No: _____

IN THE

SUPREME COURT OF THE UNITED STATES

_____Ω_____

WILBERT J. ALEXANDER II, Petitioner

V.

SOUTH CAROLINA DEPARTMENT OF

TRANSPORTATION, (et. al. M.G, K.S., C.J) respondent (s)

_____Ω_____

SUPPLEMENTAL BRIEF

_____Ω_____

IN SUPPORT OF
PETITION FOR WRIT OF CERTIORARI **[25-47]**

_____Ω_____

From the United States Court of Appeals for the
Fourth Circuit: 23-1781

_____Ω_____

Wilbert J. Alexander II, Pro Se
Equal Employment Protection Advocates
317 Pintail Ln, Columbia, SC, 29229. 770-500-2397

REASONS TO ACCEPT THIS SUPPLEMENTAL BRIEF AND GRANT PETITION 25-47.

1. The petitioner needed to make **Petition 25-47 corrections** (reference to its appendix) **(See App. 1a-38a in the Supplemental Brief).**

2. Respondent **Updates** & **Recent Title VII changes**.

    a. **Guffee news:** Guffee was the causal connection to all of the adverse actions experienced by the Plaintiff before and after his 01/24/2018 has supposedly harmed himself.

    b. **Ames v. Ohio Dept. of Youth Services background circumstances.(2025)**

3. The petitioner provided **DIRECT EVIDENCE**, therefore:

    The magistrate used **improper McDonnell Douglas framework** is applied when a plaintiff lacks (direct evidence)...by T Gamm · 2018 .

4. **Title VII legal precedent does not allow courts below OR SCDOT created errors that**:

    Placed a **higher burden** on the petitioner **similar to background circumstances** of this case.

5. The **magistrate documented "some of"** the plaintiffs allegations and facts so **SCDOT did not have to reply to all facts in stage 2** placing a higher burden on the Plaintiff **and lower burden of SCDOT like the background circumstances.**

PARTIES TO THE PROCEEDINGS

Petitioner: Wilbert J. Alexander II

Respondent: South Carolina Department of Transportation, (Michael Guffee, Kace Smith, Darlyn Rikard, Cynthia Johnson et. al....)

Intervenors: Citizens of South Carolina, SCDOT employees

RULE 29.6 STATEMENT

Petitioner represents himself, SCDOT workers and citizens of the 4th district. No one owns or has paid for this petition. No Corporate parties involved in this case.

DIRECTLY RELATED PROCEEDINGS

ORIGINAL PETITION 25-47

Wilbert Alexander v. South Carolina Department of Transportation on the United States Supreme Court docket case: 25-47 to be decided August 15, 2025. **For good cause this Court placed the petitioners Write of Certiorari on the docket case: 25-47 on July 15, 2025,** Respondents supplemental briefs due by August 14, 2025 decision to be made August 15, 2025

(with **corrected reference's** to appendix pg. **[1a-38a])**

RECENT LITIGATION

AMES v. OHIO DEPT. OF YOUTH SERVICES (2025) | FindLaw: Case - No. 23-1039 - Argued: February 26, 2025 Decided: June 05, 2025 (recent case)

The Supreme Court addressed legitimate or non-legitimate expectations and whether courts can impose a higher standard on majority-group plaintiffs in Title VII of the Civil Rights Act of 1964 (Title VII) cases needed to satisfy the "background circumstances" rule. **In a unanimous decision,** the High Court rejected the **background circumstances** rule stating this requires additional evidence from majority-group plaintiffs to establish a prima facie case under Title VII.

STATUTORY & CONSTITUTIONAL PROVISIONS:

- **(Recent law change) - AMES v. OHIO DEPT. OF YOUTH SERVICES (2025)** Case - No. 23-1039 - Argued: February 26, 2025 Decided: June 05, 2025. Title VII - **background circumstances legitimate expectations**
- **14th Amendment "equal protection under the law".**
- **Relief from Judgement Rules 60**
    - SCDOT failure to satisfy production burden.
- **Summary Judgement Rules 56**
    - Courts below improperly applied rule 56.
- Title VII is codified at 42 U.S.C. 2000e and in subsequent sections. Title VII amendments include those introduced by the Civil Rights Act of 1991 (CRA) and the Lilly Ledbetter Fair Pay Act of 2009.

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Rule 15. SUPPLEMENTAL BRIEF

A. RECENT UPDATE:

The petitioner was informed that Guffee, has recently possibly fatally harmed himself.

B. BACKGROUND CIRCUMSTANCES CHANGE

Per recent case, **AMES v. OHIO DEPT. OF YOUTH SERVICES (2025) | FindLaw: Case - No. 23-1039 - Argued: February 26, 2025 Decided: June 05, 2025**.

The Supreme Court addressed **non-legitimate expectations** and whether courts can impose a higher standard on majority-group plaintiffs needed to satisfy the "**background circumstances**" rule in Title VII cases.

In a unanimous decision, the High Court **rejected the background circumstances rule** stating **this requires additional evidence from majority-group plaintiffs** to establish a prima facie case under **Title VII**.

C. UNEQUAL PAY / EPA CLAIM (PRECEDENCE)

I. **This ruling will set precedence on what documents should be used to support a claim of unequal pay discrimination per Title VII and independence and transparency laws, (which has not been presented the Supreme Court specifically per Google).**

The judge stated she couldn't understand the purpose of a **detailed Salary Analysis [ECF 127-2] DIRECT EVIDENCE** using SCDOT payroll FOIA and SCDOA FOIA verified records "comparing Ruelle's compensation to Simmons." proving incompetence.

II. **Therefore, Any Title VII claim submitted to a State Agency (should be) reviewed by an INDEPENDENT COMPANY like EQUAL EMPLOYMENT PROTECTION ADVOCATES panel of citizens, paid $250-$400 per hour for service, equal to lawyers, to provide quicker more transparent adjudication of Title VII claims independent but equal to the EEOC.**

The McDonnell Douglas burden-shifting analysis is applied **when a plaintiff lacks (direct evidence) of discrimination.** It takes its name from the US Supreme Court ...by **T Gamm · 2018**

D. JUDGE FORCED, PRESENTED IMPROPER FRAMEWORK AND PARTIAL EVIDENCE

Per judge Wooten, "the magistrate judge addressed Plaintiffs' claims on the assumption he had met all **(four)** showings required by McDonnell Douglas."

These errors are not harmless errors.

The McDonnell Douglas framework involves **(three stages).**

Like, JUSTICE THOMAS, I (also) would promote the (convincing-mosaic standard to primary status) and, to the extent consistent with Supreme Court precedent, **relegate McDonnell Douglas to the sidelines** because Title VII protects all individuals **PLAINTIFF PETITIONERS** equally.

Determining whether a party has satisfied its burden of production is not an issue of fact for the jury; it is an issue of law. As a result, **a judge's error** can make, break, dismiss or grant a case before it ever gets to the jury if they error and refuse to correct mistakes of fact increasing and raising the petitioners Title VII burden procedurally and substantially.

USE OF SUMMARIZING CONTEXT MISLEADS THE READER AND SHOULD BE BARRED. THE PARTY SHOULD SIMPLY STATE EXACTLY WHAT HAPPENED WITHOUT PARAPHRAZING CONTEXT THAT PAINTS A MISLEADING PICTURE PROVIDING FALSE REASONS VIA LITERATURE FALSE CONTEXT.

E. MAGISTRATE SUMMARIZED **(SOME OF)** PRIMA FASCIA FACTS DURING MCDONNELL DOU

F. SCDOT DID NOT REPLY TO ALL FACTS AT STAGE 2:

Petition 25-47 list approximately 37 adverse actions.

The magistrate discussed (3):

(Unequal Pay, Failure to Promote and termination) but didn't force SCDOT to reply to all the prima facie facts and evidence presented.

ECF 115 prior to her decision that negated SCDOT's step 2 reasons (at the Prima Fascia AND Pretext stage).

LOWER, UNFAIR BURDEN OF PROOF THAT MAY BE ASSITED BY COURTS BELOW ERRORS, MISTAKES OF FACT

SCDOT was not required to reply to **all (16) of the adverse actions noted by the magistrate** that sufficiently stated a claim for Title VII discrimination, S**he (OMITTED) (21) other possible adverse** actions noted in the pleadings.

SUMMARY

In the case at hand, there was invidious discrimination where, SCDOT violated Title VII

By Discriminatorily failing to transfer, fire or discipline **this unstable individual/white employee Guffee, it violated its policies, and manufactured PRETEXT reasons for its actions hidden with collusion from SCDOT's HR and employee relations assistance using a blind eye to investigate, sadly,** using citizens tax money **to pay** trained legal council **to deny citizens Title VII protections** unethically defending the alleged Title VII constitutional and agency violations noted **Per** Petition: 25-47 and pleadings back to ECF 47-48,

The magistrate made it (overly burdensome) for the petitioner to sort out the courts below mistakes of fact with court established pleading page limit requirements and his limited knowledge as a regular citizen pro se litigant. where she wouldn't accept complaints, instructed the plaintiff to present less evidence and facts weakening his thoroughly presented claims citing verified working documents for support but

the magistrate skimmed over the claims and cherry picked a few items (OMITTED MATERIAL FACTS evidence and presented mistakes of fact) briefly summarized them out of order and with the wrong claims.

1. STAGE 1: TITLE VII PRIMA FASCIA CASE

At this point the Plaintiff petitioner had already provided verified working documents and video evidence, satisfied the prima fascia requirements and **SCDOT had already presented its reasons for adverse actions.**

Per the magistrate, "Plaintiff has sufficiently alleged a claim for Title VII discrimination. Plaintiff further alleges that SCDOT took **(multiple)** adverse actions against him under circumstances that give rise to an inference of unlawful discrimination, **(some of which)** are discussed below." Here, Plaintiff has alleged"

(1) "that he is a black male over the age of 40, who is qualified as an Accounting Fiscal Analyst III,

(2) his employer's reasonable expectations, including,
   i. for example, **successfully preparing SCDOT's 2017 and 2018 financial statement notes.** [ECF No. 53-1 at 4].
   ii. Conduct was not considered even though SCDOT had already mentioned its reasons prior to the prima facie stage, yet the petitioner still satisfied the prima facie stage.

(3) he was subjected to adverse employment Action(s) & (4) the adverse employment action occurred under circumstances that give rise to an inference of unlawful discrimination

Per the magistrate, the "**Plaintiff also alleges** that Guffee, a white male and Plaintiff's indirect supervisor, showed **preferential treatment to other white males by, for example**"

I. **Unequal Pay** - ("It is well settled that '[a] plaintiff may assert claims based on unequal pay for equal work under both the EPA and Title VII.'") (citing Brinkley-Obu v. Hughes Training, 36 F.3d 336, 343 (4th Cir. 1994)); Sessions v. Univ. of S.C., C/A No. 3:04-0634-MBS, 2006 WL 2543051, at *7 (D.S.C. Aug. 31, 2006)

In his order, SC District Judge Wooten errors and states, petitioners "reference to a new claim under the "Equal Pay Act"; [App. 11a]

See petitioners EPA claims at [Petition: 25-47. App. 220a] dating back to ECF 47-48.

Therefore he did not review the record properly and made an **error in judgment or false statement** on the record.

II. "Denied Promotions - unofficially promoting Reulle to supervise the Plaintiff who had more experience,"

Magistrate mislabeled evidence as some sort of annotated document SCDOT did not address failure to promote the more qualified petitioner.

III. "A) Faster Promotions with

IV. B) high pay increase:

V. Per the magistrate, "Plaintiff also alleges":
   1. "Guffee belittled and criticized him , -

2. daily yelling,
3. ridicule,
4. intimidation,
5. slandering skills to meet unknowledgeable Guffee's **(non-legitimate)** due dates.
6. **(Guffee helped train white employee David using the petitioners A&A Manual per video on record)**
7. failed to discuss work tasks with him, - (Guffee
8. denying IDCRP training/learning per the SCDOT internal auditor on 01/24/2018,
9. and made him perform clerical tasks, -
10. (demotion to a/p
11. & made to add extra unneeded to A & A manual making it bulky 1 book to 3 books. David could have done this.)
12. **indicating that other white, similarly-situated employees were not subject to some of this treatment. Id. at 5, 13."**

These allegations, taken as true, sufficiently state a claim for Title VII discrimination. See, e.g., Sharkey v. Fortress Sys. Int'l, Inc., C/A No. 3:18-19 FDW-DCK, 2020 WL 2220188, at *5 (W.D.N.C. May 7, 2020) per the courts below. Alexander v. SCDOT: 2024, 23-1781, SCOTUS: 25-47

2. STAGE 2: EMPLOYER REASONS FOR ACTION

Petitioner alleges SCDOT's reasons were based on a **(INTERNALLY) produced (NON-INDEPENDENT)** salary study with errors and based on previously accused discriminator, Guffee's alleged reprisal per Petition: 25-47, therefore **NOT LEGITIMATE BUT** plausibly **DISCRIMINATORY & RETALIATORY by**

SCDOT was not held to the same burden standard as the petitioner and caused an undue burden During step 3 based on **(collusion) in Step 2** by SCDOT: The courts below failed to make SCDOT meet its burden of production and obligation to **come forward with (sufficient evidence)** to establish the employer's prima facie case.

3. **PRETEXT STAGE** - The petitioner Alexander presented **DIRECT EVIDENCE** per the pleadings, **[ECF 115] of:**
    i. **class action unequal pay**
    ii. 01/24/2018 harassment video
    iii. Working documents, emails and video proving false statements about
    iv. **Guffee actions**
    v. Smiths Actions
    vi. Johnsons actions
    vii. Rikards' Actions
    viii. Mccottry's failure to intervene
    ix. and for **SCDOT independently for not providing protections that lead to Title VII violations.**

"LACK OF TRAINING **HAS MERRITT"**
(DIRECT EVIDENCE)
IGNORED BY MAGISTRATE

Per SCDOT evidence presented:

[SCDOT's Resp to P's INTs (22.03.21) [#10] 43]
SCDOT - Rikards' EEOC investigation notes:

1. **Guffee "not providing training has Merritt" per [ECF 115 PEX 178]** and

2. Guffee agreed to **take a step back** "TASB" **from tortuously interfering** and let Simmons continue to do all training. **[ECF 115 PEX 277-3]**
3. At a time when the petitioner had a completely clean work record and no complaints at all **Rikard made a threat. Stating**
    a. **"I did express that if he continued to respond inappropriately it could result in action"** but the petitioner had not responded inappropriately to anything therefore Rikard **failed to intervene and allowed Guffee to retaliate & change the petitioners terms, conditions, privileges and benefits."**

At this stage, he need only offer enough evidence to create a genuine dispute of material fact. See Celotex Corp. v. Catrett, 477 U. S. 317, 322 (1986).

Our precedent makes clear that **the framework is, at most, a "procedural device, designed only to (establish an order) of proof and production"** when evaluating **circumstantial evidence**. St. Mary's Honor Center v. Hicks, 509 U. S. 502, 521 (1993). Put another way, it is **"'merely'" a "'way to evaluate the evidence'"** that bears on the ultimate finding of liability. Aikens, 460 U. S., at 715.

The **"convincing mosaic"** standard, while not a formal part of the McDonnell Douglas framework, **considers all the evidence** to determine if a plaintiff has **proven intentional discrimination**.

MCDONALD DOUGLAS FRAMEWORK IS SIMILAR TO THE BACKGROUND CIRCUMSTANCES

The **McDonald Douglas Framework stage 2 & 3 is equivalent to the background circumstances** rule that in Title VII discrimination/Retaliation cases the **Plaintiff's are the majority** and McDonald Douglas Framework requires them to show background circumstances suggesting the employer's possibly pretext reason is pretext and was likely discriminating against him or a coworker that affected the work environment.

The McDonald Douglas Framework provides a **unethically risky singular power** to a judges and **appears to only focuses on the time close to the termination or employers adverse action reasons,** that may ignore years of discriminations.

MCDONALD DOUGLAS FRAMEWORK CONTRADICT THE PURPOSE OF A TITLE VII

When the Petitioners evidence and focus is on discrimination or retaliation, McDonald Douglas allows the defendant (wrong doer) to derail the initial discrimination claim and change the focus of the case to the defendants reasons for actions which could be fabricated with collusion and false statements which makes is overly burdensome to the Petitioner to prove a defendants reason to be pretext without ALL evidence stated correctly on the record with the correct framework that lower courts are consistently misapplying law, this needs to stop and only jury trials should be conducted orally to shorten the time.

Second, Proving a pretext statement is false is a higher standard than what minority-group plaintiffs must show and then Title VII intended.

HIGHER STANARD ON A CLAIMANT THAT HAS PROVEN A TITLE VII PRIMA FACIA CLAIM

If the discrimination complaint is reported to the employer first and the **EEOC and court process has not been completely adjudicated**, the **Plaintiff's Title VII case, and if the judge refuses to present all material facts because she is focused on the employers reasons the plaintiff is thwarted by a judges confusion or bias during that stage the puts an undue burden on the plaintiff or victim who proved a prima facie claim.**

The defendant does not have to defend the Title VII claim at a level equal to the burden the plaintiff faces when proving the lower standard of the prima facie case but the Plaintiff had to provide a preponderance of evidence to defeat a employers possibly **pretext reason provided by the employer who is possibly bias.**

This scenario causes imposes a higher standard on majority-group plaintiffs to become a Plaintiff defendant of S'DOT's defendant's **explanations for the inference of discrimination reasons**, when the defendant could have been retaliating via (collusion) which is harder to prove, as revealed in the case at hand.

The Wooten court treat McDonnell Douglas as a substantive legal standard that a plaintiff must establish to survive summary judgment or to ultimately prove a claim. See Tynes, 88 F. 4th, at 945

The McDonnell Douglas framework was designed for use in a bench trial, the language this Court has used to describe the framework **does not neatly track the plaintiff 's prima facie facts** established and gives the

lower level magistrate **judge (who may be over worked, confused, tired, incompetent, bias, impartial or legally, agency, or racially prejudice) and has too much power in the precious beginning stages of a discrimination case to determine mountains of facts**.

Some confusion likely arises from the fact that the framework was not designed with summary judgment in mind. **But, a plaintiff (need not) establish or prove any elements—by a preponderance or otherwise—to survive summary judgment**. At least a few courts have suggested that this Court's language "likely bears some responsibility for the continuing confusion" regarding McDonnell Douglas. See, e.g., Tynes, 88 F. 4th, at 945.

Plaintiff **(must)** show, "by a preponderance of the evidence," Burdine, 450 U. S., at 253, that the employer's stated (possibly false) reason "was in fact pretext (or fasle)" for discrimination, McDonnell Douglas, 411 U. S., at 804.

It unfairly makes it harder for plaintiffs to prove their case due to page limit constraints and false statements can be fabricated **if the SCDOT leaders stick together** to railroad and whistleblower or victim of discrimination who established an inference of discrimination.

THE LEGAL PROCESS IS FLAWED, (TOO LONG) AND ALLOWS FOR LOWER COURT JUDGE MANIPULATION OF EVIDENCE & FACTS

The legal process is too long, expensive and cumbersome and has become overly burdensome for a unemployed pro se litigant whom has to build his life back up and dedicate all of his time to finding a job and taking care of his family while behind on bills while paying thousands of dollars to obtain his **promised protection**

and justice should not take 6 years.

It appears the process promises protections but you have to pay for them, after your tax goes to a government agency that uses those funds against you unemployed citizens don't have $400 hour for a lawyer and local legal services like EEOC do not guarantee assistance based on assets and household income, it appears the system wants citizens to put multiple years of your life, time and savings in jeopardy to gain Title VII protections.

The question is whether the plaintiff has proffered enough evidence to allow a reasonable fact finder to find a Title VII violation. See Fed. Rule Civ. Proc. 56(a) and if the employer discriminated. The Court explained that "the issue at the trial" would be whether the employer.

1. violated its own policies while allowing the supervisors accused of harassment and discrimination to continue to retaliate against the petitioner.

2. Refused to discipline white supervisors for inappropriate adverse actions.

3. refused to promote the plaintiff because of his race or because of his participation in protected EEOC activities.

4. Guffee plausibly retaliated and **manufactured all of SCDOT's quantity and quality, interactions with other workers, failure to follow instructions conduct reasons** for termination causing the magistrate to illegally rule element 2 not satisfied.

Please grant this Write of Certiorari so that the Petitioner can become whole again and move

on with his life, he knows he provided enough working document evidence on ECF 115 to prove his case, he has multiple years performing Government Compliance Audits, although he is not a Lawyer, he could not let SCDOT skate and get away with treating him and other black workers unfairly, so:

He chose to do his best, and leave unto the Lord the rest and see the legal process through.

CONCLUSION

This Court (**should not) allow courts below to impose Mcdonnell Douglas framework or higher summary judgment standards or prima facie burden on plaintiffs** based on possible false statements of the defendant.

The petitioner provided **MOTIONS FOR SANCTIONS** and moved for summary judgment with **ECF 116 based on ECF 106 & 114,** Class Action Unequal pay EVIDENCE that **deserves to win on the merits.**

The District Judge appeared incapable of fair judgment, slandered the Plaintiffs objections and attempt at justice due to SCDOT's Title VII violations, and **falsely stated he attacked his coworkers, with his facts and evidence of discrimination and retaliation,** the judge focused on grammar errors and relied on the magistrates incomplete report and recommendation: dismissal with prejudice, was unethical.

SCDOT manufactured PRETEXT reasons why, but,

"ALL ITS' REASONS WERE A LIE."

The district court in South Carolina [ERRORED], so the Petitioner requests this **SUPREME COURT** to **GRANT his PETITION: 25-47** and **make a final decision in his favor** or remand or do what it feels is best with instructions:

The SCDOT salary study does not satisfy its burden of proof and the PETITIONER'S SALARY ANALYSIS was better evidence that documented class action UNEQUAL PAY.

The Petitioner estimates damages at $ 1,260,076

per his calculations. **See [App. 39a] .**

Respectfully,

Wilbert Alexander, Pro Se, EEPA for 4TH circuit citizens.

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IN THE
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PETITION FOR WRIT OF CERTIORARI

INTRODUCTION

In the case at hand, the courts below did not uphold the integrity of the judicial process.

Per Justice: Elena Kagan of the Supreme Court; 8th Circuit Muldrow vs. City of St. Louis, case 22-193 April 17, 2024, precedent and other case law although an employee must show some harm from a forced job transfer to prevail in a Title VII claim, they do not need to show that the injury satisfies a significance or materiality test and **"whether the harm is significant" turns out to be "in the eye of the beholder".**

Dealing with the complications of losing a job due to discrimination, harassment, and retaliation, I informed SCDOT about has put a mental shackle on me concerning discriminatory corporate America (the petitioners chosen work industry) because I have not found steady employment after 6 years looking for jobs, doing contract work, odd jobs while **trying to navigate a errored legal system** that **appeared to intentionally deny justice** because the courts below decisions are clearly egregious and wrong, sadly, **I have to pay to obtain my promised constitutional rights denied after presenting direct third party evidence**. The courts below formulated errors that I have to correct causing the whole system to look corrupt and justice to be clearly denied, is earth **shattering, the substance of things hoped for, faith in the system.**

In a similar case for example, "The Petitioner's evidence that the alleged discriminator or harasser Carlson (like SCDOT Guffee) whom displayed hostility to

the petitioner and did not like him (was sufficient and demonstrated pretext if the official based his termination decision on ...the testimony of the original offender Guffee (like Carlson) whom also requested the job termination: A. KING *v. D.* RUMSFELD, SECRETARY OF DEFENSE 4th circuit case No. 03-197.

ORIGINAL COMPLAINT

On 01/24/2018 the petitioner had a completely clean work conduct record until he complained of discriminatory harassment and unequal pay experienced. SCDOT committed about 37 or more total weekly/monthly adverse actions, reprimands, threats of job interference after the petitioner complained of discrimination on 01/24/2018 ending in job termination. Other courts have concluded that the discharge of an employee (or adverse action) soon after the employee engages in protected activity is strongly suggestive of retaliatory motive, thus indirect proof of causation. . *e.g., Oliver v. Digital Equip. Corp.*, 846 F.2d 103, 110 (1st Cir.1988).

SCDOT policy states, complaints **MUST BE investigated and HR director notified within 2 days**.

FAILURE TO INVESTIGATE OR PROTECT & VIOLATION OF TERMS, CONDITIONS & BENEFITS

IAA#13A 02/09/2018 Petitioner emailed Rikard asking, why hasn't she investigated or something? Because, In an 02/02/2018 email to the whole department one week prior, newly hired in July 2018 **Guffee the accused harasser**, forced the petitioner into a job position description reporting hierarchy change of terms, conditions, privileges, benefits from hiring and training supervisor Simmons to newly hired unknowledgeable Guffee above Simmons.

IAA#13B Rikard started her investigation 14 days late.

IAA#13C Per Rikards, EEOC response on the record former **Director of Finance B. Keys told Rikard he would have a conversation with Guffee and Smith** and tell them to **"do not let their Personal feelings show",**

Per Law, If the complaint is of potential violation of law or policy, **the employer will need to investigate**, and in the process of investigating it situations ... (liability is based upon **whether and how the employer attempted to prevent the harassment** or responded to it once it became aware of it, sometimes called the "**negligence standard").** The Court in Meritor also noted the employee must have indicated by his or her conduct that the alleged sexual advances were "unwelcome."

Petitioner was fired, exactly one year later, for indicating his protected activities were violated and that Guffee's conduct and interference was "unwelcomed" in the 02/21/2019 email reply.

HARASSMENT AGREEMENT VIOLATED

Per SCDOT Rikard's investigation notes. (See SCDOT evidence:*[SCDOT's Resp to P's INTs (22.03.21) [#10] 43]*:

Guffee formally agreed to ("TASB") "TAKE A STEP BACK") from interfering with the petitioners work and let Simmons the hiring and training Supervisor conduct training, yet the petitioner was fired due to Guffee's accusatory, leading, argumentative, compound questions that lead to a 5 day suspension meeting on 02/27/2019 & being fired on 03/05/2019 due to Guffee's false characterizations of the petitioners statement that he filed an EEOC complaint and now has extreme anger induced psychological stress disorder and hatred for discriminatory corporate america, and the courts below egregious errors and mistakes of fact.

EEOC COMPLAINT FILED

[IAA#13D] 02/04/2018 Petitioner filed his original EEOC complaint 436-2018-00581.

PROTECTED ACTIVITY THREAT NOT ADDRESSED

[IAA#14] 3/15/2018 In email Guffee threatened that any further contact with VP Brian Keys or HR to discuss harassment or discrimination or SCDOT HR could result in job loss. [ECF 64 exhibit PEX 127, 195] Keys, resigned shortly after.

On O2/21/2019 Guffee injected himself into a email thread between the petitioner and black female Simmons and denied promised instructions from Simmons. Guffee asked 8-12 compound, leading, argumentative questions forcing a reply from the petitioner whom replied honestly and transparently.

2) Guffee in retaliation took this simple email reply then falsely characterized the petitioners reply as insubordinate, prepared a reprimand and submitted it to disgruntled Johnson HR assistant for approval and requested 5 day suspension.

3) After the 5 day suspension meeting Guffee stated in the meeting, the petitioner said he filed an EEOC COMPLAINT

4)But, Guffee requested the petitioner be fired for stating that he filed an EEOC complaint which Guffee described as "an aggressive EEOC complaint" which shows Guffee's disregard for the EEOC process proving it was a material genuine issue of major concern that caused The petitioner was fired on 03/05/2019.

Per Google AI Overview 1. The term "aggressive" used by the manager to describe the EEOC complaint could imply: While a manager's description of an EEOC complaint as "aggressive" might not be, in itself, a violation of the law, it could potentially be indicative of retaliatory behavior. The manager's comment could be

considered as part of a pattern of behavior designed to deter or punish the employee. If the manager's comment is followed by actions that negatively impact the employee's job or create a hostile work environment, it could strengthen a claim of retaliation. In summary: While the term "aggressive" itself might be subjective, the context in which it's used and any subsequent actions taken by the employer need careful consideration.

Around 01/15/18 Petitioner was forced into a lower a/p clerk position.

Title VII comes into play before the harassing conduct leads to a nervous breakdown. HARRIS, *v.* FORKLIFT SYSTEMS, INC. - No. 92-1168.

DISCRIMINATION, HARASSMENT AND RETALIATION CAUSED A DISABILITY

Per the magistrate, ("Plaintiff has provided direct evidence that SCDOT's Rikard observed the Plaintiff's perceived mental anguish (anxiety disability) in this same meeting around 01/30/2019 one year after he filed discrimination complaint on 01/24/2018 and experienced 37 for more disabling adverse actions like the appalling conduct alleged in *Meritor*, and the reference in that case to environments " `so heavily polluted with discrimination as to destroy completely the emotional and psychological stability of minority group workers,' " *supra*, at 66, quoting *Rogers* v. *EEOC*, 454 F. 2d 234, 238 (CA5 1971), cert. denied, 406 U.S. 957 (1972),

ΙΛΛ#27Λ 02/14/19 Λftcr going to HR for hclp, assistant Johnsons threatens the petitioner based on statements of Guffee [PEX# 220-221]

Retaliation is easier to prove than discrimination. Hubbell v. FedEx, No. 18-1373 (6th Cir. 2019). Subsequently. In Faragher (1998) and Burlington Indus. (1998), The Court held: An employer is subject to vicarious liability to a victimized employee for an actionable hostile environment created by a supervisor with immediate (or successively higher) authority over the employee.

Harassment is a theory of discrimination which allows an employee to establish harm without proof of an adverse employment action such as discipline or ...Sep 18, 2020.

Finally, the Court in Oncale reiterated that "harassing conduct need not be motivated by race;

In the case at hand the petitioner contends no new hire white employees experienced harassment or unequal pay, ONLY black employees.

In Meritor Savings Bank v. Vinson, 477 U.S. 57, 106 S. Ct. 2399, 91 L. Ed. 2d 49 (1986), the Supreme Court held "that a plaintiff may establish a violation of Title VII by proving that discrimination has created a hostile or abusive work environment." 477 U.S. at 66.

The paramount concern of Congress in enacting Title VII was the elimination of discrimination in employment," Trans World Airlines, Inc. v. Hardison, 432 U.S. 63, 85 (1977) and ensuring that "similarly situated employees are not. ... treated differently solely because they differ with respect to race, color, religion, sex, or national origin," id. at 71; Shell Oil Co., 466 U.S. at 77.

At each step of its analysis in this case, the court below violated Summary Judgement rules and credited and used Rikards or Guffee's account of events and ignored all evidence and facts that presented by the non-movant as required by Summary Judgement rules.

This Supreme Court Grants Certiorari to clarify the lower courts application of laws; If the 4th Circuit Court of Appeals April 15, 2024, ruling on case 23-1781 is allowed to stand, it will conflict with Supreme Court April 17, 2024, 8th Circuit Muldrow vs. City of St. Louis, case 22-193 precedent and other case law regarding materiality and Equal Pay Act law & Title VII, ADEA, ADA.

To win ..., must show "... false representations of the promisor (SCDOT or judge)." *Karnes v. Doctor's Hosp.,* 51 Ohio St.3d 139, 142 (1990).

SUPERVISOSR'S THREATS

A supervisor's threat to take adverse action against an employee...may create a hostile work environment. Cases involving...threats, should be analyzed as hostile work environment cases only. E. Scalia, ... 21 Harv. J. L. & Pub. Policy 307, 309–314 (1998). The Supreme Court held that a "hostile" work environment claim is comprised of a series of separate acts that collectively constitute one 'unlawful employment practice.'" (citing Title VII, 42 U.S.C. § 2000e-5 (e) (1)) NATIONAL RAILROAD PASSENGER CORP. *v.* MORGAN, No. 00-1614. Argued January 9, 2002-Decided June 10,2002 Also see Laurent Workman v. Wormuth, No. 21-1766, 11-29-2022. Finally, in Harris the Court held that "whether an environment is 'hostile' or 'abusive' can be determined only by looking at all the circumstances. These may include

1. **the frequency of the conduct;** -
2. **its severity;** caused severe stress and anxiety with no
3. **whether it is physically threatening** – Guffee stalked , the petitioner, stood over him yelling on multiple occasions per record pictures and videos.
4. **or humiliating,** - daily yelling and public harassment in the office in front of coworkers.

These are especially egregious examples of harassment. They do not mark the boundary of what is actionable.

We therefore believe the District Court erred in relying on whether the conduct "seriously affect[ed] plaintiff's psychological well being" or led her to "suffe[r] injury."

A discriminatorily abusive work environment, even one that does not seriously affect employees' psychological well being, can and often will detract from employees' job performance, discourage employees from remaining on the job, or keep them from advancing in their careers.

The effect on the employee's psychological well being is, of course, relevant to determining whether the plaintiff actually found the environment abusive. But while psychological harm, like any other relevant factor, may be taken into account, no single factor is required.

Certainly Title VII bars conduct that would seriously affect a reasonable person's psychological well being, but the statute is not limited to such conduct.

So long as the environment would reasonably be perceived, and is perceived, as hostile or abusive, *Meritor*, *supra*, at 67, there is no need for it also to be psychologically injurious.

This is not, and by its nature cannot be, a mathematically precise test. We need not answer today all the potential questions it raises but each case needs to be properly addressed.

Whirlpool Corporation: (M.D. Tenn.) resolved 6/12/12 Memphis District Office. The Commission alleged that Whirlpool violated Title VII of the Civil Rights Act of 1964 when it did nothing to stop a white male co-worker at a Whirlpool plant in LaVergne, Tenn., from harassing an African-American female employee because of her race and sex. The trial also established that the employee suffered devastating permanent mental injuries that prevented her (like the petitioner) from working consistently as a result of the being less marketable and

mental restraints debilitating anger, and stress dealing with finding comparable employment knowing I was fired illegally after discrimination was reported. Final judgment awarded the employee a total of $1,073,261 in back pay, front pay and compensatory damages on December 21, 2009.

Per Forklift, the 4th Circuit District Court nonetheless incorrectly applied the *Meritor* standard.

The District Court's incorrect application of summary judgment incorrect standards may well have influenced its ultimate conclusion.

MISSAPPLICATION OF TANGIBLE ACTION LAW

SCDOT took tangible action therefore the Magistrate improperly required proof by a preponderance of the evidence.

When no tangible employment action is taken, a defending employer may raise an affirmative defense to liability or damages, subject to proof by a preponderance of the evidence, see Fed. R. Civ. P. Rule 8(c).

The defense comprises two necessary elements: Faragher, 524 U.S. at 807-08 (emphasis added).

(a) that the employer exercised **reasonable care** to prevent and **correct promptly** any harassing behavior, and

(b) that the plaintiff employee **unreasonably failed to take advantage of any preventative or corrective opportunities** provided by the employer or to avoid harm otherwise.

VIOLAITON OF REASONABLE CARE

(a) No reasonable care was take by SCDOT.

(b) Rikards admitted she intentionally did not matriculate the grievance form to SCDOA OR the appropriate agency.

In 2003 the Supreme Court clarified what is a "tangible employment action" for purposes of analysis under the rules set forth in.

The Court in Faragher and Ellerth clarified conduct which can be characterized as "tangible employment action," so as to warrant automatic liability.

No affirmative defense is available, however, when the supervisor's harassment culminates in a tangible employment action then it is considered a "tangible employment action" such that the rule of strict liability will apply, and no affirmative defense is available to the employer all of which the petitioner experienced, such as

1. such as hiring, firing,
2. demotion, failing to promote,
3. or undesirable reassignment with significantly different responsibilities,
4. or a decision causing a significant change in benefits." 524 U.S. at 761.

IAA#15C Guffee threaten use of sick and annual leave to care for parents may result in job termination. [App. 168a, 270a **154a, 172**a **-174**a, 180a, 197a-198a, 209a-213a,] **Per the magistrate, FMLA does not cover annual and sick leave and this was not material, severe or pervasive. The 7th Circuit concluded that** discouragement alone **could allow a plaintiff to bring a ... claim., instead of separating conduct into denial or**

interference, other circuits ... take the approach of treating the two categories as interchangeable. Ziccarelli v. Dart, F.4th 1079 (7th Cir. 2022).

According to the empirical data contained in the Chew law review article, largest group filing racial harassment charges is African-Americans at 82%. next largest group is White Americans (8.6%), Finally, the Chew article explains the success rate of racial harassment claims as follows: "plaintiffs are successful in 21.5% of the cases and defendants are successful in 81% of the cases.

Furthermore, this study indicates that plaintiffs fare worse in racial harassment cases than in sexual harassment cases."

The old dichotomy of "hostile work environment" and "quid pro quo" harassment has been replaced by an evaluation as to whether the offensive conduct was committed by a supervisor and resulted in a tangible job detriment (in which case liability is automatic under respondent superior and agency law principles)

This unbalanced trend needs to be fixed especially in clear land slide cases as the petitioner has presented here.

STATEMENT OF CASE

A. STATUTORY ISSUES

The prima facie requirement for making a Title VII claim "is not onerous," *Burdine*, 450 U.S. at 253, and poses "a burden easily met." *Wrenn v. Gould*, 808 F.2d 493, 500 (6th Cir. 1987). At this stage in the trial, *in making this determination, "this court 'may not weigh the evidence, pass on the credibility of witnesses, or substitute [our] judgment for that of the jury.'" Id (quoting Spengler v. Worthington Cylinders, 615 F.3d 481, 489 (6th Cir. 2010).* (and determine the truth of the matter," *Anderson*, 477 U.S. at 249,)

B. FACTUAL BACKGROUND

Wilbert J. Alexander II claims he was over forty years old deserving ADEA protection and, after 4.5 years of excellent service he reported a newly hired white male manager for discrimination and started verbally requesting transfers from HR while applying for jobs in other departments. (IAA#0A) – (ADEA) does not expressly refer to harassment based upon age, the EEOC and some federal courts have held that age-based harassment is a violation of the ADEA. Petitioner felt harassed and paid less for being a young black male making accomplishments and filed a age discrimination claim. See., e.g. Baqir v. Principi, 434 F. 3d 733 (4th Cir., 2006).

Mr. Alexander had 8-10 prior years experience performing A133 government compliance audits and great character references and superior experience of his comparator. Accounting services and reporting any inconsistent findings before working at SCDOT. As a SCDOT Contract Assurance and Compliance Auditor IV, he received 3.8 years of specialized AASHTO financial reporting training; completed 80+ CPE hrs and had 4 yrs all pass performance reports from SCDOT managers D. Player & S. Stone and reference letters of great character and getting along with coworkers (App. 20a-21a, 49a, 64a, 69a, 114a-115a, 216a 32a-33a) from May 2014 to June 201.

Therefore the petitioner Alexander is somewhat an expert in government legal compliance auditing and reporting on legal policies and procedures. This helps to form an opinion ... (knowledgeable) employees or supervisors can be experts *Id.* At 14a. A. KING *v. D.* RUMSFELD, SECRETARY OF DEFENSE 4th circuit case No. 03-197.

IAA#1 – 6/1/17 Mr. Alexander applied for an accounting position, (Before Guffee was hired). In his May

2017 Accounting Fiscal Analyst III interview, with VP of Finance Smith and supervisor Simmons), Petitioner was promised zero-tolerance harassment work environment. [App. 35a-37a, 73a-77a, 128a, 144a-145a, 191a, 193a, 196a, 202a-207a, 229a] [IAA#1A] Mr. Alexander requested training material for the job transition, VP Smith & Simmons stated the (A&A Manual) was (5) years outdated-2012. (IAA#22) The petitioner stated he could possibly help update the (A&A) Manual based on his prior training. [IAA#1B] VP Smith asked minimum salary request? Mr. Alexander stated $60,000 ($70,000 band max.) VP Smith and Simmons laughed, Smith denied the minimum request: stating, you seem overqualified for this position but (Black female supervisor Simmons) she doesn't make that much".

[IAA#1C] Petitioner 1) placed in Simmons old office (most staff were in cubicles) 2) promised a promotion and pay increase by VP Smith when Simmons old job is posted due to higher qualifications and not meeting the minimum salary expected.

GOOD PERFORMANCE REVIEW:

Per VP Kace Smith's referral letter: (Before Guffee was hired): (App 110a) Wilbert is a current SCDOT employee and has DONE WELL AT HIS CURRENT JOB. He has the ability to assist the Accounting Office in the problem solving of complex project accounting issues as well as the calculation and application of cost accounting rates. Wilbert meets the standards. (He should continue to pursue applicable training as necessary)."

SCDOT falsely said to EEOC the petitioner was not new, and didn't need training on new task.

The district court in Aiken noted general qualifications and positive employer reviews to conclude initially that Aikens had made out a prima facie case. 460 U.S. at 713 n. 2 714 n. 4.

Cline presented of her two-year record of success, and...April 1996 evaluation, is more than enough to meet this standard. Cline v. Catholic Diocese of Toledo, No. 98-3527. Looking only at a plaintiff's successful work record (*prior* to the onset) of ... (alleged) ...performance to find the prima facie stage satisfied,); *Thompson v. Union Carbide Corp.*, 815 F.2d 706, 1987 WL 36807, at *3-*4 (6th Cir. 1987).

C. PROCEDURAL HISTORY

01/24/2018 Petitioner filed his original discrimination, harassment, unequal pay complaint against Guffee/Smith. After he made HR aware his job was being affected he filed 4 EEOC complaints and receive a "cause likely happened" EEOC RIGHT TO SUE LETTER and filed a federal complaint in December 2020.

Magistrate denied 9 of 10 claims at the Prima Facia stage for the following reasons, **not severe or pervasive enough, outside of temporal proximity, not verified, no or lack of understanding the evidence or reason the Salary Analysis evidence was presented**. [See [App. 13a-117a, 32a, 51a, 61a-63a, 97a-98a, 142a, 120a, 121a] [ECF 106, 106-1, 106-2, 114, 127-2]

28 U.S.C. § 1746 VIOLATION

Subdivision (c)(3) The rule also recognizes that a court may consider record materials not called to its attention by the parties. A formal affidavit is no longer required. 28 U.S.C. § 1746

DENIED CLAIMS

(2) Freedom of speech job interference – 01/24/18 violation after lunch break (video) & threat he would be fired for contacting Brian Keys concerning harassment or discrimination per emails, 05/09/18 forced signature denied

Per magistrate, Finally, the court declines to address Plaintiff's allegations concerning (IDCRP) indirect cost funding and related allegations [*see, e.g.*, ECF No. 106-1 at 1] as unrelated to the instant case. (App 161a) "he has failed to allege a causal relationship between that speech and the deprivation of some valuable benefit.

Petitioner claimed Guffee's retaliatory motive/actions was a causal connection (App. 162a-163a) Free speech at lunch is a valuable benefit.

(3) breach of terms of employment – denied forced transfer was not in temporal proximity and **(4) Defamation/false statements** - denied magistrate falsely stated claims was not against management.**(5) negligence** – HR failure to provide SCDOT and TITLE VII, EEOC protections from Guffee, Smith, Rikard & Johnson, - denied bar not severe. **(6) defamation** – false statements and characterizations by Guffee, Smith, Rikard, Johnson & Simmons , - denied because it was not claimed against a member of management. **(7) violations of the Family and Medical Leave Act ("FMLA")** , 29 U.S.C. §2601, et seq., – for Guffee's threats of termination for using earned sick and annual leave to take care of sick parents – denied because it was not claimed or relevant to this case. **(8) tortious interference with terms of employment** – for Guffee's threats, discriminatory job interference, false reprimands, false statements, - denied not severe or pervasive. **(9) intentional infliction of emotional distress** – due to lack of protection noted by Rikard in the 01/19/19 meeting with HR director requested by the petitioner, and– denied because Plaintiff did not enroll in a hospital. **(10) wrongful discharge/termination, constructive dismissal** – denied due to not satisfying discrimination element 2 quality and quantity of work based on Guffee's **(11) Retaliation** (02/02/18) forced job change) – denied for lack of causal connection.

CLAIMS REVIEWED

The undersigned stated per ECF 53-1 "the Plaintiff has sufficiently alleged a claim for Title VII discrimination against SCDOT see [APP. 161a]

1. disparate pay,
2. denial of promotions and various employment opportunities, and
3. suspension/termination
4. but not one for a hostile work environment" ...Alexander vs. SCDOT

HOSTILE WORK ENVIRONMENT

The Supreme Court put forth factors to be used when considering whether harassment is sufficiently severe or pervasive. The work environment **must be** viewed from the perspective of a reasonable person in the victim's position, considering the **totality of the circumstances.**

In her concurrence in Harris, Justice Ginsburg asserted that the primary question should be whether a reasonable person would find it "more difficult to do the job." Oncale v. Sundowner Offshore Services, Inc.

The Supreme Court held that a "hostile" work environment claim is comprised of a series of separate acts that collectively constitute one 'unlawful employment practice.'" (citing Title VII, 42 U.S.C. § 2000e-5 € (1)) NATIONAL RAILROAD PASSENGER CORP. *v.* MORGAN, No. 00-1614. Argued January 9, 2002-Decided June 10,2002 Also see Laurent Workman v. Wormuth, No. 21-1766, 11-29-2022. Per www.gwlr.org/wp-content/uploads /2023/07/91 – Geo.-Wash.-L.-Rev.-755.pdf

Hostile work environment claims occurs over a series of days or perhaps years and, in direct contrast to discrete acts, a single act of harassment may not be

actionable on its own. See *Harris* v. *Forklift Systems, Inc.,* 510 U. S. 17,;.

SCDOT UNEQUAL PAY PRACTICES

[IAA#1D] Lower Initial Hire pay and false statements - Although (SCDOT allows up to a 15% for transfers) VP Smith only requested, 5% of 15% pay increase, this action proved to be disparate denied initial hire pay of $5,500. And, it found enough evidence that suggested Pollock (like SCDOT VP Smith) either misrepresented or misapplied the (pay increase) policy *Sykes v. Fed Ex Freight East,* No. 2:17-cv-13189 (E.D. Mich. 8/3/19) [IAA#1E] 09/02/2017 Ruelle's pay increased. [see App 13-117a]

SALARY ANALYSIS

See The Petitioners Salary Analyses ECF 127-2 compared (all) SCDOT employees with similar jobs to the petitioner, Ruelle & Simmons to explicitly prove there was a class action unequal pay issue at SCDOT and SCDOT [see App 13a-117a].

Tyler's salary study was not proper and had errors as confirmed by Google AI

RULES OF EVIDENCE VIOLATION

Also per Google AI, If an employer submits a salary study with errors into a court case alleging pay discrimination, they could be violating rules related to evidence tampering or providing misleading information, potentially leading to negative legal consequences. Specifically, they could be violating the rules of evidence, the duty to be truthful in legal proceedings, and potentially the Equal Pay Act (EPA) or Title VII of the Civil Rights Act if the errors are related to gender or other protected characteristics.

Here's a more detailed breakdown:

1. Rules of Evidence:

1. Spoliation of Evidence: If the employer intentionally altered or destroyed evidence (like the salary study) to conceal discriminatory practices, it could be considered spoliation of evidence. This can result in sanctions from the court, including adverse inferences against the employer (meaning the judge or jury might assume the corrected study would have been unfavorable to the employer).
2. Inadmissibility of Evidence: If the errors are severe enough to render the study unreliable, the court may exclude it from evidence altogether.
3. Duty to be Truthful in Legal Proceedings:
    a) Perjury: Knowingly submitting false information in a legal document is perjury, a serious offense.
    b) Contempt of Court: Submitting misleading information could be seen as a form of contempt of court, potentially leading to fines or other penalties.
        a. 3. Equal Pay Act (EPA) and Title VII:
        b. The EPA prohibits sex-based wage discrimination for equal work. If the salary study is used to justify a discriminatory pay system, and the errors are related to gender, it could be a violation of the EPA.
        c. Title VII Violations: Title VII prohibits discrimination based on race, color, religion, sex, or national origin. If the salary study contains errors that perpetuate or conceal discrimination based on these characteristics, it could also be a Title VII violation.

Potential Consequences:

- Rejection of Defense:

The court may reject the employer's defense if it relies on the flawed salary study.

- Adverse Inferences: The court may draw negative inferences against the employer, essentially

assuming the study would have shown discriminatory practices if it were accurate.

- Increased Damages: If the employer is found liable for discrimination, the court may increase the damages awarded to the affected employees.
- Remedies: Depending on the nature of the violation, remedies may include back pay, compensatory damages, punitive damages, and attorney's fees for the affected employees, according to the U.S. Equal Employment Opportunity Commission.

TITLE VII - PRIOR EXPERIENCE

SCDOT's salary study is based on the comparators prior experience but ignores the petitioners prior experience and current superior performance duties of having to write a training manual for the whole SCDOT accounting department without increased pay due in only 1.5 months just 3 months after being hired. Prior pay, alone or in combination with other factors, is not a job-related "factor other than sex" that can be used to justify a difference in pay under the Equal Pay Act (EPA), a majority of judges on the U.S. Court of Appeals for the Ninth Circuit has held again. *Rizo v. Yovino,* No. 16-15372 (Feb. 27, 2020).

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1. DISPARATE PROMOTIONS & PAY INCREASES

Per the magistrate The petitioners presented [ECF 115 PEX 255-263] ECF 122, Plaintiff alleges ... that he was denied promotions and job transfers ... **does not appear to be a materially adverse action**. Small v. Springs Indus., 357 S.E.2d 452 (S.C. 1987) violating Muldrow.

The courts magistrate **mischievously mislabeled** the (jobs applied for) evidence as **"some sort of annotated document"** and stated no evidence was submitted

tampering with the court record and did not discuss the evidence presented. **[see App 70a, 144a]**

DENIED CLAIMS PROCEDURAL HISTORY & LEGAL VIOLATIONS

1st POTENTIAL DISCRIMINATION OBSERVED [IAA#2] 6/15/17-9/2/17 2-3 Guffee, yelled in office & demoted, a black female a/p manager for no reason, moved in her office in his first week of employment, he moved out, office rumor was two a/p managers quit in a months due to inappropriate sexual advances. But, per the petitioners SALARY ANALYSIS one a/p manager received questionably high pay increases in a short period. The 2nd floor window view office was turned into a supply closet.

CHANGE IN TERMS, CONDITIONS, PRIVILEGES & BENEFITS #1, DENIED PROMOTION & JOB INTERFERENCE:

Just 3 months after being hired, the Petitioner independently read the SEFA instructions, prepared and submitted it to Simmons, Guffee & Smith for review but he was Denied (SEFA) review promotion when Guffee appeared to show racially based preferential treatment and told the petitioner to submit and report to Ruelle for approval. Ruelle was hired the same time as the petitioner with the lesser job duties:

Magistrate appeared to intentionally fail to mention Per the record Rikards, "Michael Guffee interfered and modified (Petitioners) SEFA report answers...then yelled and falsely blamed the petitioner (publicly), for the auditor requesting corrected answers. [IAA#0B])

EXPERT STATUS – Rikard recorded (After the Plaintiff intervened and provided the right (SEFA) answers and documents, **the (State) Auditor said, thank you, now 'she has everything she needed**. [App 122a]

The Petitioner passed 2 external SEFA Audits, the 1st passed only 3-4 months after being hired proving the petitioner was qualified and capable performing major task at initial hire unlike his comparator. This Supreme Court ruled to establish that his work met appellee's legitimate job performance expectations he had only to offer qualified (state auditor) expert opinion A.KING *v. D.*RUMSFELD, SECRETARY OF DEFENSE 4th circuit case No. 03-197.

CLASS ACTION UNEQUAL PAY

IAA#1F 9/02/2017 Petitioner discovered newly hired Ruelle (3mths) was paid $11,586 more than him (4yrs) and $4,500 more than their supervisor Simmons (10yrs) per SC Dept. of Administration website and requested a pay increase from HR. CHANGE IN TERMS, CONDITIONS, PRIVILEGES & BENEFITS #2 IAA#3 09/14/2017 i.) Non-Legitimate expectation used by magistrate to deny Title VII claim based on element) Terms & Conditions, Privileges, Benefits change. Guffee, forced petitioner, to write an (A&A) training manual IAA#4 this (A&A) training manual was not an agreed upon duty nor one for a staff accountant). . *[App 40a-42a. 225a-226a]

IAA#5 Petitioners pay was not increased with this additional A&A training manual duty. IAA#6. 09/20/2017 A) Petitioners verbal salary increase request to HR, ignored until April 2018. IAA#7 A) 12/4/2017 IDCRP new task instructions, 9 days later B) , 12/13/17 -Disparate treatment. Guffee ignores warning and instruction errors

and discriminatorily blames the petitioners skill level, starts, yelling , "WHEN WILL YOU BE FINISHED". C) Threats - VP Smith didn't intervein she BEAT ON TABLE.... yelling "WHAT ARE YOU RESEARCHING" 2.) threatened the Plaintiff and said, 'you don't want to deal with me and Michael...next week when (black) supervisor ;Simmons is on vacation.'") D) Job Interference - VP Smith & Simmons secretly obtain the payroll document and withheld them for 5 hours intentionally causing unnecessary delays. IAA#8. 1/15/2018 13 CHANGE IN TERMS, CONDITIONS, PRIVILEGES & BENEFITS #3 ("Guffee demoted petitioner into an unwanted Transfer to a lower A/P clerk position violating Muldrow *[App 182a-189a] IAA#9(a) 01/24/18 DENIAL OF TRAINING *[App 190a, 201a, 214a]) On lunch break SCDOT internal auditor asked the petitioner why Guffee and Smith left him out of the IDCRP meeting? Petitioner emailed Guffee and Smith asking if it was a meeting why was he not included. IAA#9(b) 01/24/2018 RETALIATORY After ignoring the petitioner for weeks per Rikards notes, they Guffee and Smith showed up at the petitioners office in less than a minute and yelled, heavily scrutinizing asking: "WHO INFORMED YOU ABOUT THE (IDCRP) MEETING?". Guffee stated "didn't N'katha (influenced by Guffee) tell you not to speak with anyone outside of accounting". **(App 16a, 96a, 161a, 182a-187a, 201a, 218a, 234a-235a, 239a)** IAA#9(c) Petitioner complained of discrimination on 01/24/2018. [ECF 115 PEX 67 – 77], and he started receiving threats, warnings and reprimands that violate Title VII. IAA#10 01/29/2018 Denied Promotion . Petitioner denied promotion promised by Smith in his interview that placed in in Simmons old *[App. 63, 228-229, 264, 279, 143a-144a]

JOB INTERFERENCE TITLE VII RETALIATION

Guffee used this position description change interfered took opportunity to deny training IAA#12 In Retaliation, For example on 02/21/19 Simmons assigned the SIB task

to the petitioner whom requested written instructions as well per emails. per emails Simmons agreed to provide new SIB job task training. 1) Guffee interfered with training with false accusations and asked 8-12 argumentative questions per emails that directly lead to job termination.

Considering SCDOT supervisor has engaged in actionable behavior, and there has been tangible job detriment, SCDOT is not allowed an affirmative defense. IAA#11A 02/02/2018 9 days after the discrimination complaint Guffee retaliated and changed the petitioners reporting hierarchy from Simmons, directly to (the supervisor just accused of discrimination and harassment) Guffee stating he would provide all training.

Per the magistrate **[App 164a]** [ECF 59] "the only alleged adverse action specifically identified and even reasonably close to Plaintiff's alleged protected activities is that on February 2, 2018", this (forced) transfer, however, is not a materially adverse action". violating Muldrow.

Per the petitioners SCDOT CPE audit training, Opportunity" is a material part of the fraud, conspiracy triangle used in wrongful termination.

INCREASED SCRUTINEY

IAA#15A 03/26/2018 - Increased cpu Scrutiny: causing reprimand. IAA#15B 04/02/18 a) Retaliatory Clock in time warning, but SCDOT has a flexible work schedule agreement this was corrected, petitioner officially adjusted arrival to 9:00 from 8:30. [IAA#22A.

IAA#16 04/18/18 SCDOT Tyler slaps together a "salary study': with errors. IAA#17A On May 8, 2018, reprimand for IAA#15A

IAA#17A 05/09/18 Protected activity violations. Guffee forced petitioner only to sign a form and threatened, you better not speak with anyone outside of

the accounting. IAA#18 5/21/18 – Conversation with D. Cook & J. White prevented learning and accuracy. IAA#19 07/26/18 Petitioner new COMPLAINT to Rikard IAA#20 07/18/18 Superior performance: ***[App 40a, 215a, 225a-226a]**Per the record, VP Smith approved A &A training and stated, "I know two manuals were made two copies and one was given to Michael" indicating that she "will print what [she] need[s]" roughly 15-second video .. indicating Plaintiff's manual being "used." proving Alexander was qualified and satisfied element 2.

IAA#22A) *[see app 212a-213, 232, 240a-241a, 250a, 127a, 183a, 240a] 11/27/2018 *G*uffee who never performed the IDCRP task gave directive to complete task in two weeks, BUT idiotically he stated "you shouldn't have to stay late" to complete the IDCRP, which the petitioner understood as Guffee's hypothetical assumption and haphazard guess caused reprimand in 01/28/2019. The courts below IMPROPERLY ruled Guffee's guess above was a direct *instruction not to work overtime when* in fact per definition and law, it was the hypothesis and haphazard guess, Cf. Wright v. Craft, 372 S.C.1, 22, 640 S.E.2d 486,498 (Ct.App. 2006) IAA#22B) Guffee ignored computer crashing (Rikard falsely blamed on the Alexander in the EEOC review), and instruction issues and warnings that caused delays and need to work overtime, he was informed of the need. Although the petitioner submitted the IDCRP on time and passed 2018 IDCRP Audit, Guffee caused the petitioner to be reprimanded in January 2019 adding to total of 3 reprimands needed to terminate an employee illegally.

Shouldn't have to is not a directive, it is suggestive and hypothesis and dependent on the have to. In each place "shall" is changed to "should." "Should" in amended Rule 56(c). IAA#22-B) Beatty yells loudly, "Why did you ask for my help". IAA#23) 12/21/2018 Petitioner was blamed for beatty actions. IAA#24 01/28/2019 January Retaliatory reprimand due to overtime worked in

November. IAA#25A 1/30/2019– DISABILITY ACKNOWLEDGED BY SCDOT - Mccotty meeting IAA #25B SCDOT zero harassment policy [App. 35a-37a, 73a-77a, 128a, 144a-145a, 191a, 193a, 196a, 202a-207a, 229a and ADA violation Per Rikard's EEOC statements "she asked petitioner what he wanted, Alexander said "transferred Out" *[App. 129a, 199a] away from Guffee's abuse, Rikard and Mccottry stated, "well apply for another job", the petitioner stated, "I have, and you all have been ignoring my request."

Rikard confirmed petitioner displayed psychological anxiety noted by Rikards meeting notes on record.

Contrarily, While these intrinsic injuries may be difficult to quantify, they are indisputably grave. , e.g., Allen v. Wright, 468 U.S. 737, 755(1984) As this Court has repeatedly recognized, a discriminatory act—by its very nature— "deprives persons of their individual dignity." Roberts v. U.S. Jaycees, 468 U.S. 609, 625(1984). It thus inflicts "serious noneconomic injuries," including the ... "archaic, stereotypic notions" and stigmatic harms. Heckler v. Mathews, 465 U.S. 728, 739(1984). IAA#26 02/14/19 - Johnsons threat to petitioner . [PEX# 220-221] IAA#27A. 02/18/19 Petitioner forced out of his supervisors office into a cubical like Muldrow was. IAA#27B Petitioner filed his SECOND EEOC complaint 436-2019-00560 02/20/2019 IAA#28A 02/21/2019 Denied Training, disparate harassment, job interference:

1. TITLE VII – WRONGFULL TERMINATION QUALITY AND QUANTITY OF WORK

Per the magistrate, the record indicates that Plaintiff had received quantity and quality of work complaints therefore did not satisfy element 2 of prima facia claim.

PROOF OF PRETEXT: The petitioners daily, weekly, Monthly work was approved by managers Passed State Audit for 2027 & 2018 satisfied this requirement. SCDOT failed to list any specific material job related issues related to work task but vaguely referred to the non legitimate forced duty of the (A&A) manual not being prepared in 1 ½ months. A2) SCDOT has not produced one job task related reprimand or warning of this petition A3) petitioner satisfied legitimate expectations for work task. See [pages 2 & 6]. A4) (IAA#7 above IAA#21). A5) This was not the petitioners contractual agreed upon duty A6) Being forced to prepare the manual proves the petitioner was overqualified and underpaid for a material job change that deserved the promotion and pay increase regardless of Ruelle's experience. A7) [IAA#1B] This was a task for a Certified Public Accountant, VP of Finance like Smith, Controller like Guffee or Accounting Supervisor Simmons but not a newly hired staff accountant. interactions with coworkers SCDOT presented false statements and evidence. Conner v. City of Forest Acres, Op. No. 99-UP-433 (S.C. Ct. App. filed August 18, 1999) See [App. 38a-42a, 88a, 215a-216a, 220a-248a]

INTERACTIONS WITH COWORKERS

PROOF OF PRETEXT. (Beatty) **Showing pretext, 1) SCDOT never disciplined Beatty or the petitioner but 2) falsified court records in reprisal by maliciously blaming on the petitioner for Beatty's outburst to 3) (Per CONVO WITH DAVID ABOUT BEATTY VIDEO RECORDED testimony on the record from David, [ECF 115 EXHIBIT E PEX 271] "this was not a big disturbance at all", therefore SCDOT made a false statement on court documents. . 2B) (Guffee) IAA#27-33. This was caused 100% by Guffee violating Title VII, interfering and**

breaking the "take a step back agreement" See evidence on record: *SCDOT's Resp to P's INTs (22.03.21) [#10] 431* SCDOT - Rikards EEOC investigation notes:

(IAA#13B) patronizing the petitioner denying training forcing the petitioner simply email reply to Guffee's leading, argumentative, questions in regards to obtaining written instructions for SIB, Guffee interferes and ask question (6) "IF NOT, WHY" aren't you getting training, when the answer is, because you (Guffee) prevented it! Guffee maliciously stated the petitioner was insubordinate for answering the questions honestly. Per magistrate rule, "both of the issues were "minor actions not material ... just everyday office "petty slights or minor annoyances". [App 164a].

C) WILLINGNESS TO DISOBEY INSTRUCTIONS FROM SUPERVISORS

PROOF OF PRETEXT: ([IAA#22-24]. The petitioner did what he had to do to meet Guffee's strict 2-week due date and the 12/31/2018 SCDOT Federal due date Guffee's provided a hypothesis saying you shouldn't have to about without knowing the whole process. . Plaintiff informed Guffee of the need to stay late but Guffee ignored the Plaintiffs feedback about the computer crashing and bad instructions causing a need to stay late. The IDCRP passed audit, but the petitioner was reprimanded 2.5 months later in January for overtime worked to meet Guffee's strict 2 week due date.

IAA#28-B Petitioner had to move out supervisor office (like Muldrow). After being denied the 01/29/2018 supervisors promotion, a new supervisor was hired and paid $61,000 for the office when the petitioner was denied $55k. Simmons held meeting to discuss new duties afterwards, the petitioner sent an email requesting an

updated duties list and requested instructions for a new SIB task. The Magistrate 1) left out per emails, Simmons agreed to provide written instructions and Guffee, not in the meeting but on the email thread, Violated his ("TASB") agreement by asking: the following 8-12 leading, argumentative, compound, questions [App 131a - 133a] that interfered with training from Simmons and job duties. Guffee's question (6) If so, what is the plan on receiving the training and "if not why"? Guffee's (6)th question taunts, and patronizes, the petitioner asking 'how do you plan to get training, and if not, WHY" when per [IAA#11A] , in retaliation Guffee's 02/02/18 email forced the petitioner to transfer and report to Guffee., the accused harasser who stated "he would provide all training" but, he didn't and denied training, per Rikard's EEOC verified notes Guffee "failed to provide. The magistrate failed to discern or ignored how Guffee's subjective questions (1, 2, 3 & 4) interfere with the petitioners requests and needs and in regards to questions (5-8).

Per record petitioner, already provided his job duty list requesting updates, & instructions from Simmons for the new (SIB) task for training and to update the (A&A) manual but Guffee interrupted this training work process again violating the "TAKE A STEP BACK AGREEMENT", asking questions. IAA#29A 02/21/2019 Guffee retaliated falsely characterized (the email) reply as: "discourteous, combative, insubordinate." Per OxfordLearnersDictionaries.com, speculative is an *adjective* based on guessing, hypothetical or on (opinion).

A party does not meet its burden of proof if the evidence presented is only speculative, theoretical, or hypothetical). Cf. Wright v. Craft, 372 S.C.1, 22, 640 S.E.2d 486,498 (Ct.App. 2006) (IAA#25-#29) also.

IAA#29 02/21/19 Approval Policy violation two signatures required (IAA#26). Johnson was also

disgruntled due to a complaint for threats and not providing assistance. See [App 175a, 189a]

TITLE VII EEOC COMPLAINT PROCESS VIOLATION

IAA#30 02/27/19 5 days suspension Smith asked how do you feel about the suspension? The petitioner simply expressed he felt the terms, conditions, privileges, and benefits of employment changed due to Guffee's disparate treatment.

In their meeting summaries SCDOT Tyler, Smith and Guffee all state the petitioner stated he filed an EEOC complaint, but Guffee labeled the protected statements as an "aggressive" EEOC complaint proving his disregard for the complaints purpose, admitting this was an issue of major concern for him while slandering and disregarding the EEOC complaint process. EEOC complaints are informative not aggressive!

RETALIATION IGNORED BY MAGISTRATE

IAA#31 02/28/19 Guffee, retaliated and requested termination but shouldn't have not been allowed to interfere with the petitioner's training from Simmons on 02/21/19 violating the "TASB" agreement made with Rikard.

PROTECTED ACTIVITY VIOLATION

IAA#32 03/05/19 Petitioner was fired. Also, Per Guffee, Smith and Tyler's 02/27/19 meeting summary, the petitioner stated he filed an EEOC complaint. IAA#303/11/19 Conflicting issues, Per Tyler in the 02/27/19 meeting, Mr. Alexander asked if he was going to be fired?

1) Tyler said "No, only suspend for 5 days for the email", therefore Tyler ORIGINALLY did not think

anything occurred in the meeting or email that warranted Alexander to be fired.

NEGLIGENCE

2) Tyler's meeting summary was submitted 03/11/19 and not considered but it proves SCDOT changed its basis for termination.

FALSE STATEMENT

IAA#34 03/06/19 In the EEOC reply, 1) Rikard falsely said, the petitioner created the spreadsheet causing the computer to crash. [App. 79a, 195a-196a, 261a]

VIOLATION - SC DEPARTMENT OF ADMINISTRATION GRIEVANCE POLICY

2) SCOT Rikard admitted in the EEOC investigation to intentionally not submitting petitioners (grievance form) to SC Department of Administration denying the statutory remedy and due process.") IAA#34 IAA#35A 04/01/19 SCDOT managers falsely stated to coworkers the petitioner quit. IAA#35B [App. 193a]

FALSE STATEMENT

SCDEW unemployment office paperwork on record notes "quit job". IAA#35C IAA#9(c) The SCDEW investigator asked if I quit and asked Guffee how did he threatened him, it was a long pause "Guffee stated "generally", ... later, HR Johnson falsely blurts out "he threatened me too". IAA#36 - 10/21/2019 - Petitioner filed his 3rd EEOC complaint 14C-2020-00101 -10/21/2019 & 4th 43-2023-00625 on 01/12/2023. IAA#37 10/26/2022 Petitioner filed a Motion for Sanctions: [APP 38a, 39a, 90a-91a, 103a, 119a, 147a-150a]

The MAGISTRATE Errored and stated, "Plaintiff failed to submit admissible false statements". (IAA#1-4,

26, 37) and slander is only claimed against Guffee and no one in upper management. Guffee's is upper management.

DISCOVERY VIOLATION & COUNCIL MISGUIDANCE

subdivision (e)(1) recognizes that the court may afford an opportunity to properly support or address the fact. In many circumstances this OPPORTUNITY will be the court's preferred first step, denied by magistrate. [See App. 15a, 20a-23a, 41a, 46a, 52a-53a, 63a-66a, 90a, 148a, 205a, 280a]

The magistrate provide **SCDOT** 4-5 discovery period time extensions.

After Discovery was over, Petitioners council falsely stated the case was in a negotiation period when she just allowed SCDOT a time extension to file for SUMMARY JUDGEMENT causing her to be fired.

Magistrate **denied the petitioner 1 time extension**.

The Petitioner filed for Summary Judgement for Unequal Pay based on his SALARY ANALYSIS before SCDOT.

Magistrate denied petitioners claim and granted SCDOT's ERRED claim.

Petitioner appealed.

REASONS FOR GRANTING THIS PETITION

I. THE DECISION BELOW CONFLICTS WITH RECENT DECISIONS

A. Kitchen Planners, LLC v. Samuel E. Friedman

The landmark Supreme Court of South Carolina's decision case 440 S.C. 456 (2023) and Jane Breyer Friedman and Branch Banking and Trust, decided on August 23, 2023, serves as a pivotal reminder of the importance of adhering to the correct standards in Rule 56(c) of the South Carolina Rule of Civil Procedure stating summary judgment motions are reserved for cases where a clear, undisputed entitlement to judgment exists. This judgment has profound implications for future cases involving summary judgments in South Carolina. The core issue revolved around the proper application of summary judgment standards. Subdivision (c)(1)(A) - *Subdivision (e).* describes the familiar record materials commonly relied upon and *Subdivision (e).* Subdivision (e) addresses questions that arise when a party fails to support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c).

SCDOT failed to properly support's its unequal pay defense, presented false statements and the termination was based off of Guffee's retaliation and job interference.

The task of the magistrate is simply to **make a practical, common-sense decision** whether, given all the circumstances set forth in the record before them, there is a fair probability that ... evidence... will be found in a particular place, this flexible, easily applied standard will better achieve the accommodation of public and private interest that the Fourth Amendment requires.

If more than one inference can be drawn from the evidence, **a jury issue is created.** and the summary judgement motion should be denied. and the case MUST be submitted to the jury. *Jinks Richland County*, 355 S.C. 341, 345, 585 S.E.2d 281, 283 (2003); *Long*, 342 S.C. at 568, 538 S.E.2d at 9.

The magistrate did not use the non-movants facts and evidence as required by Rule 56. Summary Judgment.

B. MULDROW VS. ST. LOUIS

The court below in this case—like many circuit courts over 10 years—imposed additional, judicially created "severe and pervasive" requirements which shouldn't have a basis in any Section or 703(a)(1)'s text. Therefore both 4th and 8th circuit Muldrow courts departed from the plain text of the law and undermined Congress's plan in passing it.

II. THE DECISION BELOW IS WRONG CONTAINS ERRORS AND MAKES FALSE STATEMENTS

A. SCDOT'S (salary study) DIDN'T SATISFY EVIDENCE BURDEN OF PROOF

PRIOR EXPERIENCE LAW ERROR

[See [App. 13a-117a, 32a, 51a, 61a-63a, 97a-98a, 142a, 120a, 121a] [ECF 106, 106-1, 106-2, 114, 127-2] 9th Circuit Says Prior Salary Cannot Justify Pay Disparities ...Mar 10, 2020 — The 9th Circuit has ruled that prior salary history cannot be any factor in a defense to a claim of pay discrimination under the Equal ... 01/27/2025 error occurs when an employer compensates an employee less than others performing the same or. substantially similar work, based on ...

SCDOT SALARY STUDY

Per the magistrate, The Defendant SCDOT submitted a salary study prepared by SCDOT Rontrelle Tyler that was the basis for the disparity in pay between Plaintiff and Ruelle: [App. 32a, 51a, 61a-63a, 97a-98a, 142a, 120a, 121a].

SCDOT SALARY STUDY IS INADEQUATE

Per Google AI - A salary study comparing only one Black employee's salary (Alexander) to one White

employee's salary (Ruelle) with the same job is not considered a proper study, as it is statistically insignificant and does not provide a reliable picture of potential pay disparities within the company due to race; a robust analysis should compare a larger sample size across different levels and departments to identify any systemic issues. Why this is problematic: Small sample size: Comparing just two employees, regardless of race, is too limited to draw any meaningful conclusions about salary disparities across the company.

A proper salary study should Analyze data from a **significant number of employees** across different departments and job levels. Compare the company's pay structure to industry averages for similar roles to identify potential disparities.

SCDOT ADMITS DISPARATE PAY

Per the magistrate, In conclusion, SCDOT admits, there is a $11,586 (disparity) between the salary of Wilbert Alexander and Stuart Ruelle. SCDOT claims, no salary Inequity because: [See [App. 13a-117a, 32a, 51a, 61a-63a, 97a-98a, 142a, 120a, 121a] [ECF 106, 106-1, 106-2, 114, 127-2]

I. - Mr. Ruelle has over 14 more years of accounting experience – Legal Error
II. - and he received a 7% increase for supervisory responsibilities. – Unequal Pay & Promotion claim
III. - the background of Mr. Ruelle is much more in depth … as he has served as a Controller. – Legal Error **[App. 90a, 116a, 126a, 145a-152a]**
IV. - Alexander (he) does not, have history as a controller. [ECF No. 111-4 at 36–38]." - SCDOT False Statement
V. used his objections to assert a new "Equal Pay Act claim." – Magistrate False Statement

SCDOT SALARY STUDY CONTAINING ERRORS

Tyler failed to capture the petitioners 8-10 prior government experience, 4yrs SCDOT experience, superior performance preparing the A&A training manual or consider the Petitioners current SEFA AND IDCRP job duties total revenue and responsibilities was greater than Ruelle's at time of hire and after his CTC promotion duties., No. 120 3].[9], Per the record, Ruelle's CTC "penny tax" report had audit finding errors per the local news & website. *[See App 50a, 52a, 184a]

PROOF OF PRETEXT & LEGAL ERROR

I. - prior experience can't justify current unequal pay

II. Ruelle was initially hired and paid more than Supervisors Simmons and Caldwell, proving a supervisor title and responsibilities did not equate to higher pay but race was the deciding factor the magistrate unethically refused to discuss it.

Black managers, supervisors Simmons, & Caldwell, Comforts **did not benefit from SCDOT's supervisor makes more than a staff accountant pretext** explanation because staff accountant **This petition should be granted so the court can decide if, Did SCDOT violated "Merit, Excellence, and Intelligence (MEI) law.**

III. Ruelle was also given a disparately high pay increase only 3 months later without job title change. Per emails the supposed supervised staff was not hired yet.

IV. Promotion % was disparately higher than black supervisors and other employees pay increase %.

V. prior experience can't justify current unequal pay

- ECF 106 - 1 & 2 include **Alexander's SCDOT Job 2014 application resume** and proves he had controller experience on 2 occasions falsely presented by SCDOT & magistrate error. ECF 122 [See [App. 13a-117a, 32a, 51a, 61a-63a, 97a-98a, 142a, 120a, 121a] [ECF 106, 106-1, 106-2, 114, 127-2]

VI. - The magistrate lied. Several "Equal Pay Act claims were documented."

SCDOT SALARY STUDY WITH ERRORS

Per Google AI Overview – NON-INDEPENDENT INTERNALLY PREPARED SALARY STUDY CONTAINED ERRORS In a civil discrimination claim involving compensation, a company can have a salary study prepared, and it is not legally required to be conducted by an independent third party. However, while not legally mandated to be independent, internal salary studies may be subject to stricter scrutiny by the court or the Equal Employment Opportunity Commission (EEOC).

An internally prepared study might be perceived as biased in favor of the company's position, especially if its methodology or conclusions appear to downplay or justify potential disparities.

The EEOC, **when investigating**, may request access to internal job evaluation studies, reports, or analyses.

To ensure a salary study is seen as credible and helpful in a discrimination case, it's generally beneficial for it to adhere to a reliable and objective methodology, regardless of whether it's conducted internally or by an external expert.

Key considerations for the credibility of a salary study, irrespective of its origin, include:

- **Sufficient facts and data: (SCDOT presented false data)**
- **Reliable principles and methods**:

- **Assistance to the trier of fact**: The study should help the court or jury understand the compensation data and determine relevant facts in the case.

In summary, a company facing a discrimination claim should strive for a salary study that is **perceived as fair, objective, and based on sound data**.

PETITIONERS SALARY ANALYSIS

The Petitioners Salary Analyses ECF 127-2 compared (all) SCDOT accountants with similar jobs to the petitioner, Ruelle & Simmons to explicitly prove there was a class action unequal pay issue at SCDOT. See App 107a] [See [App. 13a-117a, 32a, 51a, 61a-63a, 97a-98a, 142a, 120a, 121a] [ECF 106, 106-1, 106-2, 114, 127-2]

B. THE COURTS BELOW DID NOT DOCUMENT ALL EVIDENCE PRESENTED OR APPLY APPLICALBE LAW PROPERLY.

MAGISTRATE'S FALSE STATEMENTS

Per, [App. 66a]the Court Magistrate Hodges stated "Plaintiff has failed to indicate the relevance of his arguments comparing (Ruelle's) compensation versus (Simmons's). *See, e.g., id.* at 4"

Yet, The Petitioner actually plead ***[App 143a]. The loud utter of racial animus was shown by (white male)**

Mr. Ruelle staff accountant being compensated $4,500 more than his (black female) accounting manager of 5 years (Simmons)

CONCLUSION

These issues individually and in total further highlights the district court's error in granting summary judgment. Therefore, for the foregoing reasons, the 4th Circuit courts below summary judgment decision should be REVERSED on all 10 claims .

Respectfully,

Wilbert Alexander, EEPA Pro Se, for 4TH circuit citizens.

PETITIONERS
ESTIMATED WAGE LOSS REPORT
2014 – 2025

	Year	Petitioner Salary	Comparator Salary	Variance Totals
Initial Hire - Audit				
Lost Wages	2014	50,000	62,250	$ 12,250
Lost Wages	2015	52,250	62,250	$ 10,000
Lost Wages	2016	52,250	62,250	$ 10,000
Initial Hire - Accountant				
Lost Wages	2017	52,250	66,875	$ 14,625
Lost Wages	2018	52,250	66,875	$ 14,625
Termination				
Lost Wages	2019	8,708	69,550	$ 60,842
Lost Wages	2020		72,332	$ 72,332
Lost Wages	2021		75,225	$ 75,225
Lost Wages	2022		78,234	$ 78,234
Lost Wages	2023		81,364	$ 81,364
Lost Wages	2024		84,618	$ 84,618
Lost Wages	2025		88,003	$ 88,003
Lost Wages	2026			$ -
Total				$ 602,118
Attorney Fees			11,500	$ 11,500

Court Fees					
District		1,000			
Appeals		500			
			1,500	$	1,500
SCOTUS	Sep 2024	1,400			
SCOTUS	Dec.2024	1,400			
SCOTUS	May. 2025	1,400			
SCOTUS	July. 2025	1,400	5,600	$	5,600
Phone/Internet					
Job Search	720	6		$	4,320
Medical				$	5,000
				$	630,038
Compensatory/Punative damages				$	630,038
Total Estimated Loss				$	1,260,076

*Based on [App. 13a-117a, 32a, 51a, 61a-63a, 97a-98a, 142a, 120a, 121a] [ECF 106, 106-1, 106-2, 114, 127-2]