistrate Judge, and decisions ongoing were made facetiously by the opinions of Magistrate Judge in the second order denying appointment of counsel, stating that indigency under their standards were not met by and faced exceptional circumstances once again, leaving an open question as to what are these exceptional circumstances, if they were already met by fact and not opinion on initial request in plan for pro bono. Of no consequence, these actions by the magisterial were just one of several actions prior to denial of appointment to counsel and what was yet to come that were cognitively bias on behalf of the Middle District Court of Florida and Magistrate Judge Thomas G. Wilson.

**. Cognitive Bias, Magistrate Judge Thomas G. Wilson by way of the Middle District Court of Florida's improper ruling on a misnomer Cause of Action.**

The Clerk of Courts court in their review of the criteria, docketed the case in diversity jurisdiction personal injury and nature in suit as 28 U.S.C 1332 Diversity Personal Injury Nature in Suit being Assault, Libel, Slander. Immediately after consenting to the Strike by the Clerk of Courts, Magistrate Judge

Thomas G. Wilson, cognizant of the case intel at this point (*ratione materiae*) , rules in favor of defendants motion to dismiss, whose determining factors strictly rely on material used to establish the case (42 U.S.C 1983) being one of several documents that established the case and disregard other documents (Civil Cover Sheet and Civil Docket Sheet) being of others, which incorporated the case in general as an Assault, Libel, Slander. Magistrate Judge Thomas G. Wilson affirmation to the same misnomer cause of action presented by the defendants also shows cognitive bias upon merit and prejudice, agreeing that constituents failed to state a Cause of Action cognizant of all other case criteria.

**. Cognitive bias, The U.S Court of Appeals of the Eleventh Circuits affirmations on the opinions of impartialities on the ruling within the Middle District Court of Florida.**

The United States Court of Appeals of the Eleventh Circuit Courts fail to consider relevance of procedural rules, regulations, orders and laws implemented in the facts set forth and there otherwise to the U.S Court of Appeals of the Eleventh Circuit. Justifiably, plaintiff demonstrated to the United States Court of Appeals of the Eleventh Circuit through briefing that fundamentals of constitutional rights inflicted by the

plaintiff were misconstrued and misconceived from beginning to end by way of the Middle District Courts of Florida introducing one single paper and everything else capitalizing accordingly because of it. If federal jurisdiction is at question, under the jurisdiction of the State of Florida instated under the Constitution of the United States, it is clearly noted in the Js44 Civil Cover Sheet that the Constitutionality of State Statutes fall under federal jurisdiction as well as diversity of jurisdiction and lawsuits by "citizen(s)". In briefing with the United States Court of Appeals of the Eleventh Circuit, it was made aware to them also of the nature in suit (Assault, Libel, Slander) through cause of action in the proceedings with the Middle District Courts of Florida through criteria presented in briefing with the U.S Court of Appeals of the Eleventh Circuit. It was also put to attention that case managing through consultation with the defendants, presentations located in the appx of the appellate brief in case 23 14094 – HH (docket # 12), and case management order by Magistrate Judge, that case managing, established (following mandated disclosures instilled by Magistrate Judge), that introduction to evidence, interrogatories and oral depositions for examination, names of parties, along with number and addresses, etcetera, were all inclusive within the order for "mandated disclosures" ongoing in the upcoming proceedings. Understanding

also that the court(s) (case scenario Middle District of Florida) do have the discretion to monitor and police one's own proceedings which gives them the ability to enforce its orders, plaintiff demonstrated clearly to the United States Court of Appeals of the Eleventh Circuit that through law and order enforced through "mandated orders" provided by Magistrate Judge and rules and regulations provided by the Middle District Court of Florida (in general), as well as presentations giving detail to local rules at the current time stating "What You Need to Know About the Middle District Court of Florida Local Rule Amendments" (located in the **appendix of the appellate brief docket # 12**) and the Federal Rules of Civil Procedure under the Constitution of the United States, that the initial disclosures and interrogatives (introduced separately and in accordance to the proceedings) were orderly, prompt, and in good faith by "matter of course" to the immediate proceeding in moving forward with the following steps accordingly, and the Clerk of Courts motion to strike was unruly, and for the sake of imposing ones own authority, following Magistrate Judge contradiction of one's own order in granting motion to strike by the Clerk of Courts, and you can clearly depict that the matter was biasedly construed against the plaintiff. As there was no necessity in furthering consultation through matter of course as current Rules 3.04 of the Middle District Court of

Florida (being vague and inconclusive at the current time) encourages parties to provide more than 14 days' notice unless there is an agreement or an order based on exigent circumstance, as there was no objections by both parties at the current time and case managing was already established (to the acknowledgement of the plaintiff), by the plaintiff, defendants, then incorporated by Magistrate Judge through case management order, according to Fed. R. Civ. P. 5(d)(1)(A), 26(a)(1)(A), 33(a)(1) and Local Rule 3.04 of the Middle District of Florida following introductions to Interrogatives. So to strike upon one's own initiative under these circumstances would be defiant on one's own orders instructed on the case and contradictive by popular demand, according to the Federal Rules of Civil Procedure overall, and based on the criteria provided by plaintiffs through briefing with the United States Court of Appeals of the Eleventh Circuit, opinions by the courts are also considered, if not in fact, biasedly construed as well.

**. Opinions by the United States Courts of Appeals of the Eleventh Circuit before judgement on insinuations of instrumentalities of Planet Fitness**

Under federal jurisdiction, where a federal question ceased to exist, the district court, in matters where

there is question in citizenship are adopted as one and accepted as true within its jurisdiction. Allegations by panel judges that Plaintiff stated that Planet Fitness incorporated as Fit Guys Walk llc. were citizens of the State of Florida does not clarify the origins of the ones doing business within the State of Florida, and are clearly misrepresented. 28 U.S.C 1331 (where federal question is at hand) and 28 U.S.C 1332 (where the question at hand is not of federal law principally but generally speaking, of a Diversity in Citizenship and the amount at hand that fall under the matter in controversy more specifically). The United States Court of Appeals of the Eleventh Circuit meticulously construe in argument (opinions of the court dismissal pg. 6) together as "28 U.S.C 1331-32", conceiving the matter of law to be constrained and pertaining to one under federal law, and plaintiff demonstrated to the United States Court of Appeals of the Eleventh Circuit through briefing and exhibits that within the jurisdiction of the Middle District Courts of Florida the basis within diversity in citizenship, for the principal parties were as mentioned; Plaintiff being Citizen of the States of Florida and defendants being one incorporated and/or being the principal place where they do business. "When determining the diversity jurisdiction in a lawsuit, the citizenship of defendants sued under fictitious names, (prime example in case scenario), is disregarded, meaning

their citizenship is not considered when deciding if a case can be removed to federal court based on diversity of citizenship; this is because their identity and therefore their state of citizenship is unknown. Which in meaning, being that the Middle District Courts of Florida did decide diversity of citizenships on those bases, the case was established under 28 U.S.C 1332 and should fall under these circumstance if under competent jurisdiction. In knowing that Fit Guys Walk llc are registered agents of the State of Florida clarifies their inhabitation but does not in particular to this matter give clarification to who is to be held vicariously liable in this situation. According to 28 U.S.C 1441, the removal from state jurisdiction is possible if the case could originally have been brought in federal court under certain circumstances granting jurisdiction. And generally speaking according to 28 U.S.C 1441(a), any civil action brought in a [State Court] ((off record)) of which the district courts of the United States have original jurisdiction, may be removed by the [defendant(s)], to the district courts of the United States for district and division embracing the place where such action is pending. The determining factors of removing a civil action on the basis of jurisdiction under section 1332(a) as stated previously; the \*citizenship of defendants\* sued under fictitious names shall be disregarded according to 28 U.S.C 1441(b)(1). And

under these circumstances in case scenario, the district courts where the matter in controversy exceeds the amount of 5,000,000 would have \*original jurisdiction\* pending any impracticabilities. (see Art III. S2.C1; Constitution Annotated). For if the matter pertaining to Florida law was at question, under these circumstances, and under competent jurisdiction of the courts of Florida, of course it must be seen somewhere, and for one to say that the district court(s) (unless it was biasedly construed preemptively) lacked subject matter jurisdiction would be strictly assumptions off preclusions, for who are the ones to say where the jurisdiction fall under initially, if where it stood is clearly where it lied?. Factual information presented to the United States Court of Appeals of the Eleventh Circuit in Js44 Civil Cover Sheet say so, the courts say otherwise. The United States Court of Appeals of the Eleventh Circuit opinions also leave questions to the proceedings unanswered and if based solely off of [defendant statement] Magistrate Judge orders, show no meritorious standing outside of prejudice and competent jurisprudence. For the fact of the matter is, knowingly, all matters exceedingly eventually fall under federal law, hence.....

**. The Constitutionality of a State Statutes.**

To the initial facts of the matter in legislative, according to Title XLVI, Chapter 836, section 11 of the

Florida Statutes in, civil nature of suit code 320 (Assault, Libel, Slander) within the Middle District of Florida; and Title XXXVI, Chapter 621, Section 7 of the Florida Statutes, where intentional statements both written and verbal by the defendants, concluded "upon discovery" of information of another cause of action through arbitration brought forth the claim to defamatory remarks and unlawful conduct plotted through the negligence and intentional offenses of the incorporation Fit Guys Walk llc.d/b/a Planet Fitness leading to the Constitutionality of State Statutes.

*..... For it is brought upon the United States Supreme Court, through the injustice of humanity, in quest of civility, that a day be set upon us, where in all constraints there be a common ground. For this nation is not only built on those morals, but it also strives for those principles. And upon the principalities of those foundations, let there not be restraint and anguish. For the very ones that seek injustice, are the very ones who preach and engrave justice. But let it be known that there is no injustice better than justice. For if the ones who preach of this justice are assured in there ways, let there be no restraint and anguish, for true justice shall prevail... RB*

## CONCLUSION

It is the petitioner in pro per se's due homage to respectfully assert this petition and to request to the United States Supreme Court, the consideration of this petition, and on the basis of the fundamental rights, rules, and regulations instituted in this petition, this petition for a writ of certiorari, brought forth to the United States Supreme Court, be acknowledged by the courts. And on the basis of judicial justice, the plaintiff in Pro Se pleads to the U.S Supreme Court(s), in accordance to the facts brought forth to the United States Supreme Court, upon the manifestation of logic and rationale of all other constituent and procedures, and in compliance with the Constitution of the United States, this writ for certiorari be granted upon review.

Respectfully submitted,

Plaintiff in Pro se;  
Rafael Beltre