EXHIBITS

Exhibit A — Rule 60(b)(4) Motion, *Williams v. Trans Union LLC*, No. 3:24-cv-00200-SVN (D. Conn. 2 June 2026)

Exhibit B — Order Denying Rule 60(b)(4) Motion, *Williams v. Trans Union LLC*, No. 3:24-cv-00200-SVN (D. Conn. 8 June 2026)

Exhibit C — Motion for Reconsideration, *Williams v. Trans Union LLC*, No. 3:24-cv-00200-SVN (D. Conn. 14 June 2026)

Exhibit D — Order Denying Motion for Reconsideration, *Williams v. Trans Union LLC*, No. 3:24-cv-00200-SVN (D. Conn. 29 June 2026)

Exhibit E — Rule 60(b)(4) Motion, *Williams v. Smith et al.*, No. 3:22-cv-01630-SVN (D. Conn. 9 July 2026)

Exhibit F — Order Denying Rule 60(b)(4) Motion, *Williams v. Smith et al.*, No. 3:22-cv-01630-SVN (D. Conn. 11 August 2026)

Exhibit G — First Complaint of Judicial Misconduct (Sullivan and Lee), filed 1 May 2026

Exhibit H — Second Complaint of Judicial Misconduct (Sullivan, Bianco, and Nathan), filed 2 June 2026

Exhibit I — Order, *In re Stephen John Williams*, No. 26-193 (2d Cir. 21 May 2026)

Exhibit J — Return Letters, Second Circuit Clerk's Office, dated 30 June 2026 and 17 July 2026

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

Stephen J. Williams, *Plaintiff*,		Case No. **3:24-cv-200 (JAM)**
vs.		
Trans Union, LLC, *Defendant.*		2 June 2026

MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO FED. R. CIV. P. 60(B)(4)

Plaintiff moves under Federal Rule of Civil Procedure 60(b)(4) for relief from the judgment in this matter on the ground that the appellate judgment the mandate implements is void. The mandate issued 8 May 2026 cannot compel operative effect because the panel that issued the underlying order was not constituted as Congress authorized.

A. PRELIMINARY STATEMENT

Two of the three judges who heard and decided Plaintiff's appeal were parties to a pending civil action brought by Plaintiff against them at the time of oral argument and decision. 28 U.S.C. § 455(b)(5)(i) required their disqualification. That provision is mandatory, self-executing, and non-waivable: it attached automatically on 16 January 2026 when Plaintiff filed *Williams v. Livingston et al.*, No. 1:26-cv-538 (LTS) (S.D.N.Y.), naming Circuit Judges Richard J. Sullivan and Eunice C. Lee as defendants, and it remained in continuous force through panel selection, oral argument, decision, and issuance of the mandate. Both judges sat anyway. Neither recused, made any disclosure on the record, or raised any inquiry — despite actual written notice of the disqualification having been docketed in this appeal before the panel was constituted.

The consequence is structural and mandatory. A judge rendered statutorily ineligible to participate is not a judge authorized to constitute the panel within the meaning of 28 U.S.C. § 46(d), which requires that a majority of judges *authorized* to constitute the panel form a quorum. With Judges Sullivan and Lee excluded from the quorum calculus, Senior Circuit Judge Robert D. Sack sat alone — one judge, not a quorum, not a panel as Congress prescribed. Under *Nguyen v. United States*, 539 U.S. 69, 83 (2003), participation by judges lacking statutory authority to sit requires vacatur without inquiry into prejudice or outcome. That consequence is mandatory, not discretionary.

The resulting summary order, issued 16 April 2026, is void. The mandate issued 8 May 2026 implements that void order. A mandate implementing a void judgment cannot compel operative effect — not as a matter of judicial choice, but as a matter of law.

This motion asks this Court to do what Rule 60(b)(4) requires: decline to give operative effect to the mandate on the ground that the judgment it implements is void. The question is structural and entirely independent of the merits of the underlying FCRA dispute. The governing principle is ancient — a court examines whether the body that issued an adjudicative act possessed the lawful authority to do so before treating that act as operative — and Rule 60(b)(4) codified it.

The factual circumstance that requires its application here is extraordinary: a panel two-thirds of whose members were statutorily disqualified, leaving a single judge below the quorum Congress required.

B. STATEMENT OF FACTS

1. The District Court Proceedings and Appeal

Plaintiff Stephen John Williams brought claims under the Fair Credit Reporting Act, 15 U.S.C. § 1681c(a), against Trans Union LLC in this Court. On 2 December 2024, Judge Jeffrey A. Meyer dismissed the complaint. Plaintiff timely appealed. The appeal was docketed in the Second Circuit as *Williams v. Trans Union LLC*, No. 25-37. Oral argument was scheduled for 13 April 2026. The merits of the underlying FCRA dispute are not at issue in this motion.

2. The Civil Action That Disqualified the Panel Judges

On 16 January 2026, Plaintiff filed a civil rights action in the United States District Court for the Southern District of New York: *Williams v. Livingston et al.*, No. 1:26-cv-538 (LTS). The complaint named as defendants all thirteen active Circuit Judges of the Second Circuit — including Chief Judge Debra Ann Livingston and Judges Sullivan and Lee — together with the Clerk of Court and various members of the Clerk's staff, in both their official and individual capacities. *See* Exhibit 1 (SDNY docket sheet).

The action challenges administrative and ministerial conduct by the Second Circuit Clerk's Office. It does not challenge any judicial decision or seek review of any adjudicated matter. *See Forrester v. White*, 484 U.S. 219 (1988).

The complaint was dismissed by order dated 9 February 2026, entered by Chief Judge Laura Taylor Swain of the Southern District of New York. On 12 February 2026, Plaintiff filed a motion for reconsideration pursuant to Local Civil Rule 6.3. That motion remains pending and undecided. The SDNY proceeding was therefore active and unresolved at every relevant moment: panel selection, oral argument, decision, and issuance of the mandate.

By operation of 28 U.S.C. § 455(b)(5)(i), Judges Sullivan and Lee became statutorily disqualified from sitting in any proceeding involving Plaintiff on 16 January 2026 — the date the SDNY complaint was formally docketed — and remained so continuously from that date forward.

3. The Pre-Empanelment Notice Chronology

On 2 April 2026, Plaintiff filed a Notice of Pending District Court Proceeding in No. 25-37 via authorized email method. The notice identified the SDNY action by caption (*Williams v. Livingston et al.*), docket number (No. 1:26-cv-538), and filing date (16 January 2026); named Judges Sullivan and Lee as defendants; confirmed that the motion for reconsideration remained pending and undecided; and noted that no panel had yet been appointed for the 13 April argument. The notice was served on all appearing counsel. *See* Exhibit 2 (Notice and docket entry).

The notice was docketed in No. 25-37 as DktEntry 49 on 6 April 2026.

On 9 April 2026 — three days after the notice was on the docket — the court's public scheduling page was updated to reflect the panel's composition: Judges Sack, Sullivan, and Lee.

On the same day, Plaintiff called the Second Circuit scheduling office at (212) 857-8527 at 4:22 PM and asked whether the assigned judges' law clerks had been made aware of the notice filing on the docket. The scheduling office confirmed that they had. This establishes actual notice to the chambers of both judges before argument.

Neither Judge Sullivan nor Judge Lee disclosed the conflict on the record, raised any inquiry regarding the docketed notice, invoked any basis for sitting notwithstanding their statutory disqualification, or recused.

4. Oral Argument, the Summary Order, and the Mandate

On 13 April 2026, oral argument was held before Judges Sack, Sullivan, and Lee. The notice had been on the docket for seven days. Neither statutorily disqualified judge made any disclosure or inquiry.

On 16 April 2026, the panel issued a summary order affirming the district court's judgment. Both Judges Sullivan and Lee joined in the order. Second Circuit Local Rule 32.1 requires the unanimity of the three-judge panel for a summary order to issue; both judges therefore affirmatively participated in a decision they lacked statutory authority to make.

On 8 May 2026, the Second Circuit issued the mandate transmitting that order to this Court. *See* ECF No. 56.

C. LEGAL STANDARD

1. Rule 60(b)(4) Codifies the Common Law Void-Judgment Doctrine

Federal Rule of Civil Procedure 60(b)(4) authorizes a court to relieve a party from a final judgment that "is void." The Rule imposes no time limit. *Ins. Corp. of Ireland v. Compagnie des Bauxites de Guinée*, 456 U.S. 694, 702 (1982). It requires no showing of prejudice and admits no harmless-error analysis. Relief is not discretionary: where a judgment is void, it must be set aside. *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 270–71 (2010).

Rule 60(b)(4) did not create the void-judgment doctrine. It codified a principle that American courts applied at common law long before the adoption of the Federal Rules. The common law rule was stated without qualification in *Vallely v. Northern Fire & Marine Ins. Co.*, 254 U.S. 348, 353–54 (1920): when courts act beyond their authority, "their judgments and orders are regarded as nullities. They are not voidable, but simply void, and this even prior to reversal." And the common law definition of voidness was never confined to subject-matter jurisdiction in the narrow modern sense. The older cases spoke consistently in terms of the *lawful authority and competency of the tribunal* to act — language that encompassed any defect in the legal constitution of the court itself. In *Elliott v. Lessee of Piersol*, 26 U.S. (1 Pet.) 328, 340 (1828), the Court held that "if it act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a recovery sought, even prior to a reversal, in opposition to them. They constitute no justification, and all persons concerned in executing such judgments or sentences are considered in law as trespassers."

Rule 60(b)(4) supplied a procedural mechanism for asserting the preexisting void-judgment doctrine, and nothing in the Rule's text displaced the longstanding principle that judgments issued by tribunals not constituted as law requires are legal nullities. The Advisory Committee stated expressly in the 1946 Note accompanying the Rule's adoption that Rule 60(b) "does not assume to define the substantive law as to the grounds for vacating judgments, but merely prescribes the practice in proceedings to obtain relief." Fed.

R. Civ. P. 60 advisory committee's note to 1946 amendment. The Note further explains that the 1946 amendments "endeavored to permit . . . the granting of various kinds of relief from judgments which were permitted in the federal courts prior to the adoption of these rules," while simultaneously abolishing bills of review, *coram nobis*, and *audita querela* as independent procedural vehicles and "requiring the practice to be by motion or by independent action." *Id.* Rule 60(b)(4) is therefore the prescribed procedural successor to those writs — including the common law remedies through which courts historically implemented *Elliott*'s principle that the authority of any tribunal may be examined when its proceedings are presented for enforcement in another court. The substantive scope of the void-judgment doctrine therefore remains as the common law established it, and Rule 60(b)(4) is the exclusive procedural channel Congress prescribed for asserting it.

The defect this motion presents — a defect in the lawful constitution of the tribunal — falls squarely within the common law void-judgment doctrine that Rule 60(b)(4) preserved.

2. When a Judgment Is Void — and Why This Defect Is Structural

Nguyen v. United States, 539 U.S. 69 (2003), states the governing principle: a violation of a statutory provision "that embodies a strong policy concerning the proper administration of judicial business" requires vacatur "without more." *Id.* at 83. The Court in *Nguyen* did not ask whether the outcome would have differed, did not conduct harmless-error analysis, and noted that the petitioners had not even objected before decision. Voidness follows from the composition defect itself. Wright & Miller confirm that this non-discretionary character is inherent in the Rule: "There is no question of discretion on the part of the court when a motion is under Rule 60(b)(4). Either a judgment is void or it is valid. Determining which it is may well present a difficult question, but when that question is resolved, the court must act accordingly." 11 Fed. Prac. & Proc. Civ. § 2862 (3d ed.). "When the rule permitting a court to relieve a party from a final judgment that is void is properly invoked, relief is not a discretionary matter, it is mandatory." *Id.* (citing *Philos Technologies, Inc. v. Philos & D, Inc.*, 645 F.3d 851 (7th Cir. 2011)).

The Second Circuit has calibrated this standard. In *Nemaizer v. Baker*, 793 F.2d 58, 65 (2d Cir. 1986), the court held that Rule 60(b)(4) relief is available where a court "plainly usurped jurisdiction" — where there was "a total want of jurisdiction and no arguable basis on which it could have rested a finding that it had jurisdiction." When that threshold is met, *Nemaizer* confirms, the district court has no discretion: the judgment must be set aside. The panel's composition here satisfies *Nemaizer*'s "plain usurpation" threshold. Section 455(b)(5)(i)'s prohibition is categorical and admits no exception, no balancing, and no "arguable basis" qualification. Section 46(d)'s quorum requirement, applied to the judges authorized to constitute the panel after that categorical bar is given effect, yields a single judge — and a single judge cannot satisfy the majority the statute requires. There is no "arguable basis" on which this tribunal could have rested a finding of lawful authority to act as constituted.

The Supreme Court has drawn a sharp distinction between defects that merely protect private litigants and defects that restrict the lawful exercise of federal judicial power itself. Subject-matter jurisdiction, the Court explained in *Insurance Corp. of Ireland*, "functions as a restriction on federal power" — a consequence of which is that no action of the parties can confer it, principles of estoppel do not apply, and failure to challenge it is not waiver. 456 U.S. at 702. The rule requiring courts to police such limits is, as *Mansfield* stated, "inflexible and without exception." *Mansfield, C. & L. M. R. Co. v. Swan*, 111 U.S. 379, 382 (1884), quoted in *Insurance Corp. of Ireland*, 456 U.S. at 702. Congress treated § 455(b)(5)(i) in precisely that manner — not as a waivable personal protection for litigants, but as a non-waivable condition on who may exercise the judicial power of the United States, made explicit by § 455(e)'s absolute bar on party waiver. The defect at issue here therefore concerns the lawful authority of the adjudicative body.

This case does not involve ordinary legal error committed by a tribunal possessing lawful authority. *Espinosa* confirms that Rule 60(b)(4) does not reach such errors: the Court repeatedly observed that the bankruptcy court "had jurisdiction" and "had authority," and that the defect was only that it acted contrary to a statutory requirement. 559 U.S. at 270–71. But *Espinosa* did not repudiate the principle established in *United States ex rel. Wilson v. Walker*, 109 U.S. 258, 266 (1883), that "[a]lthough a court may have jurisdiction over the parties and the subject-matter, yet if it makes a decree which is not within the powers granted to it by the law of its organization its decree is void." *Espinosa* recharacterized *Walker* as involving a jurisdictional limitation — thereby preserving rather than overruling it — and expressly declined to "define the precise circumstances in which a jurisdictional error will render a judgment void." 559 U.S. at 271. This case presents that question in a specific and answerable form: a panel lacking statutory authorization to sit, and unable to constitute a lawful quorum, is not acting within the powers Congress granted. The Supreme Court has consistently treated that category of composition defect as structural and non-harmless, requiring vacatur without prejudice inquiry. *Nguyen*, 539 U.S. at 83; *Ryder v. United States*, 515 U.S. 177 (1995); *American Construction Co. v. Jacksonville, Tampa & Key West Railway Co.*, 148 U.S. 372, 387 (1893). That consequence is mandatory, not discretionary. *Nguyen*, 539 U.S. at 83; *Espinosa*, 559 U.S. at 270–71.

D. THE PREDICATE INQUIRY BEFORE MANDATE ENFORCEMENT

1. When the Challenge Is Raised, the Court Must Resolve It

When a question of authority to proceed is put in issue, a federal court must satisfy itself on that question before acting on its assumed answer. *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 94–95 (1998); *Ruhrgas AG*, 526 U.S. at 583. If the issuing tribunal lacked statutory authority to act, the mandate cannot compel operative effect — not as a matter of judicial choice, but as a matter of law — and Rule 60(b)(4) requires that it be set aside. *Espinosa*, 559 U.S. at 270–71. Rule 60(b)(4) motions are properly before district courts following mandates; this Court's authority to adjudicate this motion is not in question, and neither is its obligation to resolve a properly presented voidness challenge. Rule 60(b)(4) would be self-defeating if district courts lacked authority to consider voidness claims about judgments presented for enforcement — the Rule contains no such limitation. Rule 60(b)(4) places before this Court a claim that the judgment embodied in the mandate is void; the Court cannot reject that claim without first determining whether it has merit.

2. The Mandate Rule Does Not Foreclose This Challenge

The mandate rule requires a district court to implement the appellate court's disposition. *Briggs v. Pennsylvania Railroad Co.*, 334 U.S. 304 (1948); *In re Sanford Fork & Tool Co.*, 160 U.S. 247, 252–53 (1895). Every case in that line assumes a lawfully constituted panel issued a valid judgment; those cases address compliance with valid appellate dispositions, not the antecedent question of whether a valid disposition occurred. The mandate rule therefore presupposes the very question this motion raises. Applying it without first resolving that question inverts the correct sequence — the predicate must be established before the compliance obligation arises — and if the issuing tribunal was not constituted as Congress prescribed, the mandate rule has no application.

Resolving that predicate is not appellate review. This Court is not being asked to review the merits of the summary order or to exercise supervisory authority over the Second Circuit. The defect is that the specific panel assigned to exercise appellate jurisdiction over this appeal was not constituted as Congress prescribed. Recognizing that defect requires no disagreement with any substantive conclusion the panel reached, no direction from a lawfully constituted appellate court is implicated, and no remedial action by the court of appeals is compelled. A mandate implementing a void judgment is a procedural transmission; the predicate inquiry is whether anything legally operative was transmitted. *Elliott*, 26 U.S. at 340–41, established precisely that authority nearly two centuries ago: "the jurisdiction of any court exercising authority over a subject may be inquired into in every court when the proceedings of the former are relied on and brought before the latter by the party claiming the benefit of such proceedings." Trans Union claims the benefit of the Second Circuit's proceedings in presenting the mandate for enforcement. Under *Elliott*, this Court may inquire into whether those proceedings were authorized.

3. The Governing Principle Is Ancient — the Factual Circumstance Is Extraordinary

The district court is not being asked to do something unprecedented. It is being asked to apply a principle courts have applied consistently for as long as American courts have existed: before giving operative effect to a purported adjudicative act, examine whether the body that issued it possessed the lawful authority to do so.

That principle predates the Federal Rules. At common law, voidness for defects in the lawful constitution of the tribunal was well established, and Rule 60(b)(4) codified rather than confined it. The same principle operates across multiple bodies of law. Federal courts routinely examine, before enforcing an arbitral award, whether the arbitral panel was constituted as authorized and acted within delegated authority. *See* 9 U.S.C. § 10(a)(4); *Hall Street Associates, L.L.C. v. Mattel, Inc.*, 552 U.S. 576 (2008). They do so without any suggestion that the inquiry constitutes improper review of the arbitrators. In foreign judgment recognition, American courts examine whether the rendering tribunal was a competent court before according recognition, regardless of the formal regularity of the foreign proceeding. *Hilton v. Guyot*, 159 U.S. 113 (1895). And in *Ex parte Milligan*, 71 U.S. 2 (1866), the Supreme Court declined to give operative effect to a military tribunal's judgment on the ground that the tribunal lacked lawful authority under the applicable law — establishing the principle, in its starkest form, that procedural regularity does not substitute for lawful authority.

The governing principle, then, is not novel. The district court is being asked to apply it. What is extraordinary is the factual circumstance that requires its application — a panel two-thirds of whose members were subject to mandatory statutory disqualification before the panel was ever empaneled, a quorum that § 455(b)(5)(i)'s automatic operation made impossible to constitute, and actual written notice of the disqualification docketed before the panel was constituted and confirmed to have reached the judges' chambers before argument. That convergence appears without precedent in the reported decisions of any federal court. The principle is ancient and ordinary. The case that requires its application is not.

E. THE SUMMARY ORDER IS VOID FOR WANT OF STATUTORY AUTHORITY

1. Section 455(b)(5)(i) Disqualified Judges Sullivan and Lee by Operation of Law

The governing statute provides: "Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which . . . [h]e . . . [i]s a party to the proceeding." 28 U.S.C. § 455(b)(5)(i). Three features of the provision are decisive.

First, the command is mandatory. The statute does not say a judge "may" or "should" disqualify. It says the judge "shall" disqualify. There is no discretion and no threshold of severity to cross. The qualifying circumstance — being a party to a pending proceeding — triggers the disqualification automatically and completely.

Second, the provision is self-executing. Disqualification attaches at the moment the qualifying circumstance arises, without any motion by a party, without any order of the court, and without any other triggering act. Both judges became statutorily disqualified from participating in any proceeding involving Plaintiff on 16 January 2026, the date the SDNY complaint was formally docketed, and remained so continuously thereafter. Nothing that occurred between January and April 2026 — including the failure of either judge to acknowledge the conflict — altered or lifted the disqualification that § 455(b)(5)(i) had imposed.

Third, the disqualification is absolute and non-waivable. Section 455(e) provides: "No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b)." The contrast with § 455(a) — which permits waiver of the appearance-of-impropriety standard after disclosure on the record — is deliberate and structural. Section 455(a) protects the parties' confidence in an impartial tribunal, an interest that belongs to them and may therefore be surrendered by them. Section 455(b)(5)(i) codifies the ancient common-law prohibition *nemo judex in causa sua* — no one shall be a judge in his own cause — a condition on the lawful constitution of the tribunal itself. Like Rule 60(b)(4), § 455(b)(5)(i) codified rather than created the underlying principle: the prohibition on a judge sitting in his own cause was received from the common law and given statutory form, with non-waivability made explicit in § 455(e) precisely because the principle protects the integrity of the judicial institution rather than the private interests of the parties.

Fourth, § 455(b)(5)(i) is categorically distinct from adjacent provisions that have been read to permit balancing. Sections 455(b)(2) and (b)(3), which address prior professional associations and prior government participation, were added in 1974 alongside § 455(a)'s appearance standard. They require contextual evaluation of the nature and degree of a prior relationship — a judgment-laden inquiry reflecting their origins in modern professional conflict-of-interest norms. Section 455(a) itself requires the judge to assess whether impartiality might reasonably be questioned — a standard that this Court has read to accommodate contextual judgment, *see Liteky v. United States*, 510 U.S. 540 (1994), and that *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988), held amenable to balancing analysis. Both *Liteky* and *Liljeberg* addressed § 455(a)'s appearance standard. Neither applies here. Section 455(b)(5)(i), by contrast, turns on a single categorical fact: whether the judge is a party to a pending proceeding. That fact admits no gradation and requires no evaluative judgment. Applying any balancing framework to § 455(b)(5)(i) would dissolve the distinction between (a) and (b) that Congress drew and § 455(e) makes explicit. The provision either applies or it does not. Here it applies.

Section 455(b)(5)(i) asks only whether the judge is a party to a pending proceeding — not whether that proceeding is meritorious or will ultimately succeed. The SDNY action was pending, with a motion for reconsideration undecided, at every relevant moment.[1] The

[1] To the extent defendant invokes the manufactured-recusal doctrine — which holds that a litigant cannot obtain recusal by filing a frivolous suit against an assigned judge, *see United States v. Studley*, 783 F.2d 934, 940 (9th Cir. 1986) — two independent facts defeat any such inference: no judge had been assigned to No. 25-37 when the SDNY complaint was filed on 16 January 2026 or when the notice was filed on 2 April 2026 (the panel was not constituted until 9 April 2026), so the doctrine's presupposition of a known assigned target is factually absent; and the SDNY action challenges legally cognizable administrative and

substantive and active character of the conflict is further confirmed by the companion appeal decided the same day by the same panel.[2]

2. Two Centuries of Supreme Court Precedent Establish That Participation by a Judge Lacking Statutory Authorization Voids the Proceeding

The proposition that a judgment issued by a tribunal not constituted as Congress authorized is void is not novel. It is the application, in a specific statutory context, of a principle the Supreme Court has applied across two centuries.

In *United States v. Lancaster*, 26 F. Cas. 833 (C.C.D. Pa. 1820), Justice Washington held that a judge lacking legal authorization cannot create a valid judicial act. In *United States v. Emholt*, 105 U.S. 414 (1881), the Court applied the same rule to an appellate panel: a district judge statutorily prohibited from participating in the review of his own decision could not count toward a valid division of opinion; his participation was a nullity. In *American Construction Co. v. Jacksonville, Tampa & Key West Railway Co.*, 148 U.S. 372, 387 (1893), the Court held that where a statute made the judge "incompetent to sit at the hearing, the decree in which he took part was unlawful, and perhaps absolutely void" — a defect going to the validity of the decree itself, not merely to the judge's conduct. In *Vallely v. Northern Fire & Marine Ins. Co.*, 254 U.S. 348, 353–54 (1920), the Court stated the governing principle with equal directness: "Courts are constituted by authority, and they cannot go beyond the power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply void, and this even prior to reversal." *Vallely* further held that a party is not estopped from challenging such a nullity even after acquiescing in and

ministerial conduct, not a frivolous filing. Moreover, the doctrine addresses manipulation of the discretionary appearance standard under § 455(a), not the mandatory and non-waivable prohibition of § 455(b)(5)(i), which leaves no room for the discretionary weighing the doctrine was designed to protect.

[2] In *Williams v. Smith et al.*, No. 24-2733 (2d Cir. 17 Apr. 2026), the same panel's summary order includes a footnote characterizing Plaintiff's claims regarding Second Circuit Clerk's Office conduct as "baseless." Those claims are among the core allegations of *Williams v. Livingston et al.* — the SDNY action in which Judges Sullivan and Lee are named defendants and which required their disqualification in both appeals. The panel thus addressed claims actively pending against it in the very litigation that mandated recusal, without disclosure of that conflict. On 21 May 2026, Judge Sullivan also participated in a panel order denying as moot Petitioner's mandamus petition in No. 26-193. That petition arose directly from proceedings in *Williams v. Livingston et al.*

cooperating with the proceedings — consent and conduct cannot confer authority a statute withholds. In *Aetna Life Insurance Co. v. Lavoie*, 475 U.S. 813 (1986), the Court vacated a judgment because one justice had a personal interest in the outcome of pending litigation bearing on the case before him — without inquiry into whether the outcome would have differed. In *Ryder v. United States*, 515 U.S. 177 (1995), the Court vacated judgments of an improperly constituted military appellate court without inquiry into prejudice.

Nguyen v. United States, 539 U.S. 69 (2003), is the modern controlling restatement. A Ninth Circuit panel included a district judge lacking statutory authorization to sit on the circuit court. The Court vacated without assessing prejudice, without harmless-error analysis, and even though neither petitioner had objected before decision. A violation of "a statutory provision that embodies a strong policy concerning the proper administration of judicial business" requires vacatur "without more." *Id.* at 83.

Nguyen is also significant for its categorical rejection of the proposition that practical regularity can cure a structural composition defect. The Court held that where a defect implicates structural congressional policy concerning who may exercise judicial power, the *de facto* officer doctrine — under which acts of improperly constituted officers may sometimes be upheld to preserve stability — does not apply. *Nguyen*, 539 U.S. at 79–81. Lawful authority is a precondition to operative legal effect; it cannot be supplied by the appearance of regularity. That holding is the modern restatement of the principle *Lancaster*, *Emholt*, and *American Construction* applied before the doctrine had a name. Section 455(b)(5)(i) and § 455(e) together make the authorization requirement here as absolute as any in the federal statutes, placing this case squarely within *Nguyen*'s rejection of the doctrine.

Section 455(b)(5)(i) embodies exactly the kind of strong congressional policy the *Nguyen* principle addresses. Its historical roots reach to *In re Murchison*, 349 U.S. 133, 136 (1955) — "No man can be a judge in his own case" — and *Tumey v. Ohio*, 273 U.S. 510 (1927). Congress codified that prohibition in § 455(b)(5)(i) and made it absolute in §

455(e). The consequence of violating it, under the unbroken line from *Lancaster* through *Nguyen*, is that the resulting judgment is void — and a mandate implementing that void judgment cannot compel operative effect.

3. The Quorum Failure Independently Confirms That the Tribunal Was Not Constituted as Congress Prescribed — and Makes This Case Stronger Than *Nguyen*

28 U.S.C. § 46(b) requires courts of appeals to sit in panels of three judges. 28 U.S.C. § 46(d) requires that a majority of the judges *authorized to constitute* the panel shall constitute a quorum — for a three-judge panel, two judges.

The operative word is "authorized." Section 46(d) does not count all judges physically present or nominally assigned. It counts judges who are authorized to constitute the panel. Because § 46(d) counts only judges authorized to constitute the panel, judges rendered statutorily ineligible to participate under § 455(b)(5)(i) cannot properly be counted toward the quorum calculus. A disqualified judge is not a judge authorized to constitute the panel within the meaning of § 46(d).

If Judges Sullivan and Lee cannot properly be counted toward the quorum on that basis, Senior Judge Sack alone could not satisfy the statutory quorum requirement. One judge is not a majority of those authorized. Neither the quorum requirement of § 46(d) nor the panel requirement of § 46(b) is satisfied; the tribunal that acted was not constituted as Congress prescribed. And if the tribunal was not constituted as Congress prescribed, the consequence under *Nguyen* is mandatory: the resulting judgment must be vacated without inquiry into prejudice or outcome. *Nguyen*, 539 U.S. at 83. That consequence is not available as a matter of discretion to resist or balance; it is the legal effect of the structural defect Congress established.[3]

[3] The rule of necessity — under which a disqualified judge may in limited circumstances be required to sit if the case cannot otherwise be heard — has no application here. The doctrine applies only when no adequate alternative exists. *United States v. Will*, 449 U.S. 200, 213 (1980). Reassignment of the appeal to a lawfully constituted panel is an adequate alternative; where reassignment is available, necessity does not arise.

4. A Mandate Implementing a Void Judgment Cannot Compel Operative Effect

The mandate issues automatically by operation of Federal Rule of Appellate Procedure 41 — a ministerial act of the clerk, not a judicial act of the panel. That ministerial transmission cannot supply the judicial authority absent when the underlying opinion issued. Procedural regularity in transmission does not cure the absence of statutory authorization at the time the opinion issued, and to hold otherwise would allow form to displace substance: a void judgment would become enforceable by the act of transmission, placed permanently beyond examination by the court that now holds jurisdiction. That result is irreconcilable with *Nguyen*, *Espinosa*, and the common law void-judgment doctrine: lawful authority is a precondition to operative legal effect, not a consequence of procedural regularity. The Second Circuit stated this consequence directly in *United States v. Thompson*, 319 F.2d 665, 668 (2d Cir. 1963): "a mandate is void which is beyond the power and jurisdiction of the issuing court." The court further held that the jurisdiction of the issuing court may be raised for the first time in enforcement proceedings — confirming that the mandate rule does not foreclose the challenge and that the occasion on which the mandate is presented for enforcement is the appropriate moment to raise it. *Thompson* maps directly onto this case: the Second Circuit panel acted beyond the powers granted by its organic statute, and the mandate it issued does not obligate compliance.

F. RELIEF REQUESTED

Plaintiff respectfully requests that the Court:

1. **Grant this motion** under Fed. R. Civ. P. 60(b)(4) and determine that the judgment embodied in the mandate issued 8 May 2026 is void for want of statutory authority, having been issued by a tribunal not constituted as Congress authorized under 28 U.S.C. §§ 455(b)(5)(i) and 46(b) and (d);
2. **Decline to give operative effect to the mandate** issued 8 May 2026, and withhold further action predicated on its validity until a lawfully constituted

appellate panel acts further; and

3. **Grant such other and further relief** as the Court deems just and proper.

Respectfully submitted,

/s/ Stephen J. Williams
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Bar No. CT-04037

Subject: Activity in Case 3:24-cv-00200-SVN Williams v. Trans Union, LLC Order on Motion for Miscellaneous Relief
From: CMECF@ctd.uscourts.gov
Date: 06/08/2026 02:36 PM
To: CMECF@ctd.uscourts.gov

U.S. District Court

District of Connecticut

Notice of Electronic Filing

The following transaction was entered on 6/8/2026 at 2:36 PM EDT and filed on 6/8/2026

Case Name:	Williams v. Trans Union, LLC
Case Number:	3:24-cv-00200-SVN
Filer:	
WARNING: CASE CLOSED on 12/02/2024	
Document Number:	58(No document attached)

Docket Text:
ORDER denying ECF No. [57] Motion for Relief from Judgment.

Federal Rule of Civil Procedure 60(b), in relevant part, permits a party to seek relief from a final judgment or order for several reasons, including if "the judgment is void." Fed. R. Civ. P. 60(b)(4). Rule 60(b) relief is reserved for "extraordinary circumstances." *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 863-64 (1988). The movant must provide "highly convincing material," *United States v. Cirami*, 563 F.2d 26, 33 (2d Cir. 1977), in support of the request for relief, and relief under the rule is discretionary. *Motorola Credit Corp. v. Uzan*, 561 F.3d 123, 126 (2d Cir. 2009).

Here, Plaintiff has filed a motion pursuant to Federal Rule of Civil Procedure 60(b)(4) seeking relief from the Second Circuit's mandate, dated May 8, 2026 (ECF No. 56). The gravamen of Plaintiff's motion is that, because U.S. Circuit Judges Eunice C. Lee and Richard J. Sullivan were named as defendants in an unrelated suit filed by Plaintiff that remains pending in the Southern District of New York, they were required to recuse themselves pursuant to 28 U.S.C. § 455(b)(5)(i). Consequently, Plaintiff contends that the Second Circuit's order is void.

Plaintiff is wrong. Section 455(b)(5)(i) provides, in relevant part, that a judge must recuse himself or herself if he or she is "a party to *the proceeding*." 28 U.S.C. § 455(b)(5)(i) (emphasis added). But this rule has no applicability here, as neither Judge Sullivan nor Judge Lee are parties to the instant action or Plaintiff's subsequent appeal. *See DiMartino v. Pulice*, No. 3:16-CV-378 (AWT), 2017 WL 958391, at *2 (D. Conn. Mar. 10, 2017) (recognizing that "a judge is not disqualified under 28 U.S.C. § 455 merely because a litigant sues or threatens to sue him" (quoting *In re Martin-Trigona*, 573 F. Supp. 1237, 1243 (D. Conn. 1983) and collecting several other cases); *see also United States v. Pryor*, 960 F.2d 1, 3 (1st Cir. 1992) ("It cannot be that an automatic recusal can obtained by the simple act of suing the judge."). Thus, recusal was not necessary on these grounds and the Second Circuit's order cannot be considered void as a result. Plaintiff's motion is therefore denied. Signed by Judge Sarala V. Nagala on 6/8/2026. (SG)

3:24-cv-00200-SVN Notice has been electronically mailed to:

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3:24-cv-00200-SVN Notice has been delivered by other means to:

Additional material from this filing is available in the Clerk's Office.