NO. 25-25A737 October Term, 2025

In The

Supreme Court of the United States

FRANK POLO (Pro Se),

Applicant,

v.

SCOTT BERNSTEIN, et al.,

Respondents.

ON APPLICATION FOR A STAY OF THE MANDATE PENDING THE FILING AND DISPOSITION OF A PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

EMERGENCY APPLICATION FOR A STAY OF MANDATE

To the Honorable **Clarence Thomas**, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit.

Frank Polo
1475 SW 8TH ST. APT 411,
MIAMI, FL. 33135
Frank.Polo@msn.com
APPLICANT

11th CIRCUIT CASE NO.: 25-10016-B /

EMERGENCY APPLICATION FOR A STAY OF THE MANDATE

1. Applicant, Frank Polo, respectfully submits this application for a stay of the mandate of the United States Court of Appeals for the Eleventh Circuit pursuant to Supreme Court Rule 23, pending the filing and disposition of a timely petition for writ of certiorari.

(I). INTRODUCTION

2. The Eleventh Circuit denied panel rehearing, denied rehearing en banc, and denied a stay of the mandate, despite multiple issues of exceptional national importance involving:

3. The denial of constitutional access to the courts, where the Eleventh Circuit refused to engage de novo with pure legal questions about judicial recusal, the governing pleading standard under **Weiland**, and the use of § 1915(e) screening after full payment of the filing fee, instead resolving the appeal through deferential abuse-of-discretion review and the shotgun-pleading label. *See* **Christopher v. Harbury**, 536 U.S. 403, 412–15 (2002) (recognizing right of access where official action frustrates a litigant's ability to pursue claims); **Logan v. Zimmerman Brush Co.**, 455 U.S. 422, 428–33 (1982) (due process violated where procedure arbitrarily extinguishes cause of action); **Johnson v. City of Shelby**, 574 U.S. 10, 11–12 (2014) (per curiam) (error to dismiss complaint for "imperfect statement of the legal theory" where facts state a claim). **[APPX: 1; P: 003-009]**

4. Unequal and inconsistent application of the Eleventh Circuit's shotgun-pleading doctrine under **Weiland v. Palm Beach County Sheriff's Office**, 792 F.3d 1313 (11th Cir. 2015), treating Applicant differently from similarly situated litigants by invoking the "shotgun" label while refusing to apply Weiland's critical limitation that counts may not be dismissed if they are "informative enough to permit a court to readily determine if they state a claim upon which relief can be granted." Id. at 1323. *See* also **Vibe Micro, Inc. v. Shabanets**, 878 F.3d 1291, 1295–96 (11th Cir. 2018) (discussing constraints on shotgun dismissals); **Haines v. Kerner**, 404 U.S. 519, 520–21 (1972) (per curiam) (pro se pleadings must be liberally construed). **[APPX: 1; P: 003]**

5. Serious and unresolved judicial-integrity concerns, including a district judge's undisclosed sixteen-year professional overlap with a defendant state judge in the same division **[APPX: 9; P: 044; §: II; ¶: 8]**, subsequent minimization of that relationship when confronted **[*See* APPX: 4; P: 017; ¶: 1; L: 9-11]**, a denial of any disclosable political relationship with one of Applicant's named political rivals **[*See*** Request to Disclose known Politicians with possible *interest in the outcome of the case* at **APPX: 9 ; P: 046; §: (WHEREFORE); ¶: 1; L: 20 (a-b);** order on Motion to Recuse failing to disclose relationship at **APPX: 4; P: 017;** and denial of any disclosable political relationship with one of Applicant's named political rivals known to have an *interest in the outcome of the case* at **APPX: 6; P: 030; ¶: 1; L: 12-13]** despite public records showing that rival introduced him in congress and recommended him for his federal appointment **[APPX: 11; P: 089-092]**, refusal to fully answer direct disclosure

requests **[APPX: 4; P: 017]**, and rulings that consistently benefited those connections. **[APPX: 9 ; P: 046].** See 28 U.S.C. § 455(a); **Liljeberg v. Health Servs. Acquisition Corp.**, 486 U.S. 847 at 859–61 (1988); **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868, 881–87 (2009); **In re Murchison**, 349 U.S. 133, 136 (1955); **Offutt v. United States**, 348 U.S. 11, 14 (1954).

6. Internal inconsistency in the Eleventh Circuit's own precedent concerning how shotgun-pleading determinations are reviewed and constrained, where the court has enforced Weiland's "informative enough" limitation and requirement of clear category identification in some cases, but here affirmed without applying that limitation or specifying any Weiland category, effectively turning the shotgun doctrine into an unreviewable, result-driven label. *See* **Weiland**, 792 F.3d at 1321–23; **Shabanets**, 878 F.3d at 1295–96; **Johnson**, 574 U.S. at 11–12. **[APPX: 1; P: 003-009]**

7. Structural due process violations, including denial of a fair adjudication and of a neutral, fully informed tribunal, because the district court and the Eleventh Circuit refused to apply controlling recusal and pleading precedent to the undisputed facts and avoided addressing the constitutional issues actually presented. *See* **Caperton**, 556 U.S. at 883–87; **Liljeberg**, 486 U.S. at 858–64; **Murchison**, 349 U.S. at 136; **Logan**, 455 U.S. at 428–33. **[APPX: 1; P: 003-009]**

8. The mandate has not yet been issued. If it does, Applicant will suffer irreparable harm, including triggering the ninety-day certiorari deadline under 28 U.S.C. § 2101 on an opinion that has never addressed the core constitutional

questions, and forcing him into Florida state court within the narrow tolling window of 28 U.S.C. § 1367(d), in a forum already intertwined with the misconduct alleged in this case. See 28 U.S.C. §§ 2101, 1367(d); **Jinks v. Richland Cnty.**, 538 U.S. 456, 459–60 (2003) (discussing § 1367(d) tolling); **Nken v. Holder**, 556 U.S. 418, 434–35 (2009) (irreparable harm and stay factors). *See* the operative complaint at **[APPX: 10].**

9. A stay from this Court is therefore the only effective way to prevent those harms and to preserve this Court's jurisdiction to review the serious recusal, due process, and access-to-courts issues presented here. See 28 U.S.C. § 2101(f); 28 U.S.C. § 1651(a); Sup. Ct. R. 23; **Hollingsworth v. Perry**, 558 U.S. 183, 190 (2010); **Nken**, 556 U.S. at 434–35.

(II). JURISDICTION

10. This Court has authority under Supreme Court Rule 23 and 28 U.S.C. §§ 2101(f) and 1651(a) to stay the mandate of a United States Court of Appeals pending the filing and disposition of a petition for writ of certiorari.

11. The Eleventh Circuit denied Applicant's motion to stay the mandate on **December 2, 2025. [APPX: 1; P: 003-009]** The mandate has not yet been issued. **[APPX: 13].**

(III). STATEMENT OF THE CASE

12. On **May 4, 2023**, Applicant filed suit in the United States District Court for the Southern District of Florida alleging violations of the First and Fourteenth Amendments, Florida law, and 42 U.S.C. § 1983. *See* **[APPX: 12; P: 093-105]** On **May 8, 2023**, the district court struck the initial complaint as a "shotgun pleading," and on **June 8, 2023**, it struck the first amended complaint on the same ground. **[APPX: 12; P: 093-105].**

13. Over the following months, Applicant filed motions for in forma pauperis (IFP) status, to reopen the case, and to appoint a special process server. **[APPX: 12; P: 093-105]** Applicant had already paid the full filing fee and sought IFP solely so that the United States Marshals could effect service. See 28 U.S.C. § 1915(d); Fed. R. Civ. P. 4(c)(3). On **September 29, 2023**, the district court granted IFP but did not direct Marshal service, and instead used the IFP grant to screen the case under 28 U.S.C. § 1915(e)(2)(B), culminating in a dismissal without prejudice on **November 9, 2023**. **[APPX: 7; P: 033]** Applicant moved for reconsideration, and on **February 27, 2024**, the court allowed another amendment in light of the prior payment of fees. **[APPX: 8; P: 038]** Applicant then filed a substantially shortened and streamlined operative complaint, reducing the pleading from roughly 147 pages to about 40 pages and narrowing the list of defendants. **[APPX: 10]**

14. On **May 24, 2024**, Applicant moved for judicial recusal under 28 U.S.C. § 455(a). **[APPX: 9]** He documented a sixteen-year overlapping professional

relationship between the district judge and Defendant Judge Scott Bernstein in the same state-court division and argued that this undisclosed relationship, together with rulings that consistently favored Judge Bernstein, created at least an appearance that the judge's impartiality might reasonably be questioned. See 28 U.S.C. § 455(a); **Liljeberg**, 486 U.S. at 859–61. *See* Mot. For Judicial Recusal **[APPX: 9]** In that motion, Applicant specifically asked the district judge to disclose whether he was "the direct or indirect beneficiary of political appointments, political favors, or having a personal relationship with any of the following persons, known to Mr. Polo to have an *interest in the outcome of this case*," and then listed several of his political rivals by name, including Senator Marco Rubio. **[APPX: 9; P: 046; §: (WHEREFORE); ¶: 1; L: 20 (a-b)]**. The judge did not provide the requested disclosures, minimized his longstanding relationship with Defendant Judge Bernstein **[APPX: 4; P: 017; §: 1; ¶: 1; L: 9-11]**, and later stated there was no conflict requiring disclosure **[APPX: 6; P: 030; ¶: 1; L: 12-13]**, even though public congressional records show Senator Rubio personally presented and supported his nomination at a Senate Judiciary Committee hearing and the judge thanked Senators Nelson and Rubio "for their support throughout this process." **[APPX: 11; P: 089-092]**

15. On **July 22, 2024**, the district court denied the recusal motion and, the same day, dismissed the operative complaint again on shotgun-pleading grounds. **[APPX: 4; P: 017]** Although it invoked **Weiland v. Palm Beach Cty. Sheriff's Office**, 792 F.3d 1313 (11th Cir. 2015), the court did not analyze whether the individual counts

in the final complaint, "whatever their faults," were nonetheless "informative enough to permit a court to readily determine if they state a claim upon which relief can be granted," as Weiland requires. Id. at 1323. **[APPX: 4; P: 017].**

16. Applicant moved to alter or amend the judgment under Rule 59(e) on **August 19, 2024**, arguing that the court had misapplied the shotgun-pleading doctrine, misused § 1915(e) screening after full payment of fees, and failed to address the recusal and due process issues. The district court denied that motion on **December 4, 2024**. **[APPX: 6]** Applicant filed a timely notice of appeal on **January 3, 2025**. **[APPX: 13]**

17. On **October 1, 2025**, the Eleventh Circuit issued a non-published opinion affirming the dismissal. **[APPX: 1]** The panel characterized the operative complaint as a shotgun pleading, applied a deferential abuse-of-discretion standard, did not identify which Weiland category supposedly applied, and did not engage with Applicant's argument that, under **Weiland**, the final complaint was at least "informative enough" to permit the court to determine whether it stated claims for relief. See **Weiland**, 792 F.3d at 1322–23. Nor did the panel address Applicant's constitutional challenges to the district judge's failure to recuse in light of the undisclosed professional and political relationships and the appearance of bias they created. See 28 U.S.C. § 455(a); **Liljeberg**, 486 U.S. at 859–61; **Caperton**, 556 U.S. at 881–87 (2009). **[APPX: 1; P: 003]**

18. Applicant filed a combined petition for panel rehearing and rehearing en banc on **October 14, 2025**, raising the Weiland "informative enough" issue, the

misapplication of the shotgun-pleading doctrine, and the recusal and due process questions. **[APPX: 13; P: 106; Doc: 1]** The Eleventh Circuit denied rehearing on **November 25, 2025**. **[APPX: 2; P: 10]** Applicant moved to stay the mandate on **November 30, 2025**; the Eleventh Circuit denied that motion on **December 2, 2025**. **[APPX: 3; P: 13]** As of the filing of this application, the mandate has not yet issued. **[*See* Docket Sheet: APPX: 13; P: 106)]**

(IV). STANDARD FOR A STAY

19. A stay is warranted where:

(I). The applicant is likely to obtain Supreme Court review;

(II). The case presents a substantial question;

(III). There is a reasonable probability of reversal;

(IV). The applicant will suffer irreparable harm without a stay; and

(V). The balance of equities favors a stay.

20. *See* **Hollingsworth**, 558 U.S. at 190; **Nken**, 556 U.S.at 434–35. Applicant satisfies each factor.

(V). REASONS FOR GRANTING THE STAY

A) THERE IS A REASONABLE PROBABILITY THAT THIS COURT WILL GRANT CERTIORARI

(1). The integrity of judicial recusal and disclosure obligations

21. This case presents a significant question under 28 U.S.C. § 455(a): whether a federal judge may (1) minimize a long, undisclosed professional relationship with a defendant judge, (2) deny any disclosable political relationship with one of Applicant's identified political rivals despite public evidence that the rival recommended him for his federal appointment, and (3) refuse to answer direct disclosure requests about those matters, yet be deemed unquestionably impartial by the court of appeals.

22. Applicant's recusal motion documented a sixteen-year professional overlap between the district judge and Defendant Judge Bernstein in the same state-court division. **[APPX: 9 ; P: 044; §: II; ¶: 8]** That overlap was never disclosed when the case was assigned. **[APPX: 12; P: 093]** When confronted, the district judge did not deny the relationship; he minimized it as "Of particular concern to Polo is that Defendant Judge Scott M. Bernstein and the undersigned's tenures at one point, overlapped in that same family court," while continuing to preside and issue rulings that favored his former colleague. **[APPX: 4; P: 017].**

23. Applicant specifically asked the district judge to disclose any relationships, professional, political, or otherwise, with several named political figures who are known political rivals of Applicant with an *interest in the outcome of the case.* Applicant did not merely drop names at random; he expressly asked whether the judge had been "the direct or indirect beneficiary of political appointments [or]

political favors" or had any personal relationship with specific political rivals "known to Mr. Polo *to have an interest in the outcome of this case,*" **[APPX: 9 ; P: 046; §: (WHEREFORE); ¶: 1; L: 20 (a-b)]** including Senator Marco Rubio, who personally presented and advocated for the judge's confirmation at his Senate Judiciary Committee hearing. **[APPX: 11; P: 089-092].** [1]

24. However, the judge refused to answer that question directly, and later stated there was no conflict requiring disclosure, despite public records confirming Senator Rubio's role in presenting, recommending, and supporting his nomination. ***[Id.]***

25. The Eleventh Circuit nevertheless characterized these issues as "highly tenuous speculation," treating them as if Applicant were merely complaining about adverse rulings, a judge having once worked in the same building as a defendant, and an ordinary senatorial recommendation. **[APPX: 1; P: 007; §: III; ¶: 2; L: 12-13]** In doing so, it failed to apply § 455(a)'s objective standard, which asks whether a fully informed, disinterested observer would reasonably question the judge's impartiality, not whether the judge himself believes there is no conflict. See 28 U.S.C. § 455(a); **Liljeberg**, 486 U.S. 847, 859–61 (recusal required where judge's undisclosed relationship created an appearance of bias); **Caperton**, 556 U.S. at 881–87 (due

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[1] The Excerpt of U.S. Senate Judiciary Committee Hearing on the Nomination of Robert N. Scola, Jr. is an official Senate transcript offered as extra-record, judicially noticeable background. The full document may be found at https://www.congress.gov/112/chrg/CHRG-112shrg76350/CHRG-112shrg76350.htm

process violated where probability of bias is too high); **Liteky v. United States**, 510 U.S. 540, 555 (1994) (bias is not limited to mere adverse rulings).

26. This Court has emphasized that public confidence in the judiciary is "a state interest of the highest order." **Williams-Yulee v. Florida Bar**, 575 U.S. 433, 446 (2015) (quoting **Caperton**, 556 U.S. at 889 (Kennedy, J., concurring in part)). When a federal judge with undisclosed professional and political ties to a defendant and to one of the litigant's named political rivals refuses to provide full disclosure, minimizes those ties when confronted, and then dismisses the case in a way that prevents any merits review, the appearance of justice is gravely compromised. See **Murchison**, 349 U.S. 133, 136 ("Our system of law has always endeavored to prevent even the probability of unfairness."); **Offutt**, 348 U.S. at 14 ("justice must satisfy the appearance of justice").

27. By recharacterizing concrete, documented relationships and a refusal to disclose as mere speculation, and by resolving the recusal issue under a deferential abuse-of-discretion framework without engaging the objective appearance standard of § 455(a) or the due process concerns identified in **Caperton** and **Liljeberg**, the Eleventh Circuit effectively insulates serious recusal failures from meaningful review. That treatment of judicial-integrity issues warrants this Court's intervention.

(2). Misapplication of Weiland and the shotgun-pleading doctrine

28. The Eleventh Circuit's affirmance conflicts with its own decision in **Weiland v. Palm Beach County Sheriff's Office**, 792 F.3d 1313 (11th Cir. 2015), and with

the limiting principle **Weiland** imposed on the shotgun-pleading doctrine. In **Weiland**, the court identified four basic types of "shotgun" complaints, but made clear that, even where a complaint has defects, dismissal is an abuse of discretion if the counts are "informative enough to permit a court to readily determine if they state a claim upon which relief can be granted." **Id**. at 1323. That safeguard is what prevents the shotgun label from becoming an all-purpose tool to dispose of disfavored cases.

29. The district court repeatedly labeled Applicant's pleadings as shotgun, and criticized them as dense, rambling, and overly conclusory, while offering only high-level instructions to shorten and organize the complaint and flagging broad immunity and jurisdictional issues, but it never undertook the **Weiland** analysis of whether the operative counts were nonetheless "informative enough to permit a court to readily determine if they state a claim upon which relief can be granted. **[*See* APPX: 4; P:16]** Applicant ultimately reduced his complaint from approximately 147 pages to about 40 pages, with far fewer defendants and substantially streamlined allegations. **[APPX: 9 ; P: 44]** Yet when the court finally dismissed the operative complaint with prejudice, it did not analyze whether the individual counts were nonetheless informative enough under **Weiland** to allow the court to determine whether they stated claims for relief. *See* **Weiland**, 792 F.3d at 1322–23. Instead, it simply invoked the shotgun label again, without applying the **Weiland** "informative enough" test. **[APPX: 5; P: 020].**

30. The Eleventh Circuit repeated that error. **[APPX: 1; P: 007]** It affirmed on shotgun-pleading grounds without engaging with **Weiland's** "informative enough" language at all, even though Applicant squarely raised that argument on appeal, and without identifying which of the four **Weiland** categories the operative complaint supposedly fell into. See id. at 1321–23. Instead, the panel relied on the number of amendments and the reintroduction of defendants while never addressing whether the final complaint met Weiland's threshold for informativeness. **[APPX: 1; P: 007].**

31. This treatment conflicts with **Weiland** and with **Shabanets**, 878 F.3d at 1295–96, which emphasize both the need to give litigants a fair opportunity to replead and the limits on using the shotgun doctrine as a basis for dismissal. It also conflicts with this Court's instruction that pleadings should not be dismissed for technical defects where the factual allegations themselves state a claim. *See* **Johnson**, 574 U.S.at 11–12 (per curiam). And because Applicant is a pro se civil-rights litigant, the Eleventh Circuit's refusal to apply **Weiland's** limiting principle is especially troubling in light of this Court's directive that pro se pleadings must be liberally construed. *See* **Haines**, 404 U.S.at 520–21 (per curiam).

32. By refusing to apply the "informative enough" limitation that restrained dismissal in **Weiland**, and by failing to specify any **Weiland** category, the Eleventh Circuit has turned the shotgun-pleading doctrine into an effectively unreviewable label. That internal inconsistency in its own precedent, and its use to cut off any merits review of federal constitutional claims, warrants this Court's attention.

(3). A constitutional question: denial of meaningful access to the courts

33. This case also presents a constitutional access-to-courts problem that goes beyond ordinary error correction. Applicant asked the Eleventh Circuit to decide several pure legal questions, including (1) whether the district judge's undisclosed professional and political relationships required recusal under 28 U.S.C. § 455(a) and the Due Process Clause, (2) whether the operative complaint satisfied **Weiland's** "informative enough" standard even if it was imperfect, and (3) whether the district court's use of the shotgun-pleading doctrine and prior 28 U.S.C. § 1915(e) screening decisions unlawfully blocked him from obtaining any adjudication on the merits of his federal claims. **[*See Ex. Brief on* APPX: 14; P: 114]**, and En Banc Petition **[APPX: 15; P: 138].**

34. Rather than address those legal questions directly, the Eleventh Circuit confined its analysis to deferential abuse-of-discretion review, recast the recusal issue as little more than dissatisfaction with adverse rulings and ordinary professional acquaintance, and then treated the "shotgun pleading" label as dispositive. *See* **[APPX: 1; P: 003-009]** The panel did not engage with Applicant's argument that, under **Weiland**, the final complaint was at least "informative enough to permit a court to readily determine if [it] state[s] a claim upon which relief can be granted," **Weiland**, 792 F.3d 1313 at 1323, nor did it address his contention that the combination of undisclosed conflicts, § 1915(e) misuse after fee payment, denial of Marshal service, and a final shotgun dismissal functioned as a barrier to any merits review of his constitutional claims. **[*Id*].**

35. This Court has long recognized that when a forum is provided, litigants must have a meaningful opportunity to present their claims; procedural devices cannot be applied in a way that arbitrarily forecloses that opportunity. *See* **Christopher**, 536 U.S. 403 at 412–15 (discussing forward-looking and backward-looking denial-of-access claims); **Logan**, 455 U.S. at 433–34 (due process violated where procedural rules arbitrarily extinguish a cause of action); **Boddie v. Connecticut**, 401 U.S. 371, 379 (1971) (state cannot deny "meaningful opportunity" to be heard on fundamental claims). And in the pleading context, this Court has held that federal courts may not dismiss claims merely because a plaintiff "fail[ed] to invoke § 1983 expressly," where the factual allegations themselves state a constitutional violation; labels and technical pleading defects are not a basis to deny relief. **Johnson**, 574 U.S. at 11–12 (per curiam); see also **Haines**, 404 U.S. at 520–21 (per curiam) (pro se civil-rights pleadings must be liberally construed).

36. Here, the Eleventh Circuit's approach effectively allowed a judge-made shotgun-pleading doctrine, applied without the "informative enough" limitation **Weiland** itself requires, to operate as a shield against scrutiny of serious recusal and due process issues. **[APPX: 1; P: 003-009]** The result is that Applicant's federal claims have never been tested under the governing legal standards, despite multiple attempts to refine his complaint and squarely present those issues. That is not a mere disagreement over pleading style; it is the functional denial of any meaningful access to a federal forum for serious constitutional claims. Whether a court of appeals may

rely on its own shotgun-pleading doctrine, while ignoring its limiting principle and the constitutional questions actually raised, to deny a civil-rights litigant any path to merits review is a question of exceptional importance that warrants this Court's attention.

37. This case also presents a constitutional access-to-courts problem that goes beyond ordinary error correction. Applicant asked the Eleventh Circuit to decide several pure legal questions, including (1) whether the district judge's undisclosed professional and political relationships required recusal under 28 U.S.C. § 455(a) and the Due Process Clause, (2) whether the operative complaint satisfied **Weiland's** "informative enough" standard even if it was imperfect, and (3) whether the district court's use of the shotgun-pleading doctrine and prior 28 U.S.C. § 1915(e) screening decisions unlawfully blocked him from obtaining any adjudication on the merits of his federal claims. *See* Appellant's Brief **[APPX: 14; P: 114],** *See also* Motion for Rehearing En Banc..., **[APPX: 15; P: 138].**

38. Rather than address those legal questions directly, the Eleventh Circuit confined its analysis to deferential abuse-of-discretion review, recast the recusal issue as little more than dissatisfaction with adverse rulings and ordinary professional acquaintance, and then treated the "shotgun pleading" label as dispositive. **[APPX: 1; P: 003]** The panel did not engage with Applicant's argument that, under **Weiland**, the final complaint was at least "informative enough to permit a court to readily determine if [it] state[s] a claim upon which relief can be granted," **Weiland**, 792 F.3d

1313 at 1323, nor did it address his contention that the combination of undisclosed conflicts, § 1915(e) misuse after fee payment, denial of Marshal service, and a final shotgun dismissal functioned as a barrier to any merits review of his constitutional claims. *See* Appellant's Brief **[APPX: 14; P: 114],** *See also* Motion for Rehearing En Banc..., **[APPX: 15; P: 138].**

39. This Court has long recognized that when a forum is provided, litigants must have a meaningful opportunity to present their claims; procedural devices cannot be applied in a way that arbitrarily forecloses that opportunity. *See* **Christopher**, 536 U.S. 403 at 412–15 (discussing forward-looking and backward-looking denial-of-access claims); **Logan**, 455 U.S. 422 at 433–34 (due process violated where procedural rules arbitrarily extinguish a cause of action); **Boddie**, 401 U.S. at 379 (state cannot deny "meaningful opportunity" to be heard on fundamental claims). And in the pleading context, this Court has held that federal courts may not dismiss claims merely because a plaintiff "fail[ed] to invoke § 1983 expressly," where the factual allegations themselves state a constitutional violation; labels and technical pleading defects are not a basis to deny relief. **Johnson**, 574 U.S. at 11–12 (per curiam); *see* also **Haines**, 404 U.S. at 520–21 (per curiam) (pro se civil-rights pleadings must be liberally construed).

40. Here, the Eleventh Circuit's approach effectively allowed a judge-made shotgun-pleading doctrine, applied without the "informative enough" limitation **Weiland** itself requires, to operate as a shield against scrutiny of serious recusal and

due process issues. *See* Final Judgment **[APPX: 1; P: 003],** Appellant's Brief **[APPX: 14; P: 114],** *See also* Motion for Rehearing En Banc..., **[APPX: 15; P: 138]** The result is that Applicant's federal claims have never been tested under the governing legal standards, despite multiple attempts to refine his complaint and squarely present those issues. That is not a mere disagreement over pleading style; it is the functional denial of any meaningful access to a federal forum for serious constitutional claims. Whether a court of appeals may rely on its own shotgun-pleading doctrine, while ignoring its limiting principle and the constitutional questions actually raised, to deny a civil-rights litigant any path to merits review is a question of exceptional importance that warrants this Court's attention.

(4). Selective, outcome-driven application of Weiland raises serious due process concerns

41. The way the Eleventh Circuit applied, and failed to apply, its own shotgun-pleading precedent also raises a due process problem. In **Weiland**, the court held that, "whatever their faults," certain counts could not be dismissed because they were "informative enough to permit a court to readily determine if they state a claim upon which relief can be granted." 792 F.3d at 1323. That "informative enough" limitation is what keeps the shotgun-pleading doctrine from becoming an arbitrary device to dispose of disfavored cases.

42. In this case, the Eleventh Circuit did not apply that limiting principle at all. **[APPX: 1; P: 003]** It affirmed dismissal solely on the ground that the complaint was a shotgun pleading, without analyzing whether the operative complaint was

nonetheless informative enough under **Weiland**, and without identifying which **Weiland** category it believed applied. **[*Id*].** The panel's reasoning focused on the number of amendments and the reintroduction of defendants, but never confronted the core **Weiland** question Applicant squarely presented: whether the final complaint, taken as pled, provided enough information for the court to determine if it stated claims for relief. **[*Id*].**

43. That selective use of the shotgun-pleading doctrine, invoking it as a label, while ignoring the very safeguard **Weiland** imposed to prevent arbitrary dismissals, deprives Applicant of the fair, consistent application of settled law that due process requires. A litigant is entitled to have his case judged under the same articulated standards the court uses in other cases, not under a truncated version of those standards when the defendants include a sitting state judge and the conduct of the presiding federal judge is implicated. *See* Weiland, 792 F.3d at 1322–23; Eleventh Circuit Opinion at **[APPX: 1: P: 003]**; Appellant's Initial Brief at **[APPX: 14; P: 114]**.

44. When a court of appeals enforces **Weiland's** "informative enough" protection to preserve claims in one case, yet ignores that same protection to extinguish all claims in a case alleging judicial misconduct, the result is an appearance that the doctrine is being applied in a result-oriented way. *See* **Weiland,** Final Judgment **[APPX: 1**; P: 003, and Excerpts from Appellant's Brief **[APPX: 14; P: 114].** Due process does not permit a court to convert a precedent designed to restrain overbroad dismissals into a one-way ratchet that only operates when institutional interests are

not at stake. Whether a circuit court may apply its own shotgun-pleading precedent in this selective, outcome-driven manner without violating fundamental fairness is an important question that warrants this Court's review.

B) THERE IS AT LEAST A FAIR PROSPECT OF REVERSAL

45. Applicant's petition will show:

(I). The Eleventh Circuit failed to apply the correct legal standards to both recusal and shotgun-pleading review. *See* 28 U.S.C. § 455(a); **Liljeberg**, 486 U.S. at 859–64; **Caperton**, 556 U.S. at 881–87; Weiland, 792 F.3d at 1322–23; **Shabanets**, 878 F.3d at 1295–96; Eleventh Circuit Opinion **[APPX: 1; P: 003]**; Appellant's Amended Initial Brief **[APPX: 10; P: 048]**; Petition for Panel Rehearing and Rehearing En Banc **[APPX: 15; P: 138]**.

(II). The recusal facts satisfy at least 28 U.S.C. § 455(a) and raise serious constitutional due process concerns under **Caperton** and **Liljeberg**. *See* 28 U.S.C. § 455(a); **Liljeberg**, 486 U.S. at 859–64; **Caperton**, 556 U.S. at 881–87 (2009).

(III). The shotgun-pleading ruling conflicts with the court's own precedent in **Weiland** and **Shabanets**, particularly Weiland's "informative enough" limitation, and is inconsistent with this Court's pleading jurisprudence. *See* **Weiland**, at 1322–23; **Shabanets**, at 1295–96; **Johnson**, at 11–12 (2014) (per curiam); Haines, at 520–21. (per curiam).

(IV). The Eleventh Circuit applied its shotgun-pleading doctrine in a selective, outcome-driven way that denied Applicant the fair and consistent application of law that due process requires. *See* Eleventh Circuit Opinion at **[APPX: 1; P: 003]**; Appellant's Initial Brief at **[APPX: 14; P: 114]**; **Logan**, 455 U.S. at 428–33 (holding that a legal "cause of action" is a form of property protected by the Fourteenth Amendment.); **Christopher**, 536 U.S. at 412–15 (Official action cannot frustrate Plaintiff's ability to sue, without violating access to the court right).

C) APPLICANT WILL SUFFER IRREPARABLE HARM IF THE MANDATE IS ISSUED.

(1). Issuing the mandate triggers the certiorari clock and compresses preparation time

46. The ninety-day period for filing a petition for writ of certiorari under 28 U.S.C. § 2101(c) and Supreme Court Rules 13.1 and 13.3 began to run upon the Eleventh Circuit's denial of rehearing on November 25, 2025. However, the issuance of the mandate makes that judgment immediate and final, stripping the Applicant of the stability needed to finalize a timely petition. Without a stay, Applicant is forced to prepare a comprehensive certiorari petition—raising complex constitutional and recusal questions—under severe and unnecessary time pressure created by the Eleventh Circuit's refusal to stay the mandate. *See* Eleventh Circuit Order Denying Panel Rehearing and Rehearing En Banc **[APPX: 2; P: 10],** and Eleventh Circuit Order Denying Motion to Stay Mandate **[APPX: 3; P: 13].** This compressed schedule is especially prejudicial where the Applicant is proceeding pro se, must assemble a substantial appendix, and must carefully frame issues involving judicial integrity and

due process for this Court's review. *See* **Nken**, 556 U.S. at 434–35; **Hollingsworth**, 558 U.S. at 190. The loss of meaningful time to prepare and present these issues, coupled with the immediate execution of the judgment below, represents an irreparable loss that cannot be restored if a stay is denied. Nken, 556 U.S. at 434–35 (irreparable harm in stay context). *See also* **In re Murchison**, 349 U.S. at 136 (fair tribunal/appearance of justice).

(2). 28 U.S.C. § 1367(d) will force immediate resort to a biased state forum

47. Because the district court dismissed Applicant's state-law claims without prejudice, 28 U.S.C. § 1367(d) gives him only a short window to refile those claims in Florida state court once the federal proceedings become final. **[CITATION]** If the mandate issues, Applicant will be forced to either (1) abandon those claims or (2) file them quickly in the very state-court system that is intertwined with the misconduct alleged in this case. **[APPX: 10; P: 048]** In particular:

(I). The case directly implicates alleged misconduct by a sitting Florida state judge, Judge Bernstein. **[APPX: 10; P: 054-061]**

(II). The same state judiciary has previously exhibited irregular rulings, ex parte communications, and obstacles to Applicant's ability to obtain a neutral forum, including at the appellate level. **[APPX: 10; P: 054-061].**

(III). 48. Requiring Applicant to litigate his remaining claims in that environment, under deadline pressure imposed by 28 U.S.C. § 1367(d), creates structural harm that cannot later be undone. *See* **Liljeberg**, 486 U.S. at 858–

64 (explaining that violations of 28 U.S.C. § 455(a) can require relief even after judgment to protect the appearance of justice). Any adverse state-court judgment could create preclusion obstacles or practical barriers to federal review, even if this Court later grants certiorari. *See* 28 U.S.C. § 1738 (Full Faith and Credit Act). Forcing Applicant into that forum while his federal recusal and due process claims remain unresolved is itself a form of irreparable injury. *See* **Ward v. Vill. of Monroeville**, 409 U.S. 57, 61–62 (1972) (holding that due process requires a neutral adjudicator in the first instance and that a later appeal does not cure a biased initial proceeding).

(3). Denial of Access to a Fair Tribunal Is Inherently Irreparable

48. This Court has long held that "a fair trial in a fair tribunal is a basic requirement of due process." **Murchison**, 349 U.S. 133 at 136. The Court has emphasized that "our system of law has always endeavored to prevent even the probability of unfairness" and that "justice must satisfy the appearance of justice." Id. (quoting **Offutt v. United States**, 348 U.S. 11, 14 (1954)). When a judge's participation in a case violates those principles, the defect is structural; it is not something that can be repaired by post hoc review or by speculating that the result might have been the same before a different, impartial judge. *See* **Liljeberg**, 486 U.S. 847, at 858–64 (vacating judgment based on undisclosed conflict in order to protect "the appearance of justice"); **Caperton**, 556 U.S. at 883–87 (requiring recusal where extreme facts created a "serious risk of actual bias").

49. Applicant has alleged, and supported through his recusal motion and the record, that the presiding district judge had an undisclosed, years-long professional relationship with a defendant judge, which the Dist. Judge minimized that relationship when confronted, and he denied any disqualifying political relationship with one of Applicant's named political rivals despite contrary public evidence, refused to answer direct disclosure requests, and then dismissed the case in a way that prevented any merits review of Applicant's federal claims. *See* Excerpt of U.S. Senate hearing **[APPX: 11; P: 089-092].** The Eleventh Circuit, in turn, treated these concerns as "highly tenuous speculation" and declined to apply the objective appearance-of-impartiality standard mandated by 28 U.S.C. § 455(a), **Liljeberg**, and **Caperton**, *See also* the Eleventh Circuit opinion at **[APPX: 1; P: 007; §: III; ¶: 2; L: 12-13].**

50. If the mandate issues, Applicant will be forced to proceed, whether in state court under the pressure of 28 U.S.C. § 1367(d) or in any subsequent related litigation, under the shadow of those unresolved recusal and due process defects. The loss of a genuinely neutral and fully informed adjudicator is not something that can be cured by money damages or by belated review after years of additional litigation. It is the very kind of structural harm that this Court has treated as irreparable. *See* **Murchison**, 349 U.S. at 136; **Caperton**, 556 U.S. at 883–87; **Liljeberg**, 486 U.S. at 864 ("In some circumstances, the risk of injustice to the parties ... and the risk of

undermining the public's confidence in the judicial process, can be fully offset only by setting aside the judgment.").

51. Once Applicant is forced into proceedings shaped by a tribunal whose impartiality he has had no meaningful opportunity to challenge, the damage is done. That is irreparable harm in the most literal sense, and it weighs heavily in favor of a stay.

D) THE BALANCE OF EQUITIES FAVORS A STAY

52. The balance of equities strongly favors maintaining the status quo until this Court has an opportunity to review Applicant's petition. Respondents will suffer no cognizable prejudice from a short stay of the mandate, while Applicant faces serious and irreversible harms if the mandate issues.

(I). Respondents suffer no material harm from a brief stay pending certiorari. The only effect is to delay finality while this Court decides whether to grant review.

(II). The public interest weighs heavily in favor of a stay where questions of judicial integrity, undisclosed conflicts, and the proper application of recusal standards are at stake. Ensuring that such issues receive full and careful consideration serves the judiciary as an institution, not just the Applicant. *See* **Williams-Yulee**, 575 U.S. at 446 (recognizing that public confidence in the integrity of the judiciary is "a state interest of the highest order"); **Liljeberg**, 486 U.S. at 859–64; **Caperton**, 556 U.S. 868, 883–87.

(III). Applicant faces irreversible harms, including constitutional injury and the loss of a neutral forum, if the mandate issues and he is forced either to abandon claims or to litigate them in a forum already intertwined with the misconduct alleged in this case. *See* Ward, 409 U.S. 57.

(VI). RELIEF REQUESTED

53. Applicant respectfully asks that the Circuit Justice stay the issuance of the Eleventh Circuit's mandate pending:

(I). The filing of a timely petition for writ of certiorari, and

(II). This Court's final disposition of that petition.

(VII). CONCLUSION

54. For the reasons set forth above, Applicant respectfully requests that this Court grant a stay of the Eleventh Circuit's mandate.

(VIII). APPENDIX / ATTACHMENTS

55. Applicant will file an appendix including, at a minimum:

[APPX: 1]. Eleventh Circuit opinion (non-published) affirming dismissal (dated **October 1, 2025**). **[Page: 003]**

[APPX: 2]. Eleventh Circuit order denying panel rehearing and rehearing en banc (dated **November 25, 2025**). **[Page: 10]**

[APPX: 3]. Eleventh Circuit order denying motion to stay the mandate (dated **December 2, 2025**). **[Page: 013]**

[APPX: 4]. District court order denying motion for judicial recusal (dated **July 22, 2024**). **[Page: 016]**

[APPX: 5]. District court order dismissing the operative complaint on shotgun-pleading grounds (dated **July 22, 2024**). **[Page: 020]**

[APPX: 6]. District court order denying motion to alter or amend under Rule 59(e) (dated **December 4, 2024**). **[Page: 027]**

[APPX: 7]. Earlier district court order dismissing under 28 U.S.C. § 1915(e)(2)(B) (dated **November 9, 2023**). **[Page: 033]**

[APPX: 8]. District court order allowing further amendment following improper § 1915 screening (dated **February 27, 2024**). **[Page: 038]**

[APPX: 9]. Applicant's motion for judicial recusal (filed **May 24, 2024**). **[Page: 042]**

[APPX: 10]. The operative complaint. **[Page: 48]**

[APPX: 11]. Excerpt of U.S. Senate Judiciary Committee Hearing on the Nomination of Robert N. Scola, Jr., June 8, June 22, July 13, AND July 27, 2011, showing recommendation by Senator Marco Rubio.**[Page: 089]**

[APPX: 12]. Docket sheets from the district court. **[Page: 93]**

[APPX: 13]. Docket sheets from the Eleventh Circuit. **[Page: 106]**

[APPX: 14]. Excerpts from Appellant's AMENDED Initial Brief (11th Cir. Doc. No. 25) (Filed on March 17, 2025). **[Page: 114]**

[APPX: 15]. Excerpts from Petition for Panel Rehearing and Rehearing En Banc. (Filed on Oct 14, 2025). **[Page: 138]**

Respectfully submitted,

Frank Polo
Applicant, pro se
1475 SW 8th St. Apt 411
Miami, FL. 33135
(305) 901-3360
Frank.Polo@msn.com
Dated: December 8, 2025

(IX). CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 8, 2025, a true and correct copy of the foregoing was mailed via USPS and emailed to all counsel or parties of record on the Service List below.

By: /s/

APPELLANT

Frank Polo

1475 SW 8th St. Apt. 411

Miami, FL. 33135

Phone: 305-901-3360

E-Mail: Frank.Polo@msn.com

Roberto J. Diaz

rjd@jpfitzlaw.com

J. Patrick Fitzgerald & Assoc., P.A.

110 Merrick Way, Suite 3-B

Coral Gables, FL 33134

Counsel for St. Thomas University

Jennifer Rebeca Perez Alonso

jalonso@beasleydemos.com

Stephanie Elaine Demos

sdemos@beasleydemos.com

Joseph W. Beasley

jbeasley@beasleydemos.com

Beasley, Demos & Brown, LLC

201 Alhambra Circle Suite 501

Coral Gables, Florida 33134

Counsels for Defendants Manuel Segarra, and Segarra & Associates, P.A.

Kathryn Brucia

kathryn.brucia@myfloridalegal.com

Martha Hurtado

Martha.Hurtado@myfloridalegal.com

Martine Legagneur

Martine.legagneur@myfloridalegal.com

Christopher Sutter

Christopher.sutter@myfloridalegal.com

Office of the Attorney General

110 SE 6th St Ste 1200

Fort Lauderdale, FL 33301-5031

Counsels for Scott Bernstein, Marcia Del Rey, Spencer Multack, and Thomas Logue