NO. 25-_____ October Term, 2025

In The

Supreme Court of the United States

FRANK POLO (Pro Se),

Applicant,

v.

SCOTT BERNSTEIN, et al.,

Respondents.

APPENDIX

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 /

INDEX TO APPENDIX

No.	Name	Page No.
APPX: 1	Eleventh Circuit opinion (non-published) affirming dismissal (dated October 1, 2025).	003
APPX: 2	Eleventh Circuit order denying panel rehearing and rehearing en banc (dated November 25, 2025).	010
APPX: 3	Eleventh Circuit order denying motion to stay the mandate (dated December 2, 2025).	013
APPX: 4	District court order denying motion for judicial recusal (dated July 22, 2024).	016
APPX: 5	District court order dismissing the operative complaint on shotgun-pleading grounds (dated July 22, 2024).	020
APPX: 6	District court order denying motion to alter or amend under Rule 59(e) (dated December 4, 2024).	027
APPX: 7	Earlier district court order dismissing under 28 U.S.C. § 1915(e)(2)(B) (dated November 9, 2023).	033
APPX: 8	District court order allowing further amendment following improper § 1915 screening (dated February 27, 2024).	038
APPX: 9	Applicant's motion for judicial recusal (filed May 24, 2024).	042
APPX: 10	The operative complaint.	048
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.	089
APPX: 12	Docket sheets from the district court.	093
APPX: 13	Docket sheets from the Eleventh Circuit.	106
APPX: 14	Excerpts from Appellant's AMENDED Initial Brief (11th Cir. Doc. No. 25) (Filed on March 17, 2025).	114
APPX: 15	Excerpts from Petition for Panel Rehearing and Rehearing En Banc. (Filed on Oct 14, 2025).	138

APPENDIX 1

Eleventh Circuit opinion (non-published) affirming dismissal (dated October 1, 2025)

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10016
Non-Argument Calendar

FRANK E. POLO, SR.,

Plaintiff-Appellant,

versus

SCOTT M. BERNSTEIN,
in his Personal and Official Capacity, et al.,

Defendants-Appellees,

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:23-cv-21684-RNS

Before ROSENBAUM, GRANT, and ABUDU, Circuit Judges.

PER CURIAM:

Frank Polo, proceeding pro se, appeals the district court's orders declining to recuse and dismissing his fifth amended

complaint. He argues that he could not receive a fair adjudication from the district court because it repeatedly ruled against him, did not advise him of the relevant law, had affiliations with his political adversaries, and previously worked in the same building as a defendant. And he argues that, contrary to the district court's holding, he did not file a shotgun pleading. Disagreeing on all fronts, we affirm.

I.

In May 2023, Polo filed a 147-page complaint against thirty defendants, asserting various claims under state and federal law. He challenged (among many other things) state-court custody decisions and his expulsion from St. Thomas University College of Law. After finding the complaint's 747 paragraphs replete with conclusory allegations, the district court struck it as a shotgun pleading and gave him a chance to amend. Polo took that chance, but the court again found his complaint insufficient. So he tried again. The cycle continued until Polo filed his fifth amended complaint.

Polo managed to reduce his fifth amended complaint to forty pages and 280 paragraphs. While his prior complaint had whittled the defendants down to two, this time, he *added* several claims and defendants back in. So the district court dismissed the complaint as a "wholly problematic" shotgun pleading, with no opportunity to amend.

Meanwhile, Polo had moved for the district judge to recuse, claiming that the judge had personal relationships with interested

parties, had ruled against Polo several times, and failed to direct Polo to relevant caselaw. The district court rejected the motion. Polo appealed.

II.

The deferential abuse-of-discretion standard applies to a district court's decision to deny a motion to recuse and dismiss a complaint as a shotgun pleading. *See Jenkins v. Anton*, 922 F.3d 1257, 1271–72 (11th Cir. 2019); *Barmapov v. Amuial*, 986 F.3d 1321, 1324 (11th Cir. 2021).

III.

Polo argues that the district court abused its discretion when it rejected his recusal motion. A district court judge must recuse when a fully informed, disinterested lay observer would seriously doubt the judge's impartiality. *Christo v. Padgett*, 223 F.3d 1324, 1333 (11th Cir. 2000); *see* 28 U.S.C. § 455. The alleged grounds for disqualification must rest on more than "unsupported, irrational, or highly tenuous speculation." *United States v. Greenough*, 782 F.2d 1556, 1558 (11th Cir. 1986).

Polo's first two arguments relate to the way the district judge handled his case. He points to the district judge's repeated rulings against him and failure to direct him to relevant caselaw. But adverse judicial rulings most often form the "proper grounds for appeal, not for recusal." *Liteky v. United States*, 510 U.S. 540, 555 (1994). And failing to give a pro se litigant legal advice does not show that the judge is biased. Quite the opposite. Requiring courts to "advise a *pro se* litigant" about the relevant law "would *undermine*

district judges' role as impartial decisionmakers." *Pliler v. Ford*, 542 U.S. 225, 231 (2004) (emphasis added). These arguments have no merit.

Polo's next two arguments relate to the district judge's personal connections. He argues that the district judge cannot be impartial because he previously worked as a state-court judge in the same building as one of the defendants. But an allegation that a district judge is merely acquainted with a defendant falls short of demonstrating partiality. *See Parrish v. Bd. of Comm'rs of Ala. State Bar*, 524 F.2d 98, 102 (5th Cir. 1975) (en banc).[1] The same goes for Polo's argument that the district judge had impermissible connections with his "political adversaries." As one example, he flags that then-Senator Marco Rubio recommended that the Senate approve the judge's nomination to the federal bench. But that allegation is "highly tenuous speculation," to say the least. *Greenough*, 782 F.2d at 1558. No reasonable lay person would seriously doubt the district court judge's impartiality on these grounds. *See Christo*, 223 F.3d at 1333. The district court did not abuse its discretion in denying Polo's recusal motion.

IV.

Polo also challenges the district court's decision to dismiss his complaint as a shotgun pleading. Federal Rule of Civil Procedure 8(a)(2) requires a complaint to contain "a short and plain

[1] This Court adopted as binding precedent all decisions of the former Fifth Circuit issued before October 1, 1981. *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc).

statement" that shows that the plaintiff is entitled to relief. And Rule 10(b) requires the plaintiff to state claims in paragraphs "limited as far as practicable to a single set of circumstances." Shotgun pleadings often flout these rules. *See Barmapov*, 986 F.3d at 1324. They commonly present the claims in a confusing manner and are "replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action." *Weiland v. Palm Beach Cnty. Sheriff's Off.*, 792 F.3d 1313, 1322 (11th Cir. 2015).

Once a district court classifies a complaint as a shotgun pleading, it must give the litigant a chance to remedy its shortcomings. *Vibe Micro, Inc. v. Shabanets*, 878 F.3d 1291, 1295 (11th Cir. 2018). But one chance is generally enough. The district court may dismiss the amended pleading with prejudice if it fails to remedy the errors the court identified. *See id.*; *Jackson v. Bank of Am., N.A.*, 898 F.3d 1348, 1358 (11th Cir. 2018).

The district court did not abuse its discretion in dismissing Polo's fifth amended complaint. Polo had *four* chances to amend his pleading. Each time, the court explained the complaint's deficiencies and how to correct them. Yet Polo repeatedly failed to comply with those instructions. *See Jackson*, 898 F.3d at 1357–59. In fact, the last time around, he *added* several claims and nine new defendants. And he "replicate[d] all the pleading mistakes" the court had repeatedly cautioned against. On this record, we cannot say that the district court abused its discretion in dismissing Polo's fifth amended complaint as a shotgun pleading.

* * *

We **AFFIRM** the district court's judgment.

APPENDIX 2

Eleventh Circuit order denying panel rehearing and rehearing en banc (dated November 25, 2025).

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10016

FRANK E. POLO, SR.,

Plaintiff-Appellant,

versus

SCOTT M. BERNSTEIN,
in his Personal and Official Capacity,
MARCIA DEL REY,
in her Personal and Official Capacity,
SPENCER MULTACK,
in his Personal and Official Capacity
JUDGE THOMAS LOGUE,
MANUEL A SEGARRA, III,
in his Personal and Official Capacity, et al.,

Defendants-Appellees,

BERTILA SOTO,
in her official capacity, et al.,

Defendants.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:23-cv-21684-RNS

ON PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC

Before ROSENBAUM, GRANT, and ABUDU, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. FRAP 40. The Petition for Panel Rehearing also is DENIED. FRAP 40.

APPENDIX 3

District court order denying motion for judicial recusal (dated July 22, 2024).

In the

United States Court of Appeals

For the Eleventh Circuit

No. 25-10016

FRANK E. POLO, SR.,

Plaintiff-Appellant,

versus

SCOTT M. BERNSTEIN,
in his Personal and Official Capacity,
MARCIA DEL REY,
in her Personal and Official Capacity,
SPENCER MULTACK,
in his Personal and Official Capacity
JUDGE THOMAS LOGUE,
MANUEL A SEGARRA, III,
in his Personal and Official Capacity, et al.,

Defendants-Appellees,

BERTILA SOTO,
in her official capacity, et al.,

Defendants.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:23-cv-21684-RNS

ORDER:

Appellant's motion to stay the issuance of the mandate pending a petition for writ of certiorari is DENIED.

DAVID J. SMITH
Clerk of the United States Court of
Appeals for the Eleventh Circuit

ENTERED FOR THE COURT - BY DIRECTION

APPENDIX 4

District court order denying motion for judicial recusal (dated July 22, 2024)

United States District Court
for the
Southern District of Florida

Frank Polo, Sr., Plaintiff,	)	
	)	
v.	)	
	)	Civil Action No. 23-21684-Civ-Scola
Scott Marcus Bernstein, in both his individual and official capacities, and others, Defendants.	)	

Order Denying Motion to Recuse

This matter is before the Court on pro se Plaintiff Frank Polo, Sr.'s motion for disqualification. (Pl.'s Mot., ECF No. 41.) 28 U.S.C. § 455(a) requires a judge to "disqualify himself in any proceeding in which his impartiality might reasonably be questioned," and § 455(b) requires recusal in certain specifically enumerated circumstances. Although Polo references only § 455(a), it appears his grievances may also be based on § 455(b)(1) as well. Polo's allegations of impartiality stem, partly, from the undersigned's having presided over family law matters in Florida's Eleventh Judicial Circuit as a judge in that court. 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. Recognizing that this relationship alone is insufficient to give rise to the appearance of impropriety, Polo identifies two adverse rulings against him and the Court's failure to advise him that he may not proceed, on a pro se basis, on behalf of his minor children, to further support his motion. Polo says that the combination of these factors together warrants the undersigned's recusal. The Court disagrees and therefore **denies** his motion (**ECF No. 41**).

Under § 455, recusal is required when a district judge's "impartiality might reasonably be questioned" or when the district judge "has a personal bias or prejudice concerning a party." 28 U.S.C. § 455(a), (b)(1). "Under § 455, the standard is whether an objective, fully informed lay observer would entertain significant doubt about the judge's impartiality." *Regions Bank v. Leg. Outsource PA*, 800 F. App'x 799, 800 (11th Cir. 2020).

Polo's reliance on two of the Court's orders (one approving Polo's motion to proceed in forma pauperis and the other vacating that order, at his request, and administratively closing this case) along with the Court's failure to advise him that he may not, as a pro se litigant, represent the interests of his minor children, do not support disqualification. "[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v.*

United States, 510 U.S. 540, 555 (1994). This is so regardless of how Polo himself characterizes the orders: "the standard is whether an objective, fully informed lay observer would entertain significant doubt about the judge's impartiality." *Thomas v. Tenneco Packaging Co., Inc.*, 293 F.3d 1306, 1329 (11th Cir.2002). In other words, in evaluating a motion for disqualification, the Court considers "how things appear to the well-informed, thoughtful and objective observer, rather than the hypersensitive, cynical, and suspicious person." *U.S. v. Jordan*, 49 F.3d 152, 156 (5th Cir. 1995). So Polo's unsupported conjecture about the undersigned's motives—that the Court granted Polo's motion to proceed *in forma pauperis* with the "sole objective" of using that status to dismiss his complaint (Pl.'s Mot. at 3); that the Court denied his request to appoint the Marsal's office for service of process "knowing Mr. Polo was incapable of paying for service" (*id.*); and that the Court has "intentionally fail[ed] to apply the correct principles of law to the facts" (*id.*)—is not relevant. Similarly unavailing is Polo's complaint that the Court failed to advise him that he may not proceed pro se on behalf of his minor children. First, it is not the Court's responsibility to identify for a litigant every conceivable defect in his case—especially so when his pleading is not yet in a viable form. Further, even if that was the Court's responsibility, Polo has failed to supply any link between the purported failure to flag an issue for a party and the Court's alleged impartiality. Ultimately, to rely on the Court's rulings (or lack thereof) to support disqualification, Polo would have to show that the Court's orders and decisions "demonstrate such pervasive bias and prejudice that it constitutes bias against a party." *Anderson v. Vanguard Car Rental USA Inc.*, 427 F. App'x 861, 864 (11th Cir. 2011). Polo's submission falls far short of this standard.

Polo's speculation that the undersigned's prior professional relationship with Judge Bernstein triggers impartiality is similarly unavailing. Lacking is any objective support for Polo's cursory contention that, because of this association, the Court is "intentional[ly] fail[ing] to apply the correct principles of law to benefit the opposing party." (Pl.'s Mot. at 3.) Simply identifying an association, and a weak one at that, between the undersigned and another judge, well over a decade in the past, is insufficient to raise doubts about the Court's impartiality in this case or otherwise implicate a personal bias or prejudice.

In sum, Polo has not identified any extrajudicial sources that demonstrate a bias, and has failed to demonstrate that the undersigned's judicial actions raise concerns.

Accordingly, after considering the motion, the record, and the relevant legal authorities, the Court **denies** Polo's motion for recusal (**ECF No. 41**), for the reasons set forth above.

Done and ordered, in Miami, Florida, on July 22, 2024.

Robert N. Scola, Jr.
United States District Judge

APPENDIX 5

District court order dismissing the operative complaint on shotgun-pleading grounds (dated July 22, 2024)

United States District Court
for the
Southern District of Florida

Frank Polo, Sr., Plaintiff,	)	
	)	
v.	)	
	)	Civil Action No. 23-21684-Civ-Scola
Scott Marcus Bernstein, in both his individual and official capacities, and others, Defendants.	)	

Second Omnibus Order

Pro se Plaintiff Frank Polo, Sr., seeks damages and injunctive relief, in what is now his fifth attempt to plead his claim, against various Defendants, including state-court judges, a university, a law firm, two state courts, the mother of his children, and her boyfriend, based on alleged violations of Polo's federal and state constitutional rights and various state common laws. (5th Am. Compl., ECF No. 38.)[1] The Court struck Polo's first four complaints, explaining each time that they were shotgun pleadings, leaving the Court unable to readily discern the nature of or basis for his claims. (ECF Nos. 6, 10, 22, 29.) After dismissing Polo's case based on defects in his third amended complaint, and based on the screening provisions of 28 U.S.C. § 1915(e)(2)(B), Polo asked the Court to reconsider. (Pl.'s Mot. for Recons., ECF No. 27.) One of Polo's objections was the Court's application of the screening provisions to his complaint based on his request to proceed *in forma pauperis*. (*Id.* at 3–4.) Polo complained that although the Court had granted his request to proceed *in forma pauperis*, it was improper for the Court to apply the screening provisions when he had in fact paid the Court's filing fee in full. (*Id.*) Finding some merit to the point, and in recognition of Polo's representation that he would be engaging an attorney to help him (*id.* at 8), the Court then vacated its order granting Polo *in forma pauperis* status (Order, ECF No. 29 at 1). In doing so, the Court agreed that it would be improper for Polo's case to be dismissed under § 1915 screening and therefore afforded him one more chance to amend his complaint. (*Id.* at 2.) Since then, Polo has filed a fourth amended complaint (ECF No. 34), followed by a fifth amended complaint (to fix a formatting issue) (ECF No. 38). Because Polo has once again failed to comply with the Court's orders, as outlined below, the Court dismisses this case.

[1] Although this is Polo's sixth pleading, there were no substantive changes between the fourth amended complaint and the fifth.

Polo's initial complaint named dozens of Defendants and spanned 147 pages, containing over 700 numbered paragraphs. (Compl., ECF No. 1.) After the Court struck that complaint as a shotgun pleading, affording Polo a chance to replead his claims, Polo filed an amended complaint this time against twenty Defendants, comprised of a subset of the Defendants named in the initial complaint. (Am. Compl., ECF No. 9.) While the Court generously construed Polo's second attempt as marginally better than his first, the amended complaint did not even come close to remedying the defects identified in the Court's first order. Accordingly, the Court struck the amended complaint as well. (2nd Order, ECF No. 10 (noting that Polo's complaint continued to be "replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action").) But, affording Polo the benefit of the doubt, based on his pro se status and on the incremental improvement of his second effort, the Court granted Polo "one final chance to replead his case," warning him that his failure to comply would "result in the dismissal of his case." (2nd Order at 1, 3.)

In response, Polo then filed his second amended complaint, now lodged against only two Defendants: state-court Judge Scott Marcus Bernstein and St. Thomas University, Inc. (2nd Am. Compl., ECF No. 18.) Shortly thereafter, he also sought leave to change course and proceed *in forma pauperis* so that the Court could appoint the United States Marshal's Office to effect service. (Pl.'s IFP Mot., ECF No. 20; Pl.'s Mot. to Appoint, ECF No. 19.) The Court granted Polo's *in forma pauperis* request and then proceeded to screen his complaint under § 1915, before burdening the U.S. Marshal with effecting service. (3rd (Omnibus) Order, ECF No. 22.) Upon screening, the Court dismissed the second amended complaint, under § 1915(2)(B), finding Polo's claims appeared time barred, as well as barred by various forms of immunity and for a failure to state a claim. (3rd Order at 3.) Because that dismissal was, at least in part, under § 1915(2)(B)(ii), the Court, in an abundance of caution, afforded Polo yet another chance to produce a viable complaint. (3rd Order at 3.)

With that, Polo filed his third amended complaint, again against only Judge Bernstein and St. Thomas. (3rd Am. Compl., ECF No. 25.) While Polo provided facts that could possibly salvage the untimeliness of some of his claims, he failed to meaningfully embrace the Court's shotgun-pleading admonishments and additionally "failed [to] establish that he is entitled to relief on his federal claims or that the Court has jurisdiction over his state-law claims." (4th Order, ECF No. 26, 3.) Accordingly, the Court dismissed his case, albeit without prejudice, under § 1915, but without further leave to amend. (4th Order at 3.) At the same time, the Court noted that, even if the Court had not dismissed Polo's complaint under § 1915, it would have dismissed it regardless

"based on his repeated failure to comply with the Court's orders regarding the shotgun nature of his pleading." (4th Order at 3.)

Although the Court then administratively closed the case, denying any other pending motions as moot, that was not the end of this matter. Instead, Polo sought reconsideration. (Pl.'s Mot. for Recons., ECF No. 27.) In his motion, Polo pointed out that it would be unfair for the Court to dismiss his case under § 1915 screening, based on his *in forma pauperis* status, when he had initially paid the full filing fee. (Pl.'s Mot. for Recons. at 4.) Recognizing the inherent inconsistency, the Court agreed, vacating its order granting Polo's motion to proceed *in forma pauperis* and, as a result, denying Polo's request that the U.S. Marshal be appointed to effect service. (5th Order, ECF No. 29.) At the same time, the Court found no reason to disturb that part of its previous order finding Polo's third amended complaint noncompliant with Federal Rule of Civil Procedure 8(a)(2), still amounting to a shotgun pleading. (5th Order at 2.) However, Polo, in his motion for reconsideration, advised that, if given one more chance to amend, he would engage counsel to assist him with formulating a proper pleading. (Pl.'s Mot. for Recons. at 8.) Based on this representation, combined with construing Polo's efforts very liberally, because of his pro se status (combined with his expenditure of the filing fee), the Court once again generously, perhaps overly so, afforded Polo all benefit of the doubt, noting that each iteration of his complaint suggested that he was "at least *trying*, albeit unsuccessfully, to address some . . . of the Court's concerns." (5th Order at 2.) Accordingly, the Court acquiesced to Polo's demand for one more chance at amendment, at the same time warning him that his case would be dismissed if that fifth attempt—his fourth amended pleading—failed to comply with the federal rules or any of the Court's previous orders. (5th Order at 2.)

Upon review, the Court finds Polo's latest amended pleading (ECF No. 38) is still wholly problematic. Most bewildering is Polo's *addition* of nine new defendants back into this case: three other state-court judges, a lawyer, that lawyer's law firm, the mother of Polo's children, her boyfriend, and two state courts. The Court directed Polo to amend his complaint in order to bring it into compliance with rule 8(a)(2) and 10(b) and the Court's orders; he was not given leave to add new parties and claims. This is particularly troubling considering that these new counts replicate all the pleading mistakes that the Court, through several iterations of the complaint, has previously brought to Polo's attention. Counts four and five are particularly illustrative of Polo's repeated failures to comply with the Court's orders.

Court four, for example, titled a "Petition for Prospective Declaratory Judgment under 28 U.S.C. § 2201 and Fed. R. Civ. P. 57," spanning over almost forty paragraphs, is lodged against four Florida state-court judges and

two Florida courts, one a trial-level court and the other an appellate court. Within in this one count, Polo references several different rights, under both the United States constitution as well as the Florida constitution, that he says were violated: his right to access the courts; his right to be free from governmental retaliation for engaging in political speech; his right to be free from governmental retaliation for petitioning the government for redress of his grievances; the deprivation of his property rights without due process; and the deprivation of his liberty rights without due process. Furthermore, to the extent there are any relevant factual allegations, it is impossible for the Court (or the Defendants) to discern which allegations could possibly correspond which claims. And, despite being repeatedly warned to avoid doing so, Polo relies almost exclusively on vague and conclusory assertions in trying to state a claim. To provide but a small sample: "The Defendants' actions described in this Count were taken to harass Mr. Polo as retaliatory responses to the Plaintiff's engagement in these Protected Activities and not for other reasons."(5th Am. Compl. ¶ 134); Judge Bernstein "buil[t] a case against Mr. Polo to destroy Mr. Polo['s] career in law without due process of law." (*id.* ¶ 137); "Judge Del Rey retaliated against the Plaintiff by continuing to retain jurisdiction over the Plaintiff's family case after the Court lost jurisdiction to adjudicate attorney's fees with the intent of creating financial harm on Mr. Polo by granting attorney's fees not supported by fact and law in retaliation for Mr. Polo's engagement in the Protected Activities." (*id.* ¶ 146); "Judge Multack deprived the Plaintiff of his right to access the court by issuing an order that restricted his ability to file motions, limiting them to just one motion." (*id.* ¶ 148). "Judge Logue," along with others, was "involved in fabricating and adopting false facts without any evidence in the record to support those facts," "repeatedly and maliciously declined to apply the correct legal principles to the admitted facts of the Plaintiff's family case, despite being fully aware of them," and "issued a Per Curiam Affirm order, with the intent of preventing the Plaintiff from appealing [the] orders to the Florida Supreme Court." (*id.* ¶¶ 151, 152, 156.) Defendants faced with such allegations would be left thoroughly unable to discern the contours of the claims against them, leaving them hamstrung in their abilities to defend against Polo's suit. *See Weiland v. Palm Beach Cnty. Sheriff's Off.*, 792 F.3d 1313, 1322 (11th Cir. 2015) (describing one of the quintessential types of shotgun pleadings as being "replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action"). This is exactly what the Court has repeatedly ordered Polo, over the course of several orders, not to do.

The pleading deficiencies of count five further highlight Polo's noncompliance. This count, labeled "Conspiracy under § 1983," is brought

against, again, the four state-court judges, along with a lawyer, the mother of Polo's children, and her boyfriend. This count spans nearly 50 paragraphs and aside from alleging that these Defendants all "agreed" to deprive Polo of various rights there is not a single actual fact proffered to support the claim. Instead, Polo relies on repeatedly insisting that the "co-conspirators" all agreed amongst themselves to violate his due process rights and retaliate against him for his engagement in certain protected activities. (*E.g.*, 5th Am. Compl. ¶¶ 169 ("There was an agreement . . . ."), 171 (describing one Defendant as having "ratified the actions of" the other Defendants"); 174 (alleging some of the Defendants as having "agreed" with a guardian ad litem "to fabricate a false emergency," using that fabrication "as justification to remove the children from Mr. Polo's custody without providing him the opportunity to access the court before suffering this deprivation"); 178 (contending that some of the Defendants "agree[d] to build a case against Mr. Polo to justify giving [the children's mother] custody that was not justified, otherwise, by fact or law"); 204–210 (complaining that Judge Logue, "acting in concert with [St. Thomas] management, influenced other [Florida appellate] judges to" "intentionally fabricat[e] and adopt[] false facts," "intentionally and repeatedly decline[] to apply the correct legal principles," and "cite irrelevant laws with the malicious intent of depriving the Plaintiff of the opportunity to appeal").) In doing so, Polo shows how thoroughly he disregards the Court's multiple orders that he set forth allegations that are "simple, concise, and direct," "presented with such clarity and precision that the defendants will be able to readily discern what he is claiming and frame a responsive pleading." (5th Order at 2 (cleaned up) (citing *Embree v. Wyndham Worldwide Corp.*, 779 F. App'x 658, 663 (11th Cir. 2019).)

Nor do the allegations in any of Polo's other federal claims fare any better. He repeatedly insists, in purely summary fashion, that he was falsely accused of ethical misconduct, that various findings against him (in both state court and St. Thomas's honor council proceedings) were all made in the absence of facts or legal basis, that the Defendants deprived him of various protected interests without due process, that the Defendants all acted under the color of law, that he was retaliated against, and that various of the Defendants conspired together to fabricate a pretext to get Polo expelled from law school. Further, the exceedingly sparse facts that Polo does provide are not logically tethered to any particular claim, rendering it nearly impossible to discern their import or applicability to any one cause of action. In sum, once again, any "defendant who reads the complaint would be hard-pressed to understand the grounds upon which each claim against him rests." *Barmapov v. Amuial*, 986 F.3d 1321, 1326 (11th Cir. 2021) (cleaned up).

Because Polo has repeatedly disregarded the Court's orders and because, after being afforded generous opportunities to amend, his complaint remains a shotgun pleading, his case is dismissed. As to Polo's *federal claims*, this dismissal is *with prejudice*, albeit on non-merits grounds. *See Arrington v. Green*, 757 F. App'x 796, 798 (11th Cir. 2018) (concluding that the district court did not abuse its discretion by dismissing a pro se plaintiff's complaint with prejudice, on shotgun-pleading grounds, where the plaintiff was given "at least one opportunity to re-plead the complaint"). As to Polo's remaining *state-law claims*, the Court exercises its discretion and declines to exercise supplemental jurisdiction over them, thus dismissing them *without prejudice*. *See Raney v. Allstate Ins. Co.*, 370 F.3d 1086, 1089 (11th Cir. 2004) ("We have encouraged district courts to dismiss any remaining state claims when, as here, the federal claims have been dismissed prior to trial."); *Vibe Micro, Inc. v. Shabanets*, 878 F.3d 1291, 1296 (11th Cir. 2018) (explaining that where a complaint is dismissed as a shotgun pleading, and a further sua sponte amendment is not offered, any remaining state-law claims should be dismissed "without prejudice as to refiling in state court").

The Court directs the Clerk to **close** this case. Any remaining pending motions are **denied as moot**.

Done and ordered, in Miami, Florida, on July 22, 2024.

Robert N. Scola, Jr.
United States District Judge

APPENDIX 6

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

United States District Court
for the
Southern District of Florida

Frank Polo, Sr., Plaintiff,	)	
	)	
v.	)	
	)	Civil Action No. 23-21684-Civ-Scola
Scott Marcus Bernstein, in both his individual and official capacities, and others, Defendants.	)	

Third Omnibus Order

Previously, the Court dismissed this case based on pro se Plaintiff Frank Polo, Sr.'s repeated failures, through five amended complaints, to comply with the Court's orders to properly plead his case. (2d Omnibus Order, ECF No. 55.) As the Court noted, Polo continually replicated various pleading defects, in each iteration of his complaint, despite the Court's repeated instructions directing him to comply with the Federal Rules of Civil Procedure and the Court's orders. Shortly after issuing that dismissal order, the Court entered a final judgment in favor of the Defendants and against Polo. (Final J., ECF No. 56.) Leading up to the dismissal, the Court also denied Polo's motion for the Court to recuse itself from this case. (Order Denying Mot. for Disqual., ECF No. 54.) Since then, Polo has filed a series of motions: for reconsideration of the order denying disqualification (Pl.'s 1st Mot. for Recon., ECF No. 57); to join parties and amend the complaint (Pl.'s Mot. to Join, ECF No. 58); to reconsider the Court's order of dismissal and final judgment (Pl.'s 2d Mot. for Recon., ECF No. 62); and two motions for this case to be reassigned to another judge (Pl.'s Mots. to Reassign, ECF Nos. 69, 71). Some of the Defendants have responded to Polo's motion for reconsideration of the dismissal of his case (Univ. Defs.' Resp., ECF No. 64; Law Firm Defs.' Resp., ECF No. 65; Judge Defs.' Resp., ECF No. 67), to which Polo has replied (Pl.'s Reply to Univ. & Law Firm Defs., ECF No. 66; Pl.'s Reply to Judge Defs., ECF No. 68). None of the Defendants has responded to any of Polo's other motions. After careful review, the Court **denies** Polo's motions (**ECF Nos. 57, 58, 62, 69, 71**).

1. Legal Standard

"[I]n the interests of finality and conservation of scarce judicial resources, reconsideration of an order is an extraordinary remedy that is employed sparingly." *Gipson v. Mattox*, 511 F. Supp. 2d 1182, 1185 (S.D. Ala. 2007). A motion to reconsider is "appropriate where, for example, the Court has patently

misunderstood a party, or has made a decision outside the adversarial issues presented to the Court by the parties, or has made an error not of reasoning but of apprehension." *Z.K. Marine Inc. v. M/V Archigetis*, 808 F. Supp. 1561, 1563 (S.D. Fla. 1992) (Hoeveler, J.) (citation omitted). "Simply put, a party may move for reconsideration only when one of the following has occurred: an intervening change in controlling law, the availability of new evidence, or the need to correct clear error or prevent manifest injustice." *Longcrier v. HL-A Co.*, 595 F. Supp. 2d 1218, 1247 (S.D. Ala. 2008) (quoting *Vidinliev v. Carey Int'l, Inc.*, No. CIV.A. 107CV762-TWT, 2008 WL 5459335, at *1 (N.D. Ga. Dec. 15, 2008)). However, "[s]uch problems rarely arise and the motion to reconsider should be equally rare." *Z.K. Marine Inc.*, 808 F. Supp. at 1563. Certainly, if any of these situations arise, a court has broad discretion to reconsider a previously issued order. Absent any of these conditions, as here, however, a motion to reconsider is not ordinarily warranted.

2. Reconsideration of the Court's orders is not warranted.

First, rather than specifying any particular basis that would warrant reconsideration of the Court's orders, Polo's motions simply express his disagreement with the Court's rulings. Indeed, aside from listing the three main grounds justifying reconsideration in one of his replies, Polo does not cite any legal authority, in either motion, that would support reconsideration in this case. Except for disagreeing with the Court's analyses, in both its order denying recusal and its order dismissing his case, and rehashing arguments he has made previously, Polo fails to set forth any basis that would support the Court's revisiting its decision. *See Jacobs v. Tempur-Pedic Intern., Inc.*, 626 F.3d 1327, 1344 (11th Cir. 2010) (recognizing that a motion for reconsideration "cannot be used to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment") (cleaned up).

Second, Polo continues to demonstrate a misapprehension of the Court's orders. For example, Polo complains that the Court failed to assess his allegations of bias collectively, and instead improperly evaluated them in isolation only. That is, according to Polo, it is not only the Court's association with one of the defendant state-court judges in this case, well over a decade ago, but that association in combination with several Court orders with which Polo disagrees. While the Court agrees that, certainly, all circumstances that bear on the issue of disqualification should be considered, that doesn't mean that a series of circumstances, each insufficient on its own, would result in disqualification when combined. That is, nothing added to nothing, combined with nothing, is still nothing. *See Lindsey v. City of Beaufort*, 911 F. Supp. 962, 974 (D.S.C. 1995) ("[H]olding that these various circumstances in combination

require disqualification would be tantamount to holding that adding several zeroes together would produce something more than zero."); *see also Postell v. City of Cordele Georgia*, No. 22-13636, 2023 WL 4364503, at *4 (11th Cir. July 6, 2023) (recognizing that mere "disagreements with [a judge's] docket administration, timeliness, and judicial rulings and are . . . not valid bases for recusal" and that "[c]hallenges to adverse rulings are generally grounds for appeal, not recusal."). Additionally, Polo repeatedly complains that the Court has failed to disclose any other possible conflicts involving, Polo says, a teaching position at St. Thomas University and relationships with several Florida political figures and judges. (*See* ECF Nos. 57, 69, 71 (complaining about potential conflicts of interest based on conjectured associations with various entities and people).) The Court has not disclosed any such purported associations or conflicts because there are none.

Polo's arguments that the dismissal of his case was in error are similarly misplaced. For instance, Polo repeatedly claims that the Court failed to afford him sufficient leeway in light of his pro se status. A review of the record in this case, however, readily reveals the contrary. The Court repeatedly construed Polo's efforts at repleading generously, affording him all benefit of the doubt that he was at least attempting to comply with the Court's orders. Indeed, the Court erred well on the side of wasting scarce judicial resources, granting Polo multiple opportunities to present a compliant pleading to the Court. But each time, Polo filed a complaint that would have required the Court to "wade through hundreds of paragraphs of superfluous material in an effort to dig up a viable claim," which, in turn, would have resulted in the Court's "impermissibly giv[ing] the appearance of lawyering for [him]." *Barmapov v. Amuial*, 986 F.3d 1321, 1332 (11th Cir. 2021) (cleaned up) (Tjoflat, J., concurring). Polo similarly continues to complain about the Court's treatment of his request to proceed *in forma pauperis*. At bottom, Polo's grievance amounts to his seeking to have it both ways: the benefit of service on the Defendants by the United States Marshals but without the burden of mandatory Court screening of his complaint as is required under 28 U.S.C. § 1915. *See Thomas v. Clayton Cnty. Bd. of Commissioners*, No. 22-10762, 2023 WL 1487766, at *4 (11th Cir. Feb. 3, 2023) (noting that "dismissal under section 1915 is now mandatory once [a] district court determines [a] complaint fails to state a claim"). While the Court recognized it would not be fair to dismiss Polo's complaint (even without prejudice), when he had in fact paid the Court's initial filing fee; at the same time, Polo failed to convince the Court it should exercise its discretion to burden the Marshals with perfecting service of process of his shotgun complaint on the Defendants in this case.

Likewise, Polo's insistence that his complaint is not a shotgun pleading and that it presents at least one viable claim also misses the mark. While Polo believes he can cherry pick allegations, scattered throughout his complaint, that, to his mind, form at least one cogent claim, that is not enough. First, even the allegations that Polo himself highlights are nothing more than a jumble of conclusory statements, devoid of factual underpinnings. Second, as previously explained, it is improper for the Court to proactively hunt through a complaint on a plaintiff's behalf to see if there may possibly be a viable claim buried within a shotgun pleading. *See Dvoinik v. Rolff*, No. 23-14147, 2024 WL 2974475, at *4 (11th Cir. June 13, 2024) ("It is not the district court's job to parse out incomprehensible allegations from shotgun pleadings.") That was the whole point of allowing Polo so many do overs—to provide him the opportunity to shed the chaff in order to reveal the existence of any possible wheat.

Lastly, dismissal of Polo's case, with prejudice, was warranted for two alternative reasons. First: because after numerous attempts—well beyond the minimum required by Eleventh Circuit authority—Polo's complaint continued to be an impermissible shotgun pleading. *See Abdulla v. S. Bank*, No. 22-12037, 2023 WL 2988135, at *2 n. 2 (11th Cir. Apr. 18, 2023) ("[L]ike other litigants, if a pro se litigant files an amended complaint without substantially fixing the identified deficiencies in the original complaint, dismissal with prejudice may be warranted."). And second, the Court supplied repeated instructions to Polo, directing him with specificity as to how to remedy the deficiencies within his complaint. But, at every turn, whether by design or inadvertence, those orders went unheeded. Accordingly, the Court dismissed Polo's case on the alternative ground that, after consistently failing to comply with the Court's orders, and after being warned each time that his failure to comply could result in dismissal, it became readily apparent that anything less than dismissal would be inadequate to correct the conduct.

3. Conclusion

As set forth above, the Court **denies** Polo's motions for reconsideration (**ECF Nos. 57, 62**). Based on the denial of Polo's motion for reconsideration of the Court's dismissal of his case and the entry of final judgment, in favor of the Defendants, the Court also **denies** Polo's motion to join parties and for leave to file yet another amended complaint (**ECF No. 58**). *See Lee v. Alachua Cnty., FL*, 461 F. App'x 859, 860 (11th Cir. 2012) ("Rule 15 has no application . . . once the district court has dismissed the complaint and entered final judgment for the defendant."). Finally, the Court also **denies** Polo's motions for reassignment of this case to another judge. (**ECF Nos. 69, 71**.) The motions are procedurally improper as well as lacking in merit. Not only did Polo fail to confer with any

other parties before filing those motions, as required by the Court's Local Rules, the motions are meritless and simply rehash the arguments Polo has presented in his motions for reconsideration.

This case is to remain closed and any other pending motions are denied as moot.

Done and ordered, in Miami, Florida, on December 3, 2024.

Robert N. Scola, Jr.
United States District Judge

APPENDIX 7

Earlier district court order dismissing under 28 U.S.C. § 1915(e)(2)(B) (dated November 9, 2023)

United States District Court
for the
Southern District of Florida

Frank Polo, Sr., individually and on behalf of FP and HP, his minor children, Plaintiff,	)	
v.	)	Civil Action No. 23-21684-Civ-Scola
Scott Marcus Bernstein, in both his individual and official capacities, and St. Thomas University, Inc., Defendants.	)	

Omnibus Order

Pro se Plaintiff Frank Polo, Sr., appearing individually and on behalf of FP and HP, his minor children (collectively, "Polo"), and proceeding *in forma pauperis*,[1] has now filed his fourth complaint in this case. (3rd Am. Compl., ECF No. 25.) The Court struck his first two pleadings because they were shotgun pleadings that were nearly impossible to parse. (ECF Nos. 6, 10.) Though his third pleading was better—both shorter, somewhat more coherent, and lodged against only two defendants as opposed to dozens—it was nonetheless still a shotgun pleading, and, at the same time, revealed various jurisdictional deficiencies and timeliness concerns. (2nd Am. Compl., ECF No. 18.) Additionally, despite the Court's repeated admonishments, Polo continues to rely on conclusory allegations to support his claims. Further, although Polo pared down his third pleading to "only" 43 pages (from the 147 pages of his initial complaint), in his fourth and current attempt, Polo's pleading has ballooned back, this time to 78 pages. After review, the Court concludes that affording Polo yet a fifth attempt to plead his case would be fruitless and a waste of the Court's resources. Accordingly, under the screening provisions of 28 U.S.C. § 1915(e)(2)(B) as well as the Court's findings that Polo has repeatedly failed to comply with the Court's orders, the Court **dismisses his case without prejudice but without further leave to amend**.

As best the Court can discern, Polo's grievances against Defendants Judge Scott Marcus Bernstein, in both his individual and official capacities, and St. Thomas University, Inc., arose out of family court proceedings in state court before Judge Bernstein. In addition to complaints Polo has about various

[1] Polo initially paid the Court's filing fee but then later sought permission, and was granted leave, to proceed *in forma pauperis* (Omnibus Order, ECF No. 22).

rulings against him in those proceedings, most of Polo's claims seem to stem from Judge Bernstein's alleged interference with Polo's enrollment at St. Thomas University College of Law. According to Polo, much of Judge Bernstein's animus towards him grew out of Polo's publicly speaking out about corruption in the state-court system. Ultimately, says Polo, Judge Bernstein's interference resulted in Polo's wrongful expulsion from St. Thomas. Polo also seems to take issue with various decisions issued by Florida's Third District Court of Appeal although the relevance of the claims related to those proceedings are not apparent.

As an initial matter, the vast majority of Polo's claims relate to events that occurred at least four years before Polo initiated this case and so, as explained in the Court's omnibus order (ECF No. 22, 2), are time barred. On the other hand, apparently in response to the Court's statute-of-limitations concerns, Polo has added allegations that he wasn't officially expelled from St. Thomas until May 17, 2019, and that "[i]t was not until May 20, 2019, that Polo discovered the letter [from] Judge Bernstein to [St. Thomas] and the conspiracy between [them]." (3rd Am. Compl. ¶¶ 88, 89.) Since these dates are a few weeks shy of four years before Polo initiated this case, on May 4, 2023, it is possible these allegations may salvage certain claims that depend on these facts from being time barred.

Regardless, despite the Court's repeated admonishments, Polo continues to present his complaint in a dense, rambling, and nonlinear manner rendering it impossible for the Court to readily discern the basis of or factual support for his claims. Making matters worse, Polo's complaint continues to be replete with conclusory and purely speculative allegations that are also unsupported, or at least not directly supported, by any concrete facts.

Further, to the extent Polo's grievances against Judge Bernstein stem from the judge's presiding over Polo's family-court case, Judge Bernstein has absolute immunity. *See Wusiya v. City of Miami Beach*, 614 F. App'x 389, 392 (11th Cir. 2015) ("[A] judge is entitled to absolute immunity even when his actions were erroneous, malicious, or in excess of his jurisdiction.") To the extent, on the other hand, Polo complains about Judge Bernstein's individual conduct, beyond the court proceedings, he fails to set forth facts establishing that, in communicating with administrators at St. Thomas, Judge Bernstein deprived Polo of a federal right through the exercise of his authority through his official position as a state-court judge. Accordingly, Polo's § 1983 claims against Judge Bernstein, in his personal capacity all fail as well. *See id.* ("Section 1983 provides a cause of action for deprivations of federal constitutional rights by state actors acting under color of law.") Conversely, to the extent Polo seeks compensation for his grievances against Judge Bernstein

in his official capacity, those claims are effectively a claim for damages against the State of Florida and are therefore barred by the Eleventh Amendment. *See Higdon v. Tusan*, 746 F. App'x 805, 810 (11th Cir. 2018) ("[The Eleventh Amendment] bars suits against state officials where the state is, in fact, the real party in interest."). And although "a state official may be sued in his official capacity when the suit alleges a constitutional violation by the official, acting in his official capacity and seeks only prospective injunctive relief," *Wusiya,* 614 F. App'x at 393, Polo fails to set forth any factual allegations that would support such a claim against Judge Bernstein. Finally, St. Thomas, "which is a private university, is not a state actor and none of the 'rare circumstances' allowing a § 1983 claim against a private actor were alleged." *Andela v. Univ. of Miami*, 461 F. App'x 832, 836–37 (11th Cir. 2012). In sum, because of these shortcomings, Polo's federal claims either fail to state a claim on which relief may be granted or seek monetary relief against a defendant who is immune from such relief. As such, the Court dismisses all of Polo's federal claims under the screening provisions of 28 U.S.C. § 1915(e)(2). Because this is Polo's third amended pleading, it appears further amendment would be futile and therefore the dismissal of Polo's federal claims is without further leave to amend.

As to Polo's remaining state-law claims, Polo has failed to establish the Court's diversity jurisdiction, despite being directed to do so, if applicable. (Omnibus Order at 3.) Without any diversity allegations, the Court declines to exercise supplemental jurisdiction over any of Polo's remaining state-law claims. Those state claims, then, are dismissed without prejudice to his filing those claims in state court. *Baggett v. First Nat. Bank of Gainesville*, 117 F.3d 1342, 1353 (11th Cir. 1997) ("State courts, not federal courts, should be the final arbiters of state law.")

In sum, despite being afforded multiple opportunities to do so, Polo has failed establish that he is entitled to relief on his federal claims or that the Court has jurisdiction over his state-law claims. Additionally, even if the Court did not dismiss Polo's complaint under § 1915, it would dismiss it based on his repeated failure to comply with the Court's orders regarding the shotgun nature of his pleadings. Accordingly, the Court dismisses his claims without prejudice but also without further leave to amend.

This case is to remain closed and any pending motions are **denied as**

moot.

Done and ordered, in Miami, Florida, on November 9, 2023.

Robert N. Scola, Jr.
United States District Judge

Copy via email to:
Frank Polo, Sr.
frank.polo@msn.com

APPENDIX 8

District court order allowing further amendment following improper § 1915 screening (dated February 27, 2024)

United States District Court
for the
Southern District of Florida

Frank Polo, Sr., individually and on behalf of FP and HP, his minor children, Plaintiff,	)	
v.	)	Civil Action No. 23-21684-Civ-Scola
Scott Marcus Bernstein, in both his individual and official capacities, and St. Thomas University, Inc., Defendants.	)	

Order Granting Motion for Reconsideration

Pro se Plaintiff Frank Polo, Sr., appearing individually and on behalf of FP and HP, his minor children (collectively, "Polo"), seeks damages and injunctive relief against Defendants Judge Scott Marcus Bernstein (in both his personal and official capacities) and St. Thomas University, Inc., based on alleged violations of Polo's federal and state constitutional rights and various state common laws. (3rd Am. Compl., ECF No. 25.) The Court struck Polo's first three complaints, explaining each time that they were shotgun pleadings, leaving the Court unable to readily discern the nature of or basis for his claims. (ECF Nos. 6, 10, 22.) Polo initially paid the Court's filing fee but then later sought permission, and was granted leave, to proceed *in forma pauperis* so that he could have the United States Marshals Service appointed for service of process. (3rd Order, ECF No. 22). In granting Polo's request to proceed *in forma pauperis*, the Court deferred ruling on his motion to appoint the Marshals for service while affording him yet another attempt to replead his claims. (3rd Order at 1, 4.) Thereafter, Polo filed his third amended complaint which the Court considered, at least partially, under the screening provisions of 28 U.S.C. § 1915(e)(2)(B). (4th Order, ECF No. 26.) In doing so, the Court dismissed Polo's case, albeit without prejudice, but also without leave to further amend. (*Id.* at 1.) Polo now asks the Court to reconsider that order, pointing out, in part, that since he initially paid the filing fee, his case should not be subjected to the screening provisions of 28 U.S.C. § 1915(e)(2)(B). (Pl.'s Mot., ECF No. 27, 4.) The Court agrees. Accordingly, the Court **grants** Polo's motion for reconsideration (**ECF No. 27**) and amends its previous orders as follows.

First, the Court **vacates** its order granting Polo's motion to proceed *in forma pauperis*. (3rd Order at 1.) And, in doing so, the Court also **vacates** its order dismissing Polo's case which was, at least in part, based on the screening

provisions of 28 U.S.C. § 1915(e)(2)(B). (4th Order at 1, 3.) As a result, the Court **denies** Polo's motion for the appointment of the Marshals to effect service. (**ECF No. 19**.)

Nonetheless, the Court still finds Polo's third amended complaint to be a shotgun pleading. Polo is wrong when he insists that the Court erred in concluding that his "complaint continues to be replete with conclusory and purely speculative allegations that are also unsupported, or at least not directly supported, by any concrete facts." (Pl.'s Mot. at 2 (quoting 4th Order at 2).) He is also mistaken when he submits that the Court must go line-by-line and specifically identify for him each allegation that it finds conclusory. Further, there can be no dispute that his third amended complaint, like the three before it, continues to be presented in a "dense, rambling, and nonlinear manner rendering it impossible for the Court to readily discern the basis of or factual support for his claims." (4th Order at 2.) Additionally, each of the complaint's eight counts reincorporates "paragraphs 22 through 144," again forcing the Court and the Defendants to sift through mountains of irrelevant and difficult to parse allegations to attempt to discern the sufficiency of his claims. These issues alone render his complaint an impermissible shotgun pleading: "a defendant who reads the complaint would be hard-pressed to understand the grounds upon which each claim against him rests." *Barmapov v. Amuial*, 986 F.3d 1321, 1326 (11th Cir. 2021). Polo's pleading falls far short of Federal Rule 8(a)(2)'s straight forward requirement that a complaint simply provide no more than "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2).

Because each of Polo's amended pleadings suggests he is at least *trying*, albeit unsuccessfully, to address some (though by no means all) of the Court's concerns and because Polo is proceeding pro se, the Court has been exceedingly tolerant in affording him multiple opportunities to amend. Polo now says he intends to engage counsel to assist him with his complaint and seeks "one more opportunity to amend." (Pl. Mot. at 8.) To facilitate that engagement, Polo requests 60 days to proceed with that engagement and to thereafter redraft his complaint, once again. While the Court will afford Polo the relief he requests, Polo is forewarned that his case *will be dismissed with prejudice if his fourth amended pleading fails to comply with Rules 8(a)(2) or 10(b) or any of the Court's previous orders.* Polo's allegations must be "simple, concise, and direct," and "presented with such clarity and precision that the defendants" will be able to readily "discern what [he is] claiming and frame a responsive pleading." *Embree v. Wyndham Worldwide Corp.*, 779 F. App'x 658, 663 (11th Cir. 2019). Polo must file his amended pleading, in compliance with the Court's orders and rules, on or before **April 26, 2024.**

In the meantime, while the Court awaits Polo's amended complaint, the Court reminds him that he is responsible for service on the Defendants. The Court also extends the deadline for Polo to effect service until **May 24, 2024**, taking into consideration the time Polo's motion for appointment of the Marshals for service was under consideration. In addition to serving the Defendants with the summons and complaint, the Court also orders Polo to serve them with a copy of this order.

If the Defendants are served before Polo has filed his fourth amended complaint, the Court extends the Defendants' deadline to respond to the complaint until 21 days after Polo has filed his fourth amended pleading. If, however, the Defendants are served after Polo has filed the fourth amended complaint, the Defendants must comply with the deadlines set forth in Rule 12.

The Clerk is directed to **reopen** this case. Based on the above, the third amended complaint is now the operative pleading in this case.

Done and ordered, in Miami, Florida, on February 26, 2024.

Robert N. Scola, Jr.
United States District Judge

Copy via email to:
Frank Polo, Sr.
frank.polo@msn.com

APPENDIX 9

Applicant's motion for judicial recusal (filed May 24, 2024), with key exhibits documenting the professional and political relationships at issue.

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

FRANK E. POLO, SR.
Plaintiff,

v.

BERNSTEIN, et al.

Defendants,
_____/

CASE NO:____23-CV- 21684 /

MOTION FOR DISQUALIFICATION AND/OR TO DISCLOSE CONFLICT OF INTEREST.

1. Comes now the Plaintiffs, FRANK POLO, and pursuant to 28 U.S.C. Sec. 455, requesting this honorable Court, to grant this *Motion for Disqualification and/or to Disclose Conflict of Interest*, and in support thereof states as follows:

I. APPLICABLE LAW

2. "Inherent in § 455(a)'s requirement that a judge disqualify himself if his impartiality might reasonably be questioned is the principle that our system of 'justice must satisfy the appearance of justice.'" **Parker v. Connors Steel Co.**, 855 F. 2d 1510 (11th Cir. 1987) citing **Offutt v. United States**, 348 U.S. 11, 14, 75 S.Ct. 11, 13, 99 L.Ed. 11 (1954).

3. "Thus, section 455(a) embodies an objective standard. The test is whether an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the judge's impartiality" **Parker**, 855 F. 2d 1510 at 1524 (citing **Potashnick v. Port City Const. Co.**, 609 F.2d 1101, 1111 (5th Cir.)).

4. In deciding a Motion for Disqualification under 28 U.S.C. Sec. 455(a), the Court must evaluate if the facts surrounding the motion to Disqualify would "cast doubt in the public's mind" (a lay observer) on the Judge's "ability to remain impartial." Even if the facts only suggest the "appearance of impropriety," the sitting judge must disqualify themselves. *id.*

5. If all the Facts taken together raise the appearance of impropriety and may cause one (a lay observer) to reasonably question the Judge's impartiality, the Judge must recuse himself. *Id* at 1525.

6. It has been stated on numerous occasions that when a judge harbors any doubts concerning whether his disqualification is required he should resolve the doubt in favor of disqualification. *Id* at 1524, citing ***United States v. Alabama***, 828 F.2d 1532, 1540 (11th Cir. 1987).

7. It is well settled law in the Eleventh Circuit, that the Courts have never permitted a non-attorney parent to act pro se on behalf of their child. See **FuQua v. Massey**, 615 F. App'x 611 at 612 (11th Cir. 2015) ("The right to appear pro se . . . is limited to parties conducting `their own cases,' and does not extend to non-attorney parties representing the interests of others. Consequently, we have held that `parents who are not attorneys may not bring a pro se action on their child's behalf.'"

II. THE FACTS SUPPORTING A FINDING OF THE APPEARANCE OF IMPROPRIETY

8. It has come to MR. POLO'S attention that the Honorable Judge presiding this case worked from approximately some time in 1995 until around May of 2011 as a judge for Florida's Eleventh Judicial Circuit (EJC) presiding over family law matters as a co-worker with the Defendant Judge Scott M. Bernstein who worked at the same institution from somewhere around the end of 1998, beginning of 1999, and is still a judge at the EJC.

9. On May 4, 2023, Mr. Polo filed this case and paid the filing fee in full.

10. Due to financial constraints, Mr. Polo was forced to file to proceed in forma pauperis to get this honorable Court to appoint the U.S. Marshal's office for the process of service.

11. This Court approved the Motion to Proceed in forma pauperis, not to concede to Mr. Polo the benefit requested but solely to dismiss the complaint based on the application of 28 U.S.C. § 1915(e)(2)(B).

12. This is a case involving, among other things, deprivation of access to the court by State Judges who repeatedly failed to apply the correct principle of Law to MR. POLO'S case's fact in retaliation against MR. POLO for his political speech.

13. This Court prevented service of process for a long time by closing the case and vacating the order granting Mr. Polo's motion to proceed in forma pauperis and denying the motion to have the U.S. Marshals' office serve as a process server.

14. This court failed to state that MR. POLO was not permitted by law to bring a case on behalf of his minor children.

III. ANALYSIS

15. The mere fact alone that this court had a previous long-standing relationship with at least one of the defendants in this case does not, by itself, rise to the level of giving the appearance of impropriety.

16. However, the appearance of impropriety arises when that fact is seen together with the facts that (1) even though Mr. Polo paid his filing fee in full, this Court approved the Application to Proceed in Forma Pauperis with the sole objective of using the provision of 28 U.S.C. § 1915(e)(2)(B) to dismiss the complaint; (2) this Court prevented service of process for a long time by closing the case and vacating the order granting Mr. Polo's motion to proceed in forma pauperis and by denying the motion to have the U.S. Marshals' office serve as a process server knowing MR. POLO was incapable of paying for the service; and (3) this court failed to disclose the fact that it is a well-settled law in the Eleventh Circuit Court of Appeals that a parent cannot bring causes of actions on behalf of his minor children.

17. Given that the judge previously worked alongside at least one of the defendants, there is a concern that the judge may be perpetuating the same pattern of improper behavior that Mr. Polo is alleging in his complaint, namely the intentional failure to apply the correct principles of law to benefit the opposing party and that would create a reasonable belief of impropriety in the eyes of any layperson.

18. Therefore, based on the facts surrounding this case, Mr. Polo holds a reasonable belief that he will not be afforded a fair opportunity to be heard and that the court may continue to engage in intentionally failing to apply the correct principles of law to the facts of Mr. Polo's case, as the State Judges have previously done. This could potentially force Mr. Polo with no choice but to win the case on appeal, which would be more difficult because appeals increases the chances of procedural failures.

19. **WHEREFORE**, the Plaintiff, Frank Polo, respectfully asks this Court to grant his *Motion for Disqualification and/or to Disclose Conflict of Interest* by disqualifying itself from presiding over this case, and to:

20. In the alternatively, disclose any possible conflict of interest this court may have by:

a. having a past, present, or future interest in a teaching position with Defendant ST. THOMAS UNIVERSITY, INC.

b. Being 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: (1) Current Congresswoman Maria Elvira Salazar; (2) ex-chair of the Miami-Dade County Republican Party, Nelson Diaz; (3) Current Senator, Marco Rubio; (4) Current Senator, Rick Scott; (5) Ex-congresswoman, Ileana Ros-Lehtinen; (6) former U.S. Attorney for South Florida, Dexter Wayne Lehtinen; and/or (7) any of the current seating Judges in the Florida Third District Court of Appeals.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the forgoing *Motion will be served on* all the Defendants listed in the service list via USPS First-Class Mail.

Respectfully submitted on this 24 day of May 2024.

By:

PLAINTIFF
Frank Polo
1475 SW 8th St. Apt. 411
Miami, FL. 33135
Phone: 305-901-3360
E-Mail: FEPM2024@hotmail.com

SERVICE LIST:

THIRD DISTRICT COURT OF APPEALS
THOMAS LOGUE
2001 SW 117th Ave
Miami, FL. 33175

THOMAS LOGUE
2001 SW 117th Ave
Miami, FL. 33175

ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA
Attn: NUSHIN G. SAYFIE
175 N.W. 1st AVE Room: 3045
Miami, FL. 33128

MARCIA DEL REY
175 N.W. 1st AVE Room: CHC 1925
Miami, FL. 33128

SPENCER MULTACK
175 N.W. 1st AVE
Miami, FL. 33128

ST. THOMAS UNIVERSITY, INC.
FITZGERALD, J. PATRICK ESQ.
110 MERRICK WAYSUITE 3-B
Coral Gables, FL. 33134

MANUEL A. SEGARRA III
2655 S Le Jeune Rd Penthouse 2 C
Coral Gables, FL. 33134

SEGARRA & ASSOCIATES, P.A.
Attn: MANUEL A. SEGARRA III
22655 S Le Jeune Rd Penthouse 2 C
Coral Gables, FL. 33134

SCOTT MARCUS BERNSTEIN
155 N.W. 3rd, ST. Room: MDCC 14337
Miami, FL. 33128

RANDOLPH MARTINEZ
696 NW 127 CT
Miami, FL. 33182

MERLIN HERNANDEZ
696 NW 127 CT
Miami, FL. 33182

APPENDIX 10

The operative complaint.

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

FRANK E. POLO, SR.
Plaintiff,
v.

SCOTT MARCUS BERNSTEIN;
MARCIA DEL REY;
SPENCER MULTACK;
THOMAS LOGUE;
MANUEL A. SEGARRA III;
MERLIN HERNANDEZ;
RANDOLPH MARTINEZ;
ST. THOMAS UNIVERSITY, INC.;
SEGARRA & ASSOCIATES, P.A.;
THIRD DISTRICT COURT OF APPEALS;
ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA;
Defendants,
_____/

CASE NO: **1:23-cv-21684**

JURY TRIAL IS DEMANDED

§ 1.AMENDED COMPLAINT TO ADD HEADER

1. Plaintiff, FRANK E. POLO SR., files this complaint against the defendants SCOTT MARCUS BERNSTEIN; MARCIA DEL REY; SPENCER MULTACK; THOMAS LOGUE; MANUEL A. SEGARRA III; MERLIN HERNANDEZ; RANDOLPH MARTINEZ; ST. THOMAS UNIVERSITY, INC.; SEGARRA & ASSOCIATES, P.A.; THIRD DISTRICT COURT OF APPEALS; ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA (the "DEFENDANTS" in this complaint) and alleges as follows:

§ 2. INTRODUCTION SUMMARY OF THE CASE

2. This case arises from claims under the U.S. Constitution's First and Fourteenth Amendments, the Constitution and laws of the State of Florida, and 42 U.S.C. § 1983.

3. The Plaintiff, Frank Polo, brings this action against all the Defendants who directly, or indirectly, deprived the Plaintiff of constitutional rights, under color of state law. These violations included but were not limited to deprivations of Plaintiff's (1) right to access the Court for redress of his grievances, (2) liberty interest in his good name, reputation, honor, and integrity, (3) and Property Interest in his continued enrolment at Law School.

4. More importantly, those deprivations were in violation of Plaintiff's 14th Amendment rights to due process of law under 42 U.S.C. § 1983.

5. Finding out about corruption and exposing it when MR. POLO put a subpoena on Microsoft to prove that BERNSTEIN'S friend and appointed GAL perjured herself in court and filed a misleading report was costly to MR. POLO. It resulted in Judge Bernstein transforming his corruption scheme into a retaliatory personal vendetta to destroy the life, livelihood, and financial future of an entire family for MR. POLO'S crime of standing up against corruption, and for MR. POLO running for office promising to fight the corruption led by Judge Bernstein.

6. Paradoxically, the Defendants are Judges who intentionally disregarded their simple duty to uphold their oath of supporting the Constitution of the United States and of the State of Florida by abusing their power against decent citizens.

§ 3. JURISDICTION, VENUE & STANDING

7. These claims arise under the First Amendment of the U.S. Constitution, and the the due process clause of the Fifth Amendment to the United States Constitution, as extended to the States by the Fourteenth Amendment, and 42 U.S.C. § 1983. This Court has jurisdiction under 28 U.S.C. § 1331 and over all other state claims under 28 U.S.C. § 1367, and under 28 U.S.C. §2201.

8. Venue is proper under 28 U.S.C. §1391(b) The claims being sued upon arose in Miami-Dade County, Florida, which is where the defendants at all material times resided or did business.

9. All the violations alleged herein occurred in the State of Florida and resulted in injury to the Plaintiff for which the Plaintiff is seeking relief. Therefore, the Plaintiff has "standing" to bring this cause of action.

§ 4. PARTIES

10. Plaintiff, FRANK E. POLO, SR., individually, ("MR. POLO" or "POLO") is a resident of Miami-Dade County, Florida.

11. Defendants, SCOTT M. BERNSTEIN (Judge "BERNSTEIN"), MARCIA DEL REY (Judge "DEL REY"); and SPENCER MULTACK (Judge "MULTACK") were at all times material, State Judges, and employees of the Defendant ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA (the "EJCC"), a dependency of the Florida Supreme Court (a State

Agency), and they acted towards MR. POLO pursuant to the authority bestowed upon them by the State of Florida and under color of state law. JUDGE BERNSTEIN is being sued in his official and individual capacity, and JUDGES DEL REY, and MULTACK in their official capacity.

12. The Defendant Judge THOMAS LOGUE (Judge "LOGUE") was at all times material an employee of the Defendant THIRD DISTRICT COURT OF APPEALS ("3d DCA"), which is a dependency of the Florida Supreme Court (a State Agency) and he acted towards MR. POLO pursuant to the authority bestowed upon him by the State of Florida and under color of state law. He is sued in his official capacity.

13. Defendant MANUEL A. SEGARRA III ("MR. SEGARRA" or "SEGARRA") was an employee, owner, and operator of SEGARRA & ASSOCIATES, P.A. and he acted towards MR. POLO under color of State Law because he and at least JUDGE BERNSTEIN, on behalf of himself and the ELEVENTH JUDICIAL COURT OF FLORIDA, had reached an understanding to deprive MR. POLO of his constitutional rights without due process of law. He is being sued in his official and personal capacity.

14. Defendant, MERLIN HERNANDEZ, ("MS. HERNANDEZ") was the Petitioner in Family Court case 2012-017787-FC-04 in the ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA and she acted towards MR. POLO under color of State Law because she and at least JUDGE BERNSTEIN, on behalf of himself and the ELEVENTH JUDICIAL COURT OF FLORIDA, had reached an understanding to deprive MR. POLO of his constitutional rights without due process of law. She is being sued in her personal capacity.

15. Defendant, RANDOLPH MARTINEZ, ("MR. MARTINEZ") was/is Ms. Hernandez's boyfriend. and he acted towards MR. POLO under color of State Law because he and at least JUDGE BERNSTEIN, on behalf of himself and the ELEVENTH JUDICIAL COURT OF FLORIDA, had reached an understanding to deprive MR. POLO of his constitutional rights without due process of law. He is being sued in his personal capacity.

16. Defendant, SEGARRA & ASSOCIATES, P.A., is a Florida for-profit Corporation organized and existing under the laws of the State of Florida, with a principal place of business in Miami Dade County, Florida.

17. Defendant, ST. THOMAS UNIVERSITY, INC. ("STU"), is a Florida Not-for-Profit Corporation organized and existing under the laws of the State of Florida, with its principal place of business in Miami Dade County, Florida.

18. Defendant, ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA ("EJC") is part of the State of Florida Court System and a subdivision of the State of Florida, and at all times material, operated towards MR. POLO under color of state law.

19. Defendant, FLORIDA THIRD DISTRICT COURT OF APPEAL ("3d DCA") is part of the State of Florida Court System and a subdivision of the State of Florida, and at all times material, operated towards MR. POLO under color of state law.

§ 5. GENERAL FACTS APPLYING TO ALL COUNTS

20. At all relevant times herein in all counts, it is asserted that all other Defendants, individually, are considered "persons" under 42 U.S.C. Section 1983.

21. At all relevant times herein in all counts, it is asserted that MR. POLO was a party in a family case in THE ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA for Miami-Dade Country (a government agency), Case No.: 2012-017787-FC-04 (the "Family Case"), where the defendant SCOTT M. BERNSTEIN was the presiding judge from about July 7, 2012, until on or about January 29, 2019, when he recused himself and he lost all jurisdiction over MR. POLO'S case.

22. Throughout all relevant counts, it is asserted that MS. HERNANDEZ and MR. SEGARRA filed two late motions for attorney's fees (Hernandez's on **October 8, 2018**, and Segarra's on **November 1, 2018**). These motions were filed after (1) a final judgment was entered on **September 14, 2018**, (2) without the retention of jurisdiction to adjudicate attorney's fees, and (3) the time to file for rehearing (15 days under Fla. Fam. R. P. 12.530) had lapsed by the time MS. HERNANDEZ and MR. SEGARRA filed for attorney's fees. Therefore, the court didn't have jurisdiction after **September 14, 2018**.

23. Throughout all relevant counts, the Defendants acted collectively as agents, employees, partners, aiders and abettors, co-conspirators, and/or joint venturers, within their designated roles. Each Defendant endorsed and supported the actions of the others, as evidenced by the facts presented in the applicable counts. They collaborated, supported, and significantly contributed to

each other's actions as outlined in the facts presented in the applicable counts, demonstrating awareness of their misconduct and actively working towards achieving their wrongful objectives.

24. Throughout all relevant counts, it is asserted that the acts complained of in this complaint were undertaken intentionally, frivolously, maliciously, and with total disregard for the Plaintiff's protected constitutional rights by all the DEFENDANTS. Those acts were so egregious that MR. POLO'S damages were heightened and made more severe, thus entitling Plaintiff to exemplary (punitive) damages.

§ 6. STATEMENT OF FACTS

(A) MERLIN HERNANDEZ AND RANDOLPH MARTINEZ[1]

25. After MR. POLO and MS. HERNANDEZ separated in 2012, and MS. HERNANDEZ became obsessed with taking sole custody and parental responsibility for the couple's children.

26. MS. HERNANDEZ initiated the family court case on **July 19, 2012,** seeking sole custody of their children and limiting visitation for MR. POLO to about two (2) hours per week, with supervised visitation with no legal or factual basis.

27. Upon information and belief, Mr. Martinez financed Ms. Hernandez's legal harassment against MR. POLO for over eleven (11) years.

28. JUDGE BERNSTEIN appointed LILLIANA REAL (the "GAL") as a Guardian in the case, who claimed to be friends with BERNSTEIN and suggested to MR. POLO being able to influence his decisions. Thereafter, the GAL engaged in building a case against MR. POLO.

29. Subsequently, Ms. Hernandez began sending the children to MR. POLO with repeated rashes and bruises for which MR. POLO contacted MS REAL.

30. On **February 11, 2014,** the GAL, MS. HERNANDEZ, MR. MARTINEZ, and HERNANDEZ'S attorneys, manufactured a false emergency with no probable cause.

[1] Although the names of the Defendants are used in many subsections of this Statement of Fact, it's important to note that this does not imply that the subsections do not apply to other parties mentioned in each subsection.

31. On the same date, MS. HERNANDEZ and MR. MARTINEZ took MR. POLO'S children from MR. POLO'S legal custody without court authorization or MR. POLO'S consent. The Plaintiff was not given an opportunity to access the court before the children were removed.

(B) JUDGE BERNSTEIN

(I). BERNSTEIN'S ACTS BEFORE RECUSAL

32. Aware of the deprivation of MR. POLO'S custody without access to the court and without notice and opportunity to be heard, BERNSTEIN delayed the return of the children for seven days.

33. JUDGE BERNSTEIN allowed the GAL to file her report, which was due 20 days before the final hearing, a day before the final hearing and denied a motion for continuance.

34. During the Final Hearing, The GAL falsely testified that MR. POLO was building a case against Ms. Hernandez.

35. On or about **May 26, 2015**, MR. POLO obtained evidence showing the GAL was building a case against him and filed a motion to vacate the final Judgment (the "Motion to Vacate") accusing The GAL of committing fraud upon the court and exposing the scheme to corruptively grant MS. HERNANDEZ timesharing and child support not supported by fact and/or law.

36. Towards the end of 2015, a disagreement arose between MR. POLO and MS. HERNANDEZ regarding vacation arrangements with the children.

37. MS. HERNANDEZ brought the case back to court, and on **December 15, 2015**, JUDGE BERNSTEIN declined to address the issue. He waited until MR. POLO was on vacation with the children and issued his order on **December 24, 2015**, which failed to clarify the party's rights.

38. On **February 2, 2016**, upon MR. POLO'S return from vacation, JUDGE BERNSTEIN held him in contempt.

39. On **April 3, 2017**, JUDGE BERNSTEIN filed an order of referral to the parenting coordinator without a hearing, MR. POLO consent or knowledge, and without serving MR. POLO with the new order of Referral.

40. The order stated that there was a history of allegations of domestic violence which was never an issue in front of Bernstein. Additionally, it falsely stated that the parties had an

opportunity to consult with an attorney or a domestic violence advocate and that the Parenting coordinator was "with the prior consent of the parties and approval of the court."

41. On **August 01, 2017**, JUDGE BERNSTEIN, elicited information about what school MR. POLO was attending and ordered the parties to register for co-parenting when there were no pending issues to resolve. However, MS. HERNANDEZ and her attorney did not object to the referral.

42. When MR. POLO learned there was a plan to fraudulently change custody based on the recommendations of the coordinator, he told the coordinator that he knew the plan and her role in it. As a result, the coordinator sent the case back to court and Judge Bernstein, Mr. Segarra, and Ms. Hernandez never tried to enforce meetings of co-parenting coordinators ever again.

43. After the hearing of **August 1, 2017**, in which JUDGE BERNSTEIN elicited from MR. POLO what school he was going to, on **October 23, 2017**, Judge BERNSTEIN went to St. Thomas University in person and met with TAMARA F. LAWSON ("DEAN LAWSON"), PATRICIA MOORE ("DEAN MOORE"), and other Members of STU management.

44. The following day, on **October 24, 2017**, JUDGE BERNSTEIN restricted the Plaintiff's access to the court without notice and opportunity to be heard based on a list of alleged "open motions" that were pending resolution presented by MR. SEGARRA. However, MR. POLO was not only limited to filing certain documents but he was secretly banned from filing anything.

45. On or about **June 06, 2018**, Polo registered to run for a State Representative. During the campaign, and thereafter, Polo engaged in public core political speech which consisted of speech intended to directly rally public support for fighting judicial corruption in the Miami-Dade Family Court System.

46. On **October 2, 2018**, JUDGE BERNSTEIN, rendered a new order preventing MR. POLO from filing "anything" without notice and opportunity to be heard. Moreover, the order prohibited MR. POLO from calling, emailing, or texting the Judicial Assistant.

47. On **October 2, 2018**, during the hearing, JUDGE BERNSTEIN continuously tried to enter into the record that MR. POLO pretended to be an attorney in his courtroom, and MR. POLO continuously corrected JUDGE BERNSTEIN'S false allegations until he admitted those allegations to be a "gross misrepresentation".

48. At the hearing, MR. POLO realized that JUDGE BERNSTEIN knew the information he had provided to SEGARRA only in a never printed or filed deposition. Consequently, MR. POLO requested his attorney to file a motion to recuse JUDGE BERNSTEIN.

49. On **January 29, 2019**, JUDGE BERNSTEIN issued an Order of Recusal in violation of the Florida Supreme Court's Order which prohibits Judges from engaging in making comments about the merits of a motion for recusal.

50. Moreover, the order falsely accused MR. POLO of misrepresenting to be a "Member of the Florida Bar", when in fact MR. POLO's represented to be a "Student Member of the Florida Bar".

(II). BERNSTEIN'S ACTS AFTER HIS RECUSAL

51. Two days after Judge Bernstein's recusal from the Family Court case on **January 31, 2019**, he sent a letter (the "Letter") along with his order of recusal from **January 29th, 2019**, to the Dean of St. Thomas University Law School, DEAN LAWSON.

52. Before Judge Bernstein's letter on **January 31, 2019**, MR. POLO had never been investigated nor had anyone complained to the school management about MR. POLO.

53. As of **January 31, 2019**, JUDGE BERNSTEIN MR. POLO'S case was not pending in front of BERNSTEIN.

54. JUDGE BERNSTEIN was claiming to be performing the official duty of a State Judge by sending the letter to DEAN LAWSON using the ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA letterhead, with his official judicial Signature block identifying himself and signing as the Administrative Judge.

55. The letter encouraged STU to act upon the false allegations and manipulated facts that JUDGE BERNSTEIN had stated in his order of recusal which STU knew to be false.

(C) ST. THOMAS UNIVERSITY, INC.

56. As of **January 31, 2019**, MR. POLO had an implied contract with STU, based on the terms in the "Student Handbook 2014-2015." Under this contract, MR. POLO was to pay for STU's legal education program, and in return, STU would grant him a JD (Juris Doctor) degree and a Tax Law

Certificate. Both MR. POLO and STU were actively fulfilling their agreement as of the **January 31, 2019** letter.

57. When MR. POLO enrolled at STU, paid a deposit, and covered all legal education fees with Federal Student Loans, none of these payments were in default by **January 31, 2019**. He was close to completing his JD in Law and a Tax Law Certificate.

58. DEAN LAWSON, DEAN MOORE, and JAY S. SILVER ("MR. SILVER"), ("STU Management") initiated, supervised, and conducted the Honor Council proceeding on behalf of STU.

59. STU's Honor Code Section 3.03 (A)(3) prohibits the use of the Honor Code to resolve personal conflicts. However, STU Management allowed Bernstein to misuse the Honor Council to resolve personal conflicts and retaliate against MR. POLO.

60. Section 3.04 (E), requires a single hearing and finding the accused student guilty by clear and convincing evidence. Nevertheless, STU Management couldn't prove MR. POLO's guilt by clear and convincing evidence. So MR. SILVER initiated a second proceeding seeking further excuses to terminate MR. POLO after realizing their lack of evidence for expulsion.

61. Section 3.04(D)(3)(a) grants the right to MR. POLO to be present during all testimony. However, MR. POLO was excluded from the hearing when Mr. Planas was set to testify.

62. STU Management and the Honor Council hid from MR. POLO that his real accuser was, JUDGE BERNSTEIN.

63. MR. POLO was never provided with an opportunity to confront JUDGE BERNSTEIN or the only witness against MR. POLO, JUAN CARLOS PLANAS ("MR. PLANAS"), who happened to be the attorney of MR. POLO'S political opponent, MARIA ELVIRA SALAZAR.

64. MR. POLO was never provided with a summary of what Mr. Planas was going to testify about. Moreover, MR. POLO was never allowed to hear MR. PLANAS testimony.

65. DEAN MOORE drafted a "Highly Confidential Memorandum," with JUDGE BERNSTEIN'S letter attached to it, detailing STU Management's plan aimed to attribute MR. POLO'S attorneys' actions to him and to find him guilty without concrete evidence to support any allegations, based on pure conclusory opinion of DEAN MOORE.

66. STU Management hid the evidence and false accusations listed in the Memorandum from MR. POLO until the hearing, where he was only partially informed about the evidence being used against him.

67. Furthermore, MR. SEGARRA, who STU knew was accused by MR. POLO of ex parte communication with JUDGE BERNSTEIN served as the investigator for STU. He selectively collected filings, portraying MR. POLO'S actions as unethical while excluding evidence of his reasonable behavior or legal justifications.

68. Before the second hearing on **March 23, 2019**, STU had already made up their mind to terminate MR. POLO, as shown by the facts that they deactivated MR. POLO'S ID card for campus access at the gate, removed him from the security access list, revoked his network access, and removed MR. POLO'S pro-bono community hours from the system.

69. STU treated MR. POLO differently than other students and students charged with a serious felony or dismissed an employee charged and convicted of a serious felony.

70. MR. POLO appealed the decision of the panel on or about **April 16, 2019**.

71. The Appeal was an informal meeting with DEAN LAWSON and DEAN MOORE which DEAN MOORE and DEAN LAWSON tried to use to force MR. POLO to declare himself guilty of the false accusations of MR. BERNSTEIN.

72. None of the evidence presented against or in favor of MR. POLO was discussed. The meeting was just an interrogatory more than a review of the record on appeal.

73. During the meeting, DEAN MOORE, unreasonably brought up MR. POLO'S political activities by asking MR. POLO why he ran for office.

74. DEAN LAWSON, used the hearing to humiliate MR. POLO. Knowing his wife was sitting outside and able to hear the conversation DEAN LAWSON said "I, don't think your problem is cognitive, but I think your problem is one of honesty" When MR. POLO refused to declare himself guilty of BERNSTEIN'S false accusations.

75. Moreover, STU Management humiliated MR. POLO with his peers, friends, and family members, members of the community that knew MR. POLO to be a law student, when they found out that MR. POLO never graduated for accusations of ethical wrongdoing.

76. On **May 17, 2019,** Lawson sent MR. POLO an official letter making official and final the expulsion and saying that she had reconsidered all the evidence and the allegations in the case. However, DEAN LAWSON and DEAN MOORE substantially disregarded the weight of the evidence presented and didn't even discuss the evidence with MR. POLO.

77. It was not until **May 20, 2019**, that MR. POLO discovered the letter of Judge BERNSTEIN to STU and the conspiracy between STU MANAGEMENT and JUDGE BERNSTEIN.

78. On **May 20, 2019**, MR. POLO gave STU the chance to rectify their error, if it was indeed a mistake. He emailed DEAN LAWSON, DEAN MOORE, and STU president DAVID AMSTRONG ("MR. AMSTRONG") informing them that he discovered Dean MOORE'S "Highly Confidential Memorandum," which he had never received before any hearings. This deprived MR. POLO of a fair chance to defend himself against the baseless and false allegations in the memorandum. However, they declined to seize this opportunity.

79. STU Management, including STU's President, looked the other way and refused to give MR. POLO a fair opportunity to clear his name based on MR. POLO'S newly found evidence that was never available to MR. POLO during the pendency of the Honor Council Proceedings.

(D)GENERAL MAGISTRATE SINGER

80. On or about **July 11, 2018**, a hearing was held in front of GM SINGER, and GM SINGER, without notice and opportunity to be heard, dismissed the case sua sponte, based on an affirmative defense not raised in the pleading by the opposing party as required under Florida Fla. Fam. Law. R. P. 12.140 (b).

(E) JUDGE MARCIA DEL REY

81. After Judge BERNSTEIN recused himself, JUDGE MARCIA DEL REY was appointed as the new judge. However, JUDGE DEL REY did not have continued jurisdiction to adjudicate attorney's fees.

82. Despite this, JUDGE MARCIA DEL REY refused to let go of jurisdiction and tried to grant MS. HERNANDEZ attorney's fees not supported by fact and/or law.

83. On **January 6, 2019**, and on **May 5, 2021,** JUDGE DEL REY left MR. POLO without an attorney knowing that there was an order dated **October 2, 2018**, which was preventing the

Plaintiff from having ANY access to the court. MR. POLO never received notice and opportunity to be heard before JUDGE DEL REY left him the ability to file anything.

84. Additionally, JUDGE DEL REY engaged in dilatory tactics, such as rehearing motions that were previously addressed and requesting briefs that had already been submitted to her.

85. Moreover, JUDGE DEL REY prevented MR. POLO from having a hearing about whether his constitutional right to access the court should be reinstated for lack of a valid enforceable constitutional order depriving MR. POLO of such a right.

86. Moreover, upon information and belief, JUDGE DEL REY engaged in ex-parte communication with MR. SEGARRA to alter her ruling after the hearing had concluded.

(F) JUDGE MULTACK'S

87. On **October 8, 2021**, MR. POLO filed for injunctive relief against JUDGE DEL REY, JUDGE BERNSTEIN, and their employer the ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA in Federal Court, prompting DEL REY'S recusal from the family case.

88. During a hearing on **July 5, 2022**, JUDGE MULTACK, on record, announced his intention to lift the injunction preventing Plaintiff's court access.

89. However, before concluding the **July 5, 2022** hearing, JUDGE MULTACK learned that MR. POLO had filed a petition for injunctive relief in Federal Court, naming JUDGE DEL REY as a defendant, resulting in JUDGE DEL REY's forced recusal.

90. Subsequently, on July 11, 2022, without prior notice or opportunity for the Plaintiff to be heard, JUDGE MULTACK issued two orders: one limiting MR. POLO'S filing rights to a single motion and another finding that MR. POLO violated the Florida Bar's Rules of Professional Conduct, which do not apply to non-lawyers.

91. Despite MR. POLO'S multiple jurisdictional objections, JUDGE MULTACK retained jurisdiction and awarded attorney's fees to MS. HERNANDEZ, unsupported by facts or law.

(G)THE JUDGES IN THE THIRD DCA OF FLORIDA

92. On or about **April 6, 2022**, Judges THOMAS LOGUE (Judge "LOGUE") (who also serves as an adjunct Professor working for Defendant STU), ERIC Wm HENDON (Judge "HENDON"), AND ALEXANDER S. BOKOR (Judge "BOKOR") engaged in fabricating facts not presented in court. They did so by issuing an order falsely and irrelevantly stating, without supporting evidence

on the record, that MR. POLO had appealed the Amended Final Judgment and that he was acting vexatiously by submitting excessive and frivolous post-judgment filings.

93. On **September 14, 2022**, Judges IVAN F. FERNANDEZ (Judge "FERNANDEZ"), MONICA GORDO (Judge "GORDO"), and FLEUR J. LOBREE (Judge "LOBREE") failed to apply the correct legal principles to the admitted facts of MR. POLO'S case. They dismissed the appeal on the grounds that it was taken from a non-appealable order, despite it being an appealable interlocutory order denying MR. POLO access to the court.

94. On or about **March 01, 2023**, Judges NORMA S. LINDSEY (Judge "LINDSEY"), HENDON, and LOBREE rendered an order denying a writ of prohibition. They failed to properly apply the correct principle of law to the admitted facts of the Plaintiff's case and cited non-applicable case law without providing reasoning, which prevented the Plaintiff from appealing to the Fla. Sup. Court. Additionally, the Judges neglected to address other issues raised on appeal.

95. On or about **April 6, 2022**, Judges FERNANDEZ, KEVIN EMAS (Judge "EMAS"), and HENDON dismissed a Writ of Mandamus as moot, citing the rendering of a final judgment in the trial court. However, the Judges ignored the fact that the three elements of Mandamus were still in existence and under dispute.

96. On or about **August 30, 2023**, Judges EDWIN A. SCALES III (Judge "SCALES"), HENDON, and BRONWYN C. MILLER (Judge "MILLER") failed to address all arguments presented to the court and neglected to apply the correct legal principles to MR. POLO'S case. Additionally, they fabricated false facts, used confusing and irrelevant language, introduced facts not in dispute, and distorted MR. POLO'S arguments. Furthermore, they applied an irrelevant statute not argued by MR. POLO and cited irrelevant case law.

97. Around **February 21, 2024**, Judges LOGUE, EMAS, AND FERNANDEZ did not apply the appropriate legal principles to MR. POLO's case. They chose not to address all the issues raised on appeal and issued a Per Curiam Affirm ("PCA") order instead. As a result, the Plaintiff was prevented from appealing the Judge's orders to the Florida Supreme Court.

98. At all times relevant is the fact that MR. POLO allowed the court to remedy their wrongful actions; however, they always refused to.

§ 7.COMPLAINT

COUNT 1.: DEPRIVATION OF PROPERTY AND LIBERTY INTEREST IN VIOLATION OF PLAINTIFF'S 14TH AMENDMENT RIGHTS TO DUE PROCESS OF LAW UNDER 42 U.S.C. SECTION 1983.

AGAINST JUDGE BERNSTEIN

99. Plaintiff re-alleges all relevant paragraphs under §5, §6(C)(I) through (III) and §6(B)(II), and further states that: The DEFENDANT SCOTT BERNSTEIN, while acting under color of state law, did the following:

100. As of **January 31, 2019**, MR. POLO had an implied contract with STU, based on the terms in the "Student Handbook 2014-2015." Under this contract, MR. POLO was to pay for STU's legal education program, and in return, STU would grant him a JD (Juris Doctor) degree and a Tax Law Certificate. Both MR. POLO and STU were actively fulfilling their agreement as of the **January 31, 2019** letter.

101. Due to the implied in-law agreement MR. POLO had with ST. THOMAS UNIVERSITY, INC., the Plaintiff had a property interest in the continued enrollment of MR. POLO at STU. The Plaintiff also had a liberty interest in his good name, reputation, honor, and integrity (both interests referred to as the "Protected Interests").

102. The abovementioned property and liberty interests are protected by the **U.S. Const., Amend. 14** and **Fla. Const. Art., 1, Sect.** 9 from deprivation of rights by state actors.

103. JUDGE BERNSTEIN, acting as a State Judge but without subject matter jurisdiction over MR. POLO's case, with the intent of damaging Mr. Protected Interests, engaged in the non-judiciary act of sending a letter to STU on **January 31, 2019,** containing as an attachment his order of recusal which contained false allegations of ethical misconduct. Bernstein did not provide MR. POLO with notice and opportunity to be heard before depriving him of his Protected Interests.

104. MR. POLO was about to graduate from Law School and was not under investigation for any misconduct as of **January 31, 2019.** Therefore, had BERNSTEIN refrained from sending the letter, **MR. POLO** would have graduated.

105. Therefore, SCOTT BERNSTEIN deprived the Plaintiff of protected rights, without due process of law and under color of State law in violation of Plaintiff's 14th Amendment rights to due process of law and 42 U.S.C. section 1983.

106. As a direct, natural, and proximate result of DEFENDANT JUDGE BERNSTEIN'S actions towards the Plaintiff, Plaintiff suffered damages.

107. **WHEREFORE,** the Plaintiff requests that this Court enter judgment in favor of the PLAINTIFF, and against the JUDGE BERNSTEIN as follows:

108. Awarding attorney's fees and costs, and issuing a prospective declaratory and injunctive judgment against JUDGE BERNSTEIN as outlined in the Prayer for Relief section of this complaint;

109. Award judgment holding JUDGE BERNSTEIN, severally and jointly liable for the Plaintiff's damages, as outlined in the Prayer for Relief section of this complaint.

COUNT 2.: PETITION FOR DECLARATORY JUDGEMENT UNDER . AGAINST JUDGE BERNSTEIN FOR DECLARATORY AND INJUNCTIVE RELIEF AND DAMAGES.

110. Plaintiff re-alleges all relevant paragraphs contained under §5, §6(B)(II) and § 6 (C) and further states that: The DEFENDANT SCOTT BERNSTEIN (the "DEFENDANT" through this count), acting under color of State Law, did the following:

111. The **U.S. Const., Amend. 1**, and the **Fla. Const. Art., 1, §§ 4 and 5** protect the Plaintiff from government retaliation for MR. POLO's engagement in core political speech and for the Plaintiff petitioning the government for redress of his grievances (both rights hereinafter referred to, in this count, as the "Protected Rights").

112. The abovementioned protections apply to the States through decisions of the U.S. Supreme Court, the **U.S. Const., Amend. 5th and 14th** and . and **Fla. Const. Art., 1, Sect.** 9 which prohibits state actors from depriving an individual of property and liberty without due process of law.

113. The Plaintiff exercised their Protected Rights by engaging in Protected Activities, which included (1) requesting the government to vacate the final Judgment based on the corrupt acts of the GAL, (2) pursuing legal action against BERNSTEIN'S co-conspirators for their

wrongful acts, and (3) MR. POLO, as part of his Political Campaign, making public statements, printing materials, and giving interviews, all promising to combat judicial corruption in the 11TH JUDICIAL CIRCUIT OF FLORIDA. These activities are referred to as the "Protected Activities" throughout this Count.

114. JUDGE BERNSTEIN, while acting as a State Judge and without subject matter jurisdiction, retaliated against the Plaintiff, by engaging in the non-judiciary act of sending a letter to STU on **January 31, 2019,** containing as an attachment his order of recusal.

115. The DEFENDANT'S exercise of judicial powers to terminate the Plaintiff's property interest in MR. POLO's continued enrollment at STU (representing his legal career) and his financial future, as retaliation for their engagement in the Protected Activities, constitutes an action that would deter a person of ordinary firmness from continuing to engage in such activities.

116. Therefore, JUDGE BERNSTEIN retaliated against the Plaintiff for their engagement in the abovementioned Protected Activities, in violation of the Plaintiff's constitutional rights under Color of State Law directly in violation of the **U.S. Const. First** (1st), fifth (5th), and **Fourteen (14th) Amendments**, **Fla. Const. Art., 1,** §§ 4 and 5, and in violation of **42 U.S.C.** § 1983.

117. As a direct, natural, and proximate result of JUDGE BERNSTEIN'S actions toward the Plaintiff, Plaintiff suffered damages.

118. **WHEREFORE**, the Plaintiff requests that this Court enter judgment in favor of the PLAINTIFF, and against the JUDGE BERNSTEIN as follows:

119. Awarding attorney's fees, and cost, and issuing a prospective declaratory and injunctive judgment against JUDGE BERNSTEIN as outlined in the Prayer for Relief section of this complaint;

120. Awarding judgment holding JUDGE BERNSTEIN, severally and jointly liable for the Plaintiff's damages, and enjoining him as outlined in the Prayer for Relief section of this complaint.

COUNT 3.: DEPRIVATION OF THE PLAINTIFF'S ACCESS TO THE COURT RIGHT WITHOUT DUE PROCESS OF LAW IN VIOLATION OF 42 U.S.C. § 1983.

121. The Plaintiff re-alleges all the paragraphs contained in §5, §6 (A) and further states that the DEFENDANTS MERLIN HERNANDEZ, and RANDOLPH MARTINEZ (collectively referred to as the "DEFENDANTS" throughout this Count), acting under color of State Law, did the following:

122. The Plaintiff had a constitutional right to access the state court system under **Fla. Const. Art. 1, §§ 5 and 21**, and under the **U.S. Const., Amend. 1**, (in this count the "Protected Rights") which rights are prohibited from being deprived of by the states without due process of law under the **U.S. Const., Amend. 5th and 14th** and by **Fla. Const. Art. 1 § 9**.

123. Moreover, there is a fundamental liberty interest of natural parents in the care, custody, and management of their child, which was recognized by the **U.S. Sup. Ct.**, and the **U.S. Sup. Ct.** also recognized that such liberty cannot be deprived of without due process of law as protected by the **U.S. Const., Amend. 14**. Therefore, the Plaintiff had a constitutional right to access the courts before being deprived of this liberty interest right.

124. As of **February 11, 2014**, Ms. Hernandez and Mr. Martinez were already conspiring with JUDGE BERNSTEIN and his appointed Guardian Ad Litem, Lilliana Real, to deprive MR. POLO of custody of his children without due process of law.

125. On **February 11, 2014**, without a legal right to do so and without notice and opportunity to be heard, MS. HERNANDEZ and MR. MARTINEZ removed the children from MR. POLO's legal custody. In doing so, they deprived the Plaintiff of MR. POLO's liberty right to exercise and the children's right to receive care, custody, and management from MR. POLO, without allowing the Plaintiff to access the court before the deprivation occurred.

126. As a direct, natural, and proximate result of DEFENDANTS' actions towards the Plaintiff, Plaintiff suffered damages.

127. **WHEREFORE**, the Plaintiff requests that this Court enter judgment in favor of the PLAINTIFF, and against all the DEFENDANTS named in this count as follows:

128. Awarding attorney's fees and costs, and issuing a prospective declaratory and injunctive judgment against all the DEFENDANTS named in this count, as outlined in the Prayer for Relief section of this complaint;

129. Award judgment holding MERLIN HERNANDEZ and RANDOPH MARTINEZ, severally and jointly liable for the Plaintiff's damages, and enjoining them as outlined in the Prayer for Relief section of this complaint.

COUNT 4.: PETITION FOR PROSPECTIVE DECLARATORY JUDGEMENT UNDER 28 U.S.C. § 2201 AND FED. R. CIV. P. 57.

130. The Plaintiff further states that the DEFENDANTS DEFENDANTS SCOTT BERNSTEIN, MARCIA DEL REY, SPENCER MULTACK (all three together referred to as the EJCC Employees" in this Count), THOMAS LOGUE (along with other 3d DCA Judges are referred to as the "3d DCA Employees" in this count), THIRD DISTRICT COURT OF APPEALS and THE ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA [2] (all State Actors), (collectively referred to as the "DEFENDANTS" through this Count), acting under color of State Law, did the following:

131. The Plaintiff had a clear constitutional right to access the state court system under **Fla. Const. Art. 1, §§ 5 and 21**, and under the **U.S. Const., Amend. 1**, additionally, had a right under **U.S. Const., Amend. 1**, and the **Fla. Const. Art., 1, §§ 4 and 5** to be protected from government retaliation for his engagement in core political speech and for the Plaintiff petitioning the government for redress of his grievances (the rights hereinafter referred to, in this count, as the "Protected Rights").

132. The abovementioned protections apply to the States through decisions of the U.S. Supreme Court, the **U.S. Const., Amend. 5th and 14th** and . and **Fla. Const. Art., 1, Sect.** 9 which prohibits state actors from depriving an individual of property and liberty without due process of law.

133. The Plaintiff exercised their Protected Rights by engaging in Protected Activities, which included (1) requesting the government to vacate the final Judgment based on the corrupt acts of the GAL, (2) pursuing legal action against BERNSTEIN'S co-conspirators for their wrongful acts, and (3) MR. POLO, as part of his Political Campaign, making public statements, printing materials, and giving interviews, all promising to combat judicial corruption in the 11TH

[2] Many other co-conspirators are mentioned throughout this count but are not parties to this lawsuit.

JUDICIAL CIRCUIT OF FLORIDA. These activities are referred to as the "Protected Activities" throughout this Count.

134. The Defendants' actions described in this Count were taken to harass MR. POLO as retaliatory responses to the Plaintiff's engagement in these Protected Activities and not for other reasons.

135. Instead of employing judicial power for fair adjudication, the Defendants utilized it to harass and retaliate against the Plaintiff for engaging in the Protected Activities. This misuse of power introduces fear of reprisal, which would ultimately deter (chill) an ordinary individual from continuing such activities.

(H) JUDGE BERNSTEIN'S **RETALIATED AND DEPRIVED THE PLAINTIFF OF ACCESS TO THE COURT RIGHT WITHOUT DUE PROCESS OF LAW UNDER 42 U.S.C. § 1983.**

136. Plaintiff re-alleges all relevant paragraphs under §5, §6(B)(I) and further states that in retaliation for MR. POLO's engagement in the Protected Activities:

137. JUDGE BERNSTEIN, who was the Family Court's Adininistrative Judge, build a case against MR. POLO to destroy MR. POLO career in law without due process of law (the "Retaliatory Scheme") after MR. POLO filed his motion to Vacate Final Judgment on or about **May 26, 2015**, and in furtherance of his retaliatory plan/scheme BERNSTEIN did the following:

138. On **December 15, 2015,** JUDGE BERNSTEIN intentionally neglected to determine the rights of the Parties under the Mediated Partial Agreement knowing that MR. POLO was convinced to have a right to take the children on vacation. Then he entered an order that did not clarify the party's rights under the agreement after MR. POLO had taken the children on vacation, and on **February 2, 2016,** BERNSTEIN found MR. POLO in contempt.

139. On **April 3, 2017**, BERNSTEIN attempted to strip MR. POLO of his custody rights over his children without affording Polo notice and opportunity to be heard by sending the case to a pre-arranged co-parenting coordinator who was supposed to return recommendations of change of custody based on JUDGE BERNSTEIN'S fabricated allegations of domestic violence which were never part of the proceeding.

140. On **October 24, 2017**, BERNSTEIN deprived the Plaintiff of access to the court by removing MR. POLO'S right to file documents in the family case without notice and an opportunity to be heard.

141. Based on information and belief, Judge BERNSTEIN ordered the clerk of courts to prohibit MR. POLO from filing any documents. Consequently, MR. POLO was unable to file anything following the **October 24, 2017** order, and still can't file.

142. On or about **October 2, 2018**, JUDGE BERNSTEIN rendered another order preventing MR. POLO from filing ANYTHING in the case's docket without notice and opportunity to be heard.

143. On or about **January 29, 2019**, JUDGE BERNSTEIN wrote an order of recusal containing illegal and false allegations about the merits of MR. POLO'S motion of recusal, with the malicious intent of providing STU Management with a pretext for them to initiate an honor proceeding against MR. POLO to expel MR. POLO from law school, which he later did.

(I) ROBERT S. SINGER ("GM SINGER") DEPRIVED THE PLAINTIFF OF ACCESS TO THE COURT RIGHT WITHOUT DUE PROCESS OF LAW.

144. Plaintiff re-alleges all relevant paragraphs under §5, §6(D) and further states that: On or about **July 11, 2018**, at the final hearing, General Magistrate Singer, in retaliation for MR. POLO's engagement in the Protected Activities, without notice and opportunity to be heard, deprived the Plaintiff of Access to the Court by issuing an order dismissing the Plaintiff's Petition for Modification based on affirmative defenses not raised in the pleading by the opposing party.

(J) JUDGE DEL REY RETALIATED AND DEPRIVED THE PLAINTIFF OF ACCESS TO THE COURT RIGHT WITHOUT DUE PROCESS OF LAW UNDER 42 U.S.C. § 1983.

145. Plaintiff re-alleges all relevant paragraphs under §5, §6(E) and further states that: On two different occasions, on **January 6, 2019,** and on **May 5, 2021**, in retaliation for MR. POLO's engagement in the Protected Activities, without notice and opportunity to be heard, JUDGE DEL REY deprived the Plaintiff of access to the court by leaving MR. POLO without an attorney knowing that there was an order dated **October 2, 2018**, which was preventing the Plaintiff from having ANY access to the court.

146. Additionally, JUDGE DEL REY, retaliated against the Plaintiff by continuing to retain Jurisdiction over the Plaintiff's family case after the Court lost jurisdiction to adjudicate attorney's fees with the intent of creating financial harm on MR. POLO by granting attorney's fees not supported by fact and law in retaliation for MR. POLO's engagement in the Protected Activities.

(K) JUDGE MULTACK RETALIATED AND DEPRIVED THE PLAINTIFF OF ACCESS TO THE COURT RIGHT WITHOUT DUE PROCESS OF LAW UNDER 42 U.S.C. § 1983.

147. Plaintiff re-alleges all relevant paragraphs under §5, §6(F) and further states that in retaliation for MR. POLO's engagement in the Protected Activities: On **July 5, 2022**, Judge Multack ruled to lift the injunction that had been preventing the Plaintiff from accessing the court.

148. When he found out that MR. POLO had filed for injunctive relief in federal court against, among others, JUDGE BERNSTEIN and JUDGE DEL REY, on **July 11, 2022**, JUDGE MULTACK deprived the Plaintiff of his right to access the court by issuing an order that restricted his ability to file motions, limiting them to just one motion. This action was taken without providing the Plaintiff with notice and opportunity to be heard.

149. Additionally, MULTACK refused to let go of the Jurisdiction, knowing the court had lost jurisdiction to adjudicate attorney's fees and granted attorney's fees not supported by law and/or facts with the intent of retaliating and financially harming MR. POLO for MR. POLO'S engagement in the Protected Activities.

(L) THOMAS LOGUE, ERIC WM HENDON, ALEXANDER S. BOKOR, IVAN F. FERNANDEZ, MONICA GORDO, FLEUR J. LOBREE, NORMA S. LINDSEY, KEVIN EMAS, EDWIN A. SCALES III, AND BRONWYN C. MILLER

150. Plaintiff re-alleges all relevant paragraphs under §5, §6(G) and further states that: Judges THOMAS LOGUE, ERIC WM HENDON, ALEXANDER S. BOKOR, IVAN F. FERNANDEZ, MONICA GORDO, FLEUR J. LOBREE, NORMA S. LINDSEY, KEVIN EMAS, EDWIN A. SCALES III, AND BRONWYN C. MILLER (The "3d DCA Employees" here in this count), deprived the Plaintiff of access to the court, by denying them a meaningful opportunity to be heard and creating barriers to their participation in appellate proceedings. Moreover, the 3d DCA Employees, are building a case to deprive MR. POLO of access to the Appellate Court by forcing MR. POLO to continue filing appeals and petitions because they insist

on failing to apply the correct principle of law to the admitted facts of MR. POLO's case as shown by the following facts:

151. Judges LOGUE (also an adjunct Professor of Defendant STU), HENDON, BOKOR, SCALES, and MILLER, were involved in fabricating and adopting false facts without any evidence in the record to support those facts.

152. Judges FERNANDEZ, GORDO, LOBREE, HENDON, LINDSEY, EMAS, SCALES, MILLER, and LOGUE repeatedly and maliciously declined to apply the correct legal principles to the admitted facts of the Plaintiff's family case, despite being fully aware of them.

153. Judges LINDSEY, HENDON, LOBREE, SCALES, and MILLER cited irrelevant case laws, without further elaboration on how these cases apply to MR. POLO'S case, with the malicious intent of depriving the Plaintiff of the opportunity to appeal to the Florida Supreme Court. Furthermore, they deliberately neglected to address other valid issues raised on appeal.

154. The Judges FERNANDEZ, EMAS, and HENDON intentionally and maliciously dismissed a Writ of Mandamus as moot, disregarding the fact that the three essential elements of Mandamus were still in existence and under dispute.

155. Judges SCALES, HENDON, and MILLER deliberately employed confusing and irrelevant language, introduced facts not relevant to the case, and distorted MR. POLO's arguments. Moreover, they applied a statute that was not even part of MR. POLO's argument or relevant to the case, and cited irrelevant case law.

156. When MR. POLO raised his constitutional arguments on appeal, LOGUE, EMAS, and FERNANDEZ issued a Per Curiam Affirm ("PCA") order, with the intent of preventing the Plaintiff from appealing their orders to the Florida Supreme Court.

157. The 3d DCA Employees and the employees of the Defendant THE ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA (SCOTT BERNSTEIN, MARCIA DEL REY, SPENCER MULTACK, GENERAL MAGISTRATE ROBERT S. SINGER) acted in accordance with a policy or custom established by their respective employers. This policy involved depriving litigants of their constitutional rights without due process of law and retaliating against individuals who opposed their corrupt practices by depriving them of their constitutional rights without affording them due process of law.

158. The Defendants THIRD DISTRICT COURT OF APPEALS and THE ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA failed to investigate, and conduct disciplinary proceedings against those judges who were retaliating against individuals who complained about those state Judges' conduct, failed to adopt clear policies against retaliation and deprivation of rights without due process, and failed to properly train its JUDGES as to the proper role of judges in private disputes such as family cases and appeals.

159. The Defendant's THIRD DISTRICT COURT OF APPEALS and THE ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA policy or custom, and its failure to adopt clear policies and failure to properly train its judges, were a direct and proximate cause of the constitutional deprivation suffered by Plaintiff.

160. The Plaintiff's attempt to file in State Court on **April 24, 2014**, was rejected by the clerk, denying thereby access to the Court without due process.

161. Therefore, the DEFENDANTS deprived the Plaintiff of his constitutional right to access the Courts, in violation of his right to Due Process of Law, and in retaliation for Plaintiff's involvement in the Protected Activities, while acting under color of state law in violation of 42 U.S.C. § 1983.

162. Failure to grant the relief requested herein will result in ongoing irreparable harm to the Plaintiff, as the Plaintiff remains unable to access the state court, thereby depriving them of their constitutional right to seek redress for grievances.

163. The Plaintiff in this case has tried all legal remedies, appeals, writs of prohibition, and mandamus, however, they are all intentionally frustrated by the 3d DCA Judges, and the Fla. Sup. Ct. elected not to exercise jurisdiction.

164. Furthermore, relying on the U.S. Sup. Ct. as a remedy is impractical given that it only accepts about one percent of the cases it receives per year, rendering it an illusory option.

165. As a direct, natural, and proximate result of DEFENDANTS' actions towards the Plaintiff, Plaintiff suffered damages.

166. **WHEREFORE**, the Plaintiff requests that this Court enter judgment in favor of the PLAINTIFF, and against the DEFENDANTS named in this count as follows:

167. Awarding attorney's fees and costs, and issuing a prospective declaratory judgment against all the DEFENDANTS named in this count, as outlined in the Prayer for Relief section of this complaint;

COUNT 5.: CONSPIRACY UNDER § 1983.

168. Plaintiff further states that the DEFENDANTS SCOTT BERNSTEIN, MARCIA DEL REY, SPENCER MULTACK, THOMAS LOGUE, (all state actors), along with MANUEL A. SEGARRA III. MERLIN HERNANDEZ, and RANDOLPH MARTINEZ (collectively referred to as the "DEFENDANTS" through this Count), acting under color of state law, did the following:

169. There was an agreement (the "Agreement") among all co-conspirators that share the following common objective (the "Objective") to deprive the Plaintiff of constitutional rights without due process of law and retaliate against MR. POLO for his engagement in Protected activities.

170. The Defendants utilized the judicial system as a retaliatory tool and leveraged the authority of their judicial positions to inflict harm upon MR. POLO in conspiracy with private parties (the "Method").

171. At all times relevant is in this count that, in addition to the acts described herein, Ms. Hernandez ratified the actions of JUDGES BERNSTEIN, DEL REY, and MULTACK by prolonging the litigation, without a reasonable expectation of success, when it was evident that the court lacked jurisdiction to entertain motions for attorney's fees. This behavior furthered her agreement with the other co-conspirators to deprive MR. POLO of his constitutional rights without due process of law.

172. At all times relevant is in this count that Mr. Martinez, as part of this conspiracy, tried to entrap MR. POLO by confronting him with the hopes of creating a physical altercation in front of police cameras to cause MR. POLO'S arrest. This action was designed to create a pretext for Bernstein to deprive MR. POLO of his custody rights.

173. Using the Judicial System, the DEFENDANTS, and their coconspirators did the following intentional and malicious overt acts in pursuance of the conspiracy:

(A) JUDGE BERNSTEIN, LILLIANA REAL, MERLIN HERNANDEZ AND RANDOLPH MARTINEZ (THE "CO-CONSPIRATORS" IN THIS SECTION) AGREE TO DEPRIVE THE PLAINTIFF OF HIS RIGHT TO ACCESS TO THE COURT BEFORE BEING DEPRIVE OF OF LIBERTY.

174. Plaintiff re-alleges all relevant paragraphs under §5, §6 (A) and (B) (I), and further states that: on **February 11, 2014,** the GAL agreed with JUDGE BERNSTEIN, MS. HERNANDEZ, and MR. MARTINEZ and HERNADEZ'S ATTORNEYS to fabricate a false emergency. This fabrication was used as justification to remove the children from MR. POLO's custody without providing him the opportunity to access the court before suffering this deprivation.

175. On the same date, MS. HERNANDEZ and MR. MARTINEZ deprived the Plaintiff of his constitutional right to access the court before being deprived of his liberty right to exercise care, custody, and management of his children, by taking the children from the daycare without legal authority or consent from MR. POLO.

176. The GAL tried to entrap MR. POLO by encouraging the daycare owner to call the police on MR. POLO if he attempted to exercise his constitutional right to custody, then called MR. POLO and demanded for him to refrain from picking up the children.

177. Additionally, BERNSTEIN intentionally delayed the emergency motion for 7 days, hoping MR. POLO would react rashly, thus providing grounds for removing custody.

(B) JUDGE BERNSTEIN, MS. REAL, AND MS. HERNANDEZ AGREED TO DEPRIVE THE PLAINTIFF OF ACCESS TO THE COURT WITHOUT AFFORDING THE PLAINTIFF A REAL (MEANINGFUL) OPPORTUNITY TO BE HEARD.

178. Plaintiff re-alleges all relevant paragraphs under §5, §6 (A) and (B) (I), and further states that: To achieve their objective, they agree to build a case against MR. POLO to justify giving MS. HERNANDEZ custody that was not justified, otherwise, by fact or law.

179. In furtherance of the agreement, MS. HERNANDEZ intentionally created bruises and rashes on the children. She then sent the children to MR. POLO'S house in that condition, aiming to provoke MR. POLO to complain to the person overseeing the protection of the children's best interests, their Guardian, Ms. Real, which MR. POLO did.

180. Afterward, the GAL fabricated a report falsely accusing MR. POLO of building a case against Ms. Hernandez and the GAL. To support this accusation, she testified under oath to the false statements contained in her report.

181. The Guardian ad Litem (GAL) filed the report the day before the Final Hearing, despite the requirement for submission 20 days prior. Judge Bernstein denied MR. POLO the opportunity to rebut Ms. Real's false allegations by dismissing a continuance request. This decision aimed to use the report's allegations to grant Ms. Hernandez timesharing and child support, even though it lacked support from fact and/or law, as ultimately happened.

(C) BERNSTEIN, MS. HERNANDEZ, AND HERNANDEZ'S ATTORNEYS AGREED TO ALLOW MR. POLO TO TAKE THE CHILDREN ON VACATION TO START BUILDING A CASE AGAINST MR. POLO, TO EVENTUALLY DEPRIVE THE PLAINTIFF OF HIS PROPERTY INTEREST.

182. Plaintiff re-alleges all relevant paragraphs under §5, §6 (B) (I), and further states that: On **December 15, 2015,** MS. HERNANDEZ brought a dispute in front of the court about who had the right to take the children on vacation.

183. JUDGE BERNSTEIN intentionally refused to make a ruling regarding who had the right to take the children on vacation and waited for nine (9) days, until after MR. POLO had already left on vacation with the children to file an order regarding the previous hearing. This delay was intended to allow MR. POLO to take the children and establish grounds for finding him in contempt upon his return, which indeed occurred later.

184. When MR. POLO returned, MS. HERNANDEZ filed a motion for contempt to find MR. POLO in contempt and JUDGE BERNSTEIN found MR. POLO in contempt.

(D) JUDGE BERNSTEIN, MR. SEGARRA AND MS. HERNANDEZ AGREED TO DEPRIVE THE PLAINTIFF OF THE LIBERTY RIGHT OF MR. POLO TO EXERCISE AND THE CHILDREN TO RECEIVE CUSTODY AND CARE OF THE CHILDREN WITHOUT DUE PROCESS OF LAW, IN RETALIATION FOR MR. POLO FILING A CIVIL CASE AGAINST BERNSTEIN'S CO-CONSPIRATORS ON FEBRUARY 13, 2017.

185. Plaintiff re-alleges all relevant paragraphs under §5, §6 (B) (I), and further states that: On or about **April 3, 2017,** BERNSTEIN, SEGARRA, and MS. HERNANDEZ (in this count the "Co-conspirators") agreed to send the case to a pre-arranged co-parenting coordinator, who

MR. POLO found out that she was supposed to return a report proposing a change of custody using "domestic violence" as the reason for achieving this.

186. To accomplish their goal, JUDGE BERNSTEIN issued an order of referral to a co-parenting coordinator on **April 3, 2017**, without a hearing and without serving MR. POLO with the order.

187. The order claimed a history of domestic violence allegations, even though this was not an issue in front of BERNSTEIN'S court. Additionally, it falsely alleged that the parties had the opportunity to consult with an attorney or domestic violence advocate, and that the referral to the co-parenting coordinator was made "with the prior consent of the parties..."

188. Judge BERNSTEIN waited for four months, and then, **on August 01, 2017**, he called for a hearing on his own and BERNSTEIN sent the case to the co-parenting coordinator.

189. Even though there was no pending issue to be resolved by the co-parenting coordinator, other than BERNSTEIN'S fabricated domestic violence issue, MR. SEGARRA and MS. HERNANDEZ consented to JUDGE BERNSTEIN'S plan by SEGARRA failing to object and MS. HERNANDEZ registering with Family Court Services for the coordinator services.

190. The plan was frustrated by MR. POLO when discovered the plan and put in an email to the Co-parenting coordinator on or about **January 2, 2018**. Consequently, BERNSTEIN, HERNANDEZ, and SEGARRA desisted from their plan.

(E) JUDGE BERNSTEIN, MR. SEGARRA AND MS. HERNANDEZ AGREED TO DEPRIVE MR. POLO OF ACCESS TO THE COURT WITHOUT DUE PROCESS OF LAW ON OCTOBER 24, 2017.

191. Plaintiff re-alleges all relevant paragraphs under §5, §6 (B) (I), and further states that: On **October 24, 2017,** BERNSTEIN held a hearing for "Resolution of Competing Orders."

192. MR. POLO arrived at the hearing, the hearing was an ambush prepared by BERNSTEIN and SEGARRA where Segarra presented a page list of motions falsely indicating that all the motions in the list were still pending on the docket, expecting to confuse MR. POLO and make MR. POLO believe that he was acting vexatiously for having open motions in the docket.

193. JUDGE BERNSTEIN pretended to be upset at MR. POLO and remove MR. POLO's access to the Court without notice and opportunity to be heard, and MR. POLO was unable to file *anything* after that.

(F) JUDGE BERNSTEIN AND MR. SEGARRA AGREED TO DEPRIVE MR. POLO OF ACCESS TO THE COURT WITHOUT DUE PROCESS OF LAW TO REINFORCE THE CASE THEY WERE BUILDING AGAINST MR. POLO.

194. Plaintiff re-alleges all relevant paragraphs under §5, §6 (B) (I), and further states that: On **October 2, 2018**, BERNSTEIN issued an order depriving MR. POLO of his right to access the court by prohibiting him from filing "anything" without notice and opportunity to be heard.

195. Moreover, during the hearing, JUDGE BERNSTEIN, to build the case against MR. POLO, continuously said that MR. POLO pretended to be an attorney in his courtroom, and MR. POLO continuously corrected JUDGE BERNSTEIN'S false allegations.

196. During the hearing, MR. POLO learned that MR. SEGARRA had engaged in ex-parte communication by providing information to JUDGE BERNSTEIN disclosed only to MR. SEGARRA in a previously never-ordered or printed deposition taken on **May 23, 2018.**

197. During the hearing, Bernstein attempted to obtain MR. POLO's graduation date to ensure there was enough time to fabricate a case against him before graduation. This tactic mirrored an earlier attempt by MR. SEGARRA during the abovementioned deposition.

(G) GENERAL MAGISTRATE SINGER HAD AN AGREEMENT WITH JUDGE BERNSTEIN TO DEPRIVE MR. POLO OF ACCESS TO THE COURT WITHOUT DUE PROCESS OF LAW

198. Plaintiff re-alleges all relevant paragraphs under §5, §6 (D) and further states that: In furtherance of their agreement, on **July 11, 2018,** at the final hearing, General Magistrate Singer, without notice and opportunity to be heard, deprived the Plaintiff of Access to the Court by issuing an order dismissing the Plaintiff's Petition for Modification based on affirmative defenses not raised in the pleading by the opposing party.

(H)JUDGE MARCIA DEL REY AND JUDGE MULTACK HAD AN AGREEMENT WITH JUDGE BERNSTEIN, WITH MR. SEGARRA, AND WITH MS. HERNANDEZ TO DEPRIVE MR. POLO OF HIS CONSTITUTIONAL RIGHT WITHOUT DUE PROCESS OF LAW.

199. Plaintiff re-alleges all relevant paragraphs under §5, §6 (E) and (F) and further states that: On two different occasions, on **January 6, 2019, and on May 5, 2021,** without notice and opportunity to be heard, JUDGE DEL REY deprived the Plaintiff of access to the court by

leaving MR. POLO without an attorney knowing that there was an order dated **October 2, 2018,** which was preventing the Plaintiff from having ANY access to the court.

200. Moreover, JUDGE DEL REY prevented MR. POLO from having a hearing about whether his constitutional right to access the court should be reinstated for lack of a valid enforceable constitutional order depriving MR. POLO of such a right.

201. After removing the limitations in MR. POLO'S access to the court, when JUDGE MULTACK found that MR. POLO had filed for injunctive relief in federal court against, among others, JUDGE BERNSTEIN and JUDGE DEL REY, on **July 11, 2022,** JUDGE MULTACK deprived the Plaintiff of his right to access the court by issuing an order that restricted his ability to file motions, limiting them to just one motion. This action was taken without providing the Plaintiff with notice and opportunity to be heard

202. Additionally, JUDGE DEL REY and JUDGE MULTACK refused to let go of the Jurisdiction, knowing the court had lost jurisdiction to adjudicate attorney's fees by the time they became the JUDGES in the case.

203. Additionally, JUDGE MULTACK granted attorney's fees not supported by law and/or facts to create financial harm to MR. POLO.

(I) THOMAS LOGUE, ERIC WM HENDON, ALEXANDER S. BOKOR, IVAN F. FERNANDEZ, MONICA GORDO, FLEUR J. LOBREE, NORMA S. LINDSEY, KEVIN EMAS, EDWIN A. SCALES III, AND BRONWYN C. MILLER (THE "3D DCA JUDGES") HAD AN AGREEMENT WITH STU MANAGEMENT AND JUDGE BERNSTEIN TO DEPRIVE HIM OF ACCESS TO THE COURT.

204. Plaintiff re-alleges all relevant paragraphs under §5, §6 (G) and further states that: Judge LOGUE, who was the Chief Judge at the 3rd DCA, and also an adjunct Professor of Defendant STU, acting in concert with STU management, influenced the other 3D DCA JUDGES to engage in the following acts:

205. Judge LOGUE, HENDON, BOKOR, SCALES, and MILLER, were involved in intentionally fabricating and adopting false facts without any evidence supporting those facts on the record.

206. Judges FERNANDEZ, GORDO, LOBREE, HENDON, LINDSEY, EMAS, SCALES, MILLER, and LOGUE intentionally and repeatedly declined to apply the correct legal principles to the admitted facts of the Plaintiff's family case, despite being fully aware of them.

207. Judges LINDSEY, HENDON, LOBREE, SCALES, and MILLER cited irrelevant laws with the malicious intent of depriving the Plaintiff of the opportunity to appeal to the Florida Supreme Court. Furthermore, they deliberately neglected to address other valid issues raised on appeal.

208. The Judges FERNANDEZ, EMAS, and HENDON intentionally and maliciously dismissed a Writ of Mandamus as moot, disregarding the fact that the three essential elements of Mandamus were still in existence and under dispute.

209. Judges SCALES, HENDON, and MILLER intentionally employed confusing and irrelevant language, introduced facts not in dispute, and distorted the arguments presented by MR. POLO. Additionally, they applied a statute that was neither argued by MR. POLO nor relevant to the case and cited irrelevant case law.

210. LOGUE, EMAS, and FERNANDEZ, issued a Per Curiam Affirm ("PCA") order, with the intent of preventing the Plaintiff from appealing their orders to the Florida Supreme Court.

211. At all times relevant in this count, MR. SEGARRA acted within the scope of his duties as MS. HERNANDEZ and MR. MARTINEZ agent when he engaged in providing misleading information to STU Management..

212. Therefore, the DEFENDANTS named in this count conspired to deprive the Plaintiff of his constitutional rights in direct violation of 42 U.S.C. § 1983.

213. As a direct, natural, and proximate result of DEFENDANTS' actions towards the Plaintiff, Plaintiff suffered damages.

214. **WHEREFORE**, the Plaintiff requests that this Court enter judgment in favor of the PLAINTIFF, and against the DEFENDANTS named in this count as follows:

215. Awarding attorney's fees, cost, and issuing a prospective declaratory judgment against all the DEFENDANTS named in this count, as outlined in the Prayer for Relief section of this complaint;

216. Awarding judgment holding MANUEL A. SEGARRA III, MERLIN HERNANDEZ, and RANDOPH MARTINEZ severally and jointly liable for the Plaintiff's damages as outlined in the Prayer for Relief section of this complaint.

COUNT 6.: CONSPIRACY TO DEPRIVE MR. POLO OF HIS RIGHT TO CONTINUED ENROLLMENT AT STU, WITHOUT DUE PROCESS OF LAW.

217. Plaintiff re-alleges all relevant paragraphs under §5, §6 (B) (II), and further states that: the DEFENDANTS SCOTT BERNSTEIN, MANUEL A. SEGARRA III, and MERLIN HERNANDEZ (collectively referred to as the "DEFENDANTS" through this count), while acting under color of state law, did the following:

218. After learning which school MR. POLO was attending during the hearing on **August 01, 2017**, Judge Bernstein convened a meeting with Dean Lawson and Dean Moore. At this meeting, they agreed for Judge Bernstein to fabricate a pretext, utilizing STU's Honor Code Rules, to justify MR. POLO's expulsion from law school. Additionally, Lawson and Moore agreed to allow Judge Bernstein to utilize the Honor Council proceeding for this purpose.

219. On **January 31, 2019**, acting in the clear absence of all jurisdiction, and engaging in non-judicial acts, JUDGE BERNSTEIN sent a letter to DEAN LAWSON, containing his **January 29, 2019** order of recusal. This order provided the pretext BERNSTEIN agreed to provide to DEAN LAWSON and DEAN MOORE, which they needed to initiate the honor proceeding.

220. DEAN LAWSON and DEAN MOQRE consented to Judge Bernstein's use of the Honor Council proceeding against MR. POLO in violation of the Honor Code's Section 3.03 (A)(3) which prohibited BERNSTEIN'S use of the Honor Council to resolve his "personal conflicts."

221. Additionally, STU did not make a decision based on Clear and Convincing Evidence as called for by the Honor Council's rules, but on their agreement with JUDGE BERNSTEIN to deprive MR. POLO of his property interest right in the continued enrollment at STU without due process.

222. MR. SEGARRA took on the role of an investigator for STU, actively seeking and providing filings to be used against MR. POLO.

223. On **May 17, 2019**, Lawson sent MR. POLO an official letter officially confirming and finalizing the expulsion. In the letter, she falsely claimed to have reconsidered all the evidence and allegations in the case.

224. Therefore, the DEFENDANTS named in this count conspired to deprive the Plaintiff of his constitutional rights in direct violation of 42 U.S.C. § 1983.

225. As a direct, natural, and proximate result of DEFENDANTS' actions towards the Plaintiff, Plaintiff suffered damages.

226. **WHEREFORE**, the Plaintiff requests that this Court enter judgment in favor of the PLAINTIFF, and against the DEFENDANTS named in this count as follows:

227. Awarding attorney's fees and costs, and issuing a prospective declaratory judgment against all the DEFENDANTS named in this count, as outlined in the Prayer for Relief section of this complaint;

228. Award judgment holding SCOTT BERNSTEIN, MANUEL A. SEGARRA III, and MERLIN HERNANDEZ severally and jointly liable for the Plaintiff's damages as outlined in the Prayer for Relief section of this complaint.

COUNT 7.: ARBITRARY, CAPRICIOUS, MALICIOUS, AND LACKING RATIONAL BASIS BREACH OF IMPLIED IN-LAW CONTRACT.

AGAINST ST. THOMAS UNIVERSITY, INC.

229. Plaintiff re-alleges all relevant paragraphs under §5, §6 (C) and further states that: DEFENDANT ST. THOMAS UNIVERSITY, INC. (the "DEFENDANT" in this count), through its agents, DEAN LAWSON, MR, SILVER, and DEAN MOORE, (collectively referred to as the "STU MANAGEMENT") did the following:

230. As of **January 31, 2019**, MR. POLO had an implied contract with STU, based on the terms in the "Student Handbook 2014-2015." Under this contract, MR. POLO was to pay for STU's legal education program, and in return, STU would grant him a JD (Juris Doctor) degree and a Tax Law Certificate. Both MR. POLO and STU were actively fulfilling their agreement as of the **January 31, 2019** letter.

231. When MR. POLO enrolled at STU, paid a deposit, and covered all legal education fees with Federal Student Loans, none of these payments were in default by **January 31, 2019**. He was close to completing his JD in Law and a Tax Law Certificate.

232. STU had a duty to substantially perform the terms of the agreement, which are those expressed within the Student Handbook like Section 3.03 (A)(3) which prohibits the use of the Honor Code to resolve personal conflicts, Section 3.04 (E), that requires a single hearing and finding the accused student guilty by clear and convincing evidence, and Section 3.04(D)(3)(a) which grants the right for MR. POLO to be present during all testimony.

233. However, STU Management, breached that duty when they substantially violated the terms of the agreement by allowing Bernstein to use the Honor Council to resolve his personal conflicts with MR. POLO, by failing to find MR. POLO guilty by clear and convincing evidence, by allowing MS. SILVER to engage in further finding of excuses, and by excluding MR. POLO from the hearing when MR. PLANAS testified. Additionally, they had made their decision to terminate MR. POLO even before the second hearing/

234. STU MANAGEMENT was acting under color of state law, therefore MR. POLO was entitled to the same due process given to Public University students when state action is present. Therefore MR. POLO was entitled to confront his accuser to have access to all the evidence that was going to be used against him, and he was never afforded such an opportunity.

235. Therefore, for all the facts contained in this court, STU, and its agents, Arbitrarily, Capriciously, and Maliciously breached the Implied In-Law Contract STU had with MR. POLO.

236. As a direct, natural, and proximate result of the actions of the DEFENDANT ST. THOMAS UNIVERSITY, INC., and the actions of its Agents DEAN LAWSON, DEAN MOORE, and MR. SILVER, towards the Plaintiff, Plaintiff suffered damages.

237. **WHEREFORE**, the Plaintiff requests that this Court enter judgment in favor of the PLAINTIFF, and against the DEFENDANT named in this count as follows:

238. Awarding attorney's fees and costs, and issuing a prospective declaratory and injunctive judgment against the DEFENDANT named in this count, as outlined in the Prayer for Relief section of this complaint;

239. Award judgment holding ST. THOMAS UNIVERSITY, INC., severally and jointly liable for the Plaintiff's damages as outlined in the Prayer for Relief section of this complaint.

COUNT 8.: TORTIOUS INTERFERENCE WITH CONTRACT

240. Plaintiff re-alleges all relevant paragraphs under §5, §6(B)(I) and (C), and further states that: and further states that SCOTT BERNSTEIN (the "DEFENDANT" throughout this Count), did the following:

241. As of **January 31, 2019,** MR. POLO had an implied contract in law with STU based on the terms in the "Student Handbook" 2014-2015. Under this contract, MR. POLO was to pay for STU's legal education program, and in return, STU would grant him a JD (Juris Doctor) degree and a Tax Law Certificate. Both MR. POLO and STU were actively fulfilling their agreement as of the **January 31, 2019** letter.

242. When MR. POLO enrolled at STU, paid a deposit, and covered all legal education fees with Federal Student Loans, none of these payments were in default by **January 31, 2019**. He was close to completing his JD in Law and a Tax Law Certificate.

243. SCOTT BERNSTEIN knew that, as a student at STU, MR. POLO had a contractual relation with STU and a legal right to obtain, upon completion of all required courses of study, a Juris Doctor Degree and a Tax Law Certificate from STU where MR. POLO was studying Law.

244. On **January 31, 2019**, SCOTT BERNSTEIN intentionally interfered with and disrupted the contract between STU and MR. POLO while acting without jurisdiction. He maliciously provided STU with a pretext to breach their agreement with MR. POLO by sending a letter (a non-judicial act) containing his Order of Recusal to STU management.

245. On January 31, 2019, MR. POLO was never under investigation for STU's ethical concerns.

246. Therefore, but for the interference of SCOTT BERNSTEIN, STU would not have breached its agreement with MR. POLO, nor would it have had grounds to initiate a sham Honor Council Proceeding just a few weeks before MR. POLO's graduation.

247. **WHEREFORE**, the Plaintiff requests that this Court enter judgment in favor of the PLAINTIFF, and against the DEFENDANT, SCOTT BERNSTEIN as follows:

248. Awarding attorney's fees and costs, and issuing a prospective declaratory and injunctive judgment against the DEFENDANT, SCOTT BERNSTEIN, as outlined in the Prayer for Relief section of this complaint;

249. Award judgment holding DEFENDANT, SCOTT BERNSTEIN, severally and jointly liable for the Plaintiff's damages as outlined in the Prayer for Relief section of this complaint.

COUNT 9.: GROSS NEGLIGENCE UNDER FLORIDA LAW

250. Plaintiff re-alleges all relevant paragraphs under §5 §6(B)(I) and (C), and further states that: ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A., (the "DEFENDANTS" through this Count), did the following:

251. DEFENDANT ST. THOMAS UNIVERSITY, INC., employed TAMARA F. LAWSON; JAY S. SILVER; and PATRICIA MOORE and was engaged in the exercise of providing legal education to members of our community.

252. DEFENDANT SEGARRA & ASSOCIATES, P.A., employed MR. SEGARRA and was engaged in the exercise of providing services to members of our community.

253. The conduct of the DEFENDANTS ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A. amounted to gross negligence through their wanton and reckless disregard for proper training and supervision of their respective employees which was the proximate cause of the Plaintiff's injuries and damages.

254. DEAN LAWSON, DEAN MOORE, MR, SILVER, and MR. SEGARRA were acting in the course and scope of their employment duties as employees of their respective employers, at the time of the incident complained of herein, and they had a duty to perform their employment activities so as not to endanger or cause harm to the Plaintiff.

255. Notwithstanding these duties, the DEFENDANTS ST. THOMAS UNIVERSITY; INC. and SEGARRA & ASSOCIATES, P.A.; breached these duties with deliberate indifference and gross negligence and without regard to MR. POLO'S rights and welfare through creating an environment in which the unconstitutional depravations conducted by TAMARA F. LAWSON, JAY S. SILVER, PATRICIA MOORE, and MR. SEGARRA were viewed as acceptable to the

DEFENDANTS ST. THOMAS UNIVERSITY; INC. and SEGARRA & ASSOCIATES, P.A., which caused serious injuries and damages to the Plaintiff.

256. DEAN LAWSON, DEAN MOORE, MR. SILVER, and MR. SEGARRA had a specific intent to harm the Plaintiff in retaliation for his speech against corruption in the Judiciary, which was known to and condoned, ratified, and consented to by the president of STU, DAVID A. ARMSTRONG, by the law school DEAN LAWSON, by the Dean of Academic Affairs DEAN MOORE (Both Deans intentionally participated in harming the Plaintiff), and by the president of SEGARRA & ASSOCIATES, P.A., MR. SEGARRA (who also participated in intentionally harming MR. POLO).

257. DEFENDANTS ST. THOMAS UNIVERSITY INC., and SEGARRA & ASSOCIATES, P.A. along with their employees/supervisees; knew or should have known that by breaching these duties they would injure the Plaintiff.

258. THE DEFENDANTS had a duty to exercise reasonable care through sufficient training and supervision, and/or just by using reasonable care not to harm MR. POLO. Their breach of those duties was reckless and amounted to gross negligence.

259. As a direct, natural, and proximate result of the actions of the DEFENDANTS ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A., the actions of their respective Agents DEAN LAWSON, DEAN MOORE, MR. SILVER, and MR. SEGARRA towards the Plaintiff, Plaintiff suffered damages.

260. **WHEREFORE**, the Plaintiff requests that this Court enter judgment in favor of the PLAINTIFF, and against the DEFENDANTS ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A. as follows:

261. Awarding attorney's fees and costs, and issuing a prospective declaratory and injunctive judgment against the DEFENDANTS ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A., as outlined in the Prayer for Relief section of this complaint;

262. Award judgment holding the DEFENDANTS ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A., severally and jointly liable for the Plaintiff's damages as outlined in the Prayer for Relief section of this complaint.

COUNT 10.: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

263. Plaintiff re-alleges all paragraphs contained in §5, §6(C) including all subsections and §6(B)(II), and further states that DEFENDANTS JUDGE BERNSTEIN, MR. SEGARRA, MS. HERNANDEZ, MR. MARTINEZ, SEGARRA & ASSOCIATES, P.A., and ST. THOMAS UNIVERSITY, INC., (the "DEFENDANTS" through this Count) did the following:

264. As described in the incorporated paragraphs, DEAN LAWSON, DEAN MOORE, MR, SILVER (all together referred to as "STU Management"), and MR. SEGARRA were acting in the course and scope of their employment duties as employees of their respective employers.

265. STU Management's conduct of (1) humiliating MR. POLO by forcing him into an honor council they knew to be a sham proceeding, (2) depriving MR. POLO of his degree substantially disregarding the weight of the evidence and their own rules, (3) conspiring with a state actor to deprive the Plaintiff of his interest in property without due process of law, (4) retaliating against the Plaintiff for MR. POLO'S involvement in Political Speech and for petitioning the government for redress of his grievances exposing corruption in the family court system, and (5) breaching their contractual duty to MR. POLO were intentional, reckless, and ST. THOMAS UNIVERSITY, INC., and its agents, and managers knew or should have known that emotional distress would likely result.

266. MR. SEGARRA'S actions, including conspiring with a state actor and STU Management to deprive MR. POLO of his constitutional property rights to his Continued enrollment at STU without due process of law, and conspiring with JUDGES BERNSTEIN, DEL REY, MULTACK, and GM SINGER to deprive MR. POLO of court access without notice and opportunity to be heard, were intentional and reckless. SEGARRA & ASSOCIATES, P.A., its agents/managers, and MR. SEGARRA himself knew or should have known that these actions would likely cause emotional distress.

267. The conduct of MS. HERNANDEZ, and MR. MARTINEZ of engaging, directly or indirectly (1), in planning, supporting, aiding, and/or abating in the deprivation of MR. POLO constitutional property right to his continued enrollment at STU without due process of law, (2) planning, supporting, aiding, and/or abating in the deprivation of MR. POLO constitutional to access the court without due process of law, (3) depriving MR. POLO of the custody of his children without allowing MR. POLO to access the court, and (3) engaging in provocations to get MR.

POLO arrested, were intentional, reckless and they knew or should have known that emotional distress would likely result from these actions.

268. JUDGE BERNSTEIN's conduct, which includes, (1) interfering with MR. POLO's contractual obligations with STU and depriving MR. POLO of his constitutional property interest in his continued enrollment at STU without due process of law by providing STU with pretexts to terminate MR. POLO's career in law, (2) causing the initiation of an Honor Council proceeding against MR. POLO by providing fabricated allegations, which resulted in embarrassment and humiliation for MR. POLO when his peers and family members discovered the investigation into his ethical misconduct, and (3) retaliating against MR. POLO for his involvement in Political Speech and for petitioning the government for redress of his grievances exposing corruption in the family court system, were intentional, and reckless and he knew or should have known that emotional distress would likely result from these actions.

269. The conduct described in previous paragraphs was and is outrageous; that is, it goes beyond all bounds of decency and is and ought to be regarded as odious and utterly intolerable in a civilized community.

270. The conduct described above directly and proximately caused Plaintiff's injuries in that it directly, and in a natural and continuous sequence, produced or contributed to such injuries.

271. As a direct, natural, and proximate result of the actions of the DEFENDANTS JUDGE BERNSTEIN, MR. SEGARRA, MS. HERNANDEZ, MR. MARTINEZ, ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A., and the actions of their respective employees/Agents DEAN LAWSON, DEAN MOORE, MR. SILVER, and MR. SEGARRA towards the Plaintiff, Plaintiff suffered damages.

272. **WHEREFORE**, the Plaintiff requests that this Court enter judgment in favor of the PLAINTIFF, and against the DEFENDANTS ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A. as follows:

273. Awarding attorney's fees and costs, and issuing a prospective declaratory and injunctive judgment against the DEFENDANTS ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A., as outlined in the Prayer for Relief section of this complaint;

274. Award judgment holding the DEFENDANTS JUDGE BERNSTEIN, MR. SEGARRA, MS. HERNANDEZ, MR. MARTINEZ, ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A., are severally and jointly liable for the Plaintiff's damages as outlined in the Prayer for Relief section of this complaint.

§ 8.PRAYER FOR RELIEF

275. The Plaintiff, FRANK E. POLO., demands a trial by jury and seeks judgment, in an amount to be determined at trial, against SCOTT MARCUS BERNSTEIN, MERLIN HERNANDEZ, RANDOLPH MARTINES, SEGARRA & ASSOCIATES, P.A., and ST. THOMAS UNIVERSITY, INC. and he asks this Honorable Court to hold them jointly and severally liable for a range of damages, including special damages, past, present, and future medical expenses, reliance damage, loss of opportunity damages, compensatory damages, exemplary and punitive damages, pain and suffering, loss of past earnings, and impairment of future earning capacity.

276. To issue a prospective declaratory judgment against all defendants named in this complaint, declaring that, in the absence of a constitutional order obtained with notice and opportunity to be heard, the plaintiff has a constitutional right to access the state court system under **Fla. Const. Art. 1, §§ 5 and 21**, and under the **U.S. Const., Amend. 1**. This right will be violated if any state actor, including but not limited to the defendants, their agents, anyone acting on their behalf, their associates, or their affiliates, prevents MR. POLO from having full access to the state courts without notice and opportunity to be heard. Such prevention would be in violation of **42 U.S.C. Sec. 1983**, the **U.S. Const., Amend. 5th and 14th**, and/or **Fla. Const. Art. 1, § 9**.

277. Additionally, declaring that the **U.S. Const., Amend. 1**, and the **Fla. Const. Art., 1, §§ 4 and 5** confers on MR. POLO a right to engage in **core political speech** intended to rally public support for fighting judicial corruption in the Florida Court System and a right to petition the government for redress of his grievances without suffering retaliation for exercising such rights, which will be violated if the DEFENDANTS, their agents, anyone acting on their behalf, their associates, or their affiliates, engage in retaliatory actions against the Defendants for exercising the abovementioned rights.

278. The Plaintiff also requests injunctive relief against, SCOTT MARCUS BERNSTEIN, MANUEL A. SEGARRA III, MERLIN HERNANDEZ, RANDOLPH

MARTINEZ, ST. THOMAS UNIVERSITY, INC., and SEGARRA & ASSOCIATES, P.A. This relief would mandate them to abstain from violating the plaintiff's constitutional rights or conspiring to do so through any means, including but not limited to their agents, representatives, associates, affiliates, or employees. They are also to refrain from retaliating against the plaintiff or any witnesses involved in the case, directly or indirectly, for attempting to address their inappropriate and unlawful behavior. Additionally, the Plaintiff seeks a declaration that the defendants named in this paragraph infringed upon the plaintiff's Federal Protective rights in contravention of Section 1983.

279. Awarding judgment for attorney's fees and/or court costs and such other relief as the Court may deem just and proper, against, all the DEFENDANTS named in this Count, pursuant to **42 U.S.C.** § 1983 and **42 U.S.C.** §1988.

280. Awarding any necessary equitable relief including prejudgment interest, and The Plaintiff demands trial by jury on all issues so triable.

Respectfully submitted,

FRANK E. POLO SR.
1475 SW 1^{8TH} ST APT 411
Miami, FL. 33135
Phone: 305-901-3360
Email: Frank.Polo@msn.com

APPENDIX 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.

[Senate Hearing 112-72, Part 3]
[From the U.S. Government Publishing Office]

S. Hrg. 112-72, Pt.3

CONFIRMATION HEARINGS ON FEDERAL APPOINTMENTS

HEARINGS

before the

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

JUNE 8, JUNE 22, JULY 13, AND JULY 27, 2011

Serial No. J-112-4

PART 3

Printed for the use of the Committee on the Judiciary

CONFIRMATION HEARINGS ON FEDERAL APPOINTMENTS

S. Hrg. 112-72, Pt.3

CONFIRMATION HEARINGS ON FEDERAL APPOINTMENTS

HEARINGS

before the

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

JUNE 8, JUNE 22, JULY 13, AND JULY 27, 2011

Serial No. J-112-4

PART 3

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
76-350 WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office,
http://bookstore.gpo.gov. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202¿X095121¿X091800, or 8

COMMITTEE ON THE JUDICIARY

PATRICK J. LEAHY, Vermont, Chairman

HERB KOHL, Wisconsin	CHUCK GRASSLEY, Iowa
DIANNE FEINSTEIN, California	ORRIN G. HATCH, Utah
CHUCK SCHUMER, New York	JON KYL, Arizona
DICK DURBIN, Illinois	JEFF SESSIONS, Alabama
SHELDON WHITEHOUSE, Rhode Island	LINDSEY GRAHAM, South Carolina
AMY KLOBUCHAR, Minnesota	JOHN CORNYN, Texas

that is one of the most esteemed and respected judges in a huge, huge state court district, and that being Miami-Dade County.

And the even better news is that Judge Scola is married to a judge, Judge Jackie Scola. So we are getting two for the price of one. And their whole family is here today, their sons, Bobby and Billy, and the judge will introduce them later on in his testimony.

I could go through all the particulars, but you know the tremendous bipartisan process that we have in Florida, where we try to take politics out of the selection of our judges by impaneling a judicial nominating commission that is done by custom rather than law and has been done by the two Senators from Florida for some period of time.

And they go through all of the applications. They receive the applications. They do the interviews, and they select, from outstanding applicants, three for a particular vacancy and those three are submitted to the two Senators, who then interview them. And then with our recommendations, it goes on to the White House.

Now, the President, of course, constitutionally, is going to be the one to make the nomination, but since we do the confirmation, it is a collaborative process. And it is working and it is working well, and it has produced the kind of quality that we find in this nominee, Judge Scola.

And, Marco, I just told them about our bipartisan process. And so Judge Scola is a product of that. He, without a doubt, over and over, it has been told to me as I run into members of the bar in Miami, that this man is outstanding and he deserves this appointment.

So I ask you all to consider that. As you said, Mr. Chairman, he has been a prosecutor. He has been for years a circuit judge in the state court system. He is an adjunct professor at Florida International University College of Law and the University of Miami School of Law. And he is a faculty member of the Florida New Judges College and the Florida College of Advanced Judicial Studies.

So you have here all in one package--scholarly, well thought of, ethical, experienced, jurist and longstanding member of the bar, and, of course, Senator Rubio and I highly recommend him.

Senator Blumenthal. Thank you, Senator Nelson. Thank you for being here.

And thank you to Senator Rubio for joining us. I know you had another obligation and appreciate your being here.

If you would like to introduce Judge Scola.

PRESENTATION OF ROBERT N. SCOLA, JR., NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORDIA BY HON. MARCO RUBIO, A U.S. SENATOR FROM THE STATE OF FLORDIA

Senator Rubio. Sure, Mr. Chairman. Thank you. And I will be brief, because I think Senator Nelson has touched upon all these things and just echo all of that and tell you that Judge Scola is very well regarded in the legal community, particularly in south Florida, where I am from.

I have had numerous friends of mine in the legal community call and recommend him. And so we are proud to present him to the Committee and we know you will give him your full and fair consideration.

It is an honor to be here with him. I know he will introduce his family in a moment, and I think you will be impressed by his resume.

Senator Blumenthal. Thank you very much.

Now, I would like to turn to Senators Casey and Toomey.

PRESENTATION OF ROBERT D. MARIANI, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA; CATHY BISSOON NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA; AND MARK R. HORNAK, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA BY HON. ROBERT P. CASEY JR., A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator Casey. Thank you, Mr. Chairman. We are honored to be here and want to thank you for this opportunity. It is a great honor to be able to introduce, in this case, three Pennsylvanians to be considered before this committee, and I want to thank you and thank Senator Grassley.

I am particularly grateful for the work done by Senator Toomey. As is true in a number of states, there is a process that results in individuals being considered and then recommended to come before this Committee and it is a process that I have worked on over a number years with Senator Specter and have continued that work with Senator Toomey and I am grateful for all the work that he put into this today to make this possible.

I will do a very quick biographical sketch--it will not do justice to the achievements and the resumes--of each of our nominees. But before I do that, I wanted to say two things.

One is that often, I think, when we have hearings in Washington that involve something as fundamental as the confirmation of judges, we can often lose sight of how critical this is to our system of justice and, also, how, even with all of our challenges and all of our problems in the United States, our system of justice is still the envy of the world. It separates us from almost every country in the world and the basic problem that a lot of nations have is they can never get to the point where they have a system of justice that is

[GRAPHIC] [TIFF OMITTED] T6350.450

[GRAPHIC] [TIFF OMITTED] T6350.451

[GRAPHIC] [TIFF OMITTED] T6350.452

[GRAPHIC] [TIFF OMITTED] T6350.453

[GRAPHIC] [TIFF OMITTED] T6350.454

[GRAPHIC] [TIFF OMITTED] T6350.455

[GRAPHIC] [TIFF OMITTED] T6350.456

[GRAPHIC] [TIFF OMITTED] T6350.457

[GRAPHIC] [TIFF OMITTED] T6350.458

[GRAPHIC] [TIFF OMITTED] T6350.459

[GRAPHIC] [TIFF OMITTED] T6350.460

[GRAPHIC] [TIFF OMITTED] T6350.461

[GRAPHIC] [TIFF OMITTED] T6350.462

[GRAPHIC] [TIFF OMITTED] T6350.463

[GRAPHIC] [TIFF OMITTED] T6350.464

[GRAPHIC] [TIFF OMITTED] T6350.465

[GRAPHIC] [TIFF OMITTED] T6350.466

[GRAPHIC] [TIFF OMITTED] T6350.467

[GRAPHIC] [TIFF OMITTED] T6350.468

[GRAPHIC] [TIFF OMITTED] T6350.469

[GRAPHIC] [TIFF OMITTED] T6350.470

[GRAPHIC] [TIFF OMITTED] T6350.471

[GRAPHIC] [TIFF OMITTED] T6350.472

[GRAPHIC] [TIFF OMITTED] T6350.473

[GRAPHIC] [TIFF OMITTED] T6350.474

STATEMENT OF HON. ROBERT N. SCOLA, JR., NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA

Judge Scola. Thank you. I want to start by thanking Senator Blumenthal for chairing this Committee and Ranking Member Grassley for participating and considering my nomination.

I want to thank President Obama for the confidence he placed in me with this nomination, and Senators Nelson and Rubio for honoring me with their presence today and for their support throughout this process.

I also want to thank Senator Rubio's predecessor, former Senator George LeMieux, for his support while he was in office during this process.

And I'm very pleased today to have with me my wife of 25 years and the love of my life, Jackie Scola, who is a judge in Miami, as well. Our two sons are here, Bobby, who just graduated from Tufts University, and Billy, who will be a senior in high school.

Stephanie White, who is Bobby's girlfriend, is here, and Evan Helguero-Kelley, a friend of Billy's and a close friend of our family's; my sister, Nunziata Reynolds, who is an attorney in Massachusetts; my step-mom, Marilyn Scola, who was a great second mom to me growing up; and, also, a close family friend, Cheryl Goldstein, is here.

Unfortunately, my mom and dad are no longer with us, having passed away. And they had a tremendous influence on my life, particularly my dad, who inspired me to be a judge. And I know that they're looking down with pride upon these proceedings.

I also have a number of close friends and family watching on the Web. My wife's parents, Dr. William Hogan, and his wife, Mary Hogan, as well as my wife's mom, Barbara Hogan, are watching, and my eight other brothers and sisters and step-brothers and sisters, Gay, Tony, Jimmy, Nicky, Cathy, John, Paul and Sarah are watching from California to Switzerland and places in between. And Armano Garlifick (ph) and his family are watching from Puerto Rico.

And I'd be happy to answer any questions that you have.

[The biographical information follows.]

[GRAPHIC] [TIFF OMITTED] T6350.475

[GRAPHIC] [TIFF OMITTED] T6350.476

[GRAPHIC] [TIFF OMITTED] T6350.477

[GRAPHIC] [TIFF OMITTED] T6350.478

APPENDIX 12

Docket sheets from the district court

APPEAL,CLOSED,JG,REF_DISCOV

U.S. District Court
Southern District of Florida (Miami)
CIVIL DOCKET FOR CASE #: 1:23-cv-21684-RNS

Polo v. Bernstein et al
Assigned to: Senior Judge Robert N. Scola, Jr
Referred to: Magistrate Judge Jonathan Goodman
Case in other court: USCA, 25-10016-B
Cause: 42:1983 Civil Rights Act

Date Filed: 05/04/2023
Date Terminated: 07/22/2024
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Frank E. Polo, Sr.

represented by **Frank E. Polo, Sr.**
1475 SW 8 Street, Apt 411
Miami, FL 33135
305-901-3360
Email: FEPM2024@hotmail.com
PRO SE

V.

Defendant

Scott Marcus Bernstein
in his personal and official capacity

represented by **Martha Hurtado**
Office of the Attorney General
Civil Litigation Division Fort Lauderdale
110 S.E. 6TH Street, 10th Floor
Fort Lauderdale, FL 33301
954-712-4600
Email: martha.hurtado@myfloridalegal.com
ATTORNEY TO BE NOTICED

Defendant

Marcia Del Rey
in her Personal and Official Capacity

represented by **Martha Hurtado**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Spencer Multack
in his Personal and official capacity

represented by **Martha Hurtado**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Bertila Soto
in her official capacity
TERMINATED: 08/22/2023

Defendant

Nushin G. Sayfie
in her official capacity
TERMINATED: 08/22/2023

Defendant

Ivan F. Fernandez
in his official capacity
TERMINATED: 08/22/2023

Defendant

Kevin Emas
in his official capacity
TERMINATED: 08/22/2023

Defendant

Norma S. Lindsey
in her official capacity
TERMINATED: 08/22/2023

Defendant

Erick WM. Hendon
in his official capacity
TERMINATED: 08/22/2023

Defendant

Monica Gordo
in her official capacity
TERMINATED: 08/22/2023

Defendant

Alexander S. Bokor
in his official capacity
TERMINATED: 08/22/2023

Defendant

Judge Thomas Logue

represented by **Martha Hurtado**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Manual A. Segarra, III
in his personal and official capacity

represented by **Stephanie Elaine Demos**
Beasley, Demos & Brown LLC
2950 SW 27th Avenue
Suite 100
Miami, FL 33133
305-669-3131
Fax: 786-360-5924
Email: sdemos@beasleydemos.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jennifer Rebeca Perez Alonso
Beasley, Demos & Brown

201 Alhambra Circle
Ste 801
Coral Gables, FL 33134
305-669-3131
Email: jalonso@beasleydemos.com
ATTORNEY TO BE NOTICED

Defendant

Robert S. Singer
in his Personal and Official Capacity
TERMINATED: 08/22/2023

Defendant

Tamara Lawson
in her official capacity
TERMINATED: 08/22/2023

Defendant

Jay S. Silver
in his official capacity
TERMINATED: 08/22/2023

Defendant

Patricia Moore
in her official capacity
TERMINATED: 08/22/2023

Defendant

Juan Carlos Planas
in his official capacity
TERMINATED: 08/22/2023

Defendant

David A. Armstrong
in his official capacity
TERMINATED: 08/22/2023

Defendant

Daniella Levine Cava
in her official capacity
TERMINATED: 08/22/2023

Defendant

Eleventh Judicial Circuit Court of Florida
TERMINATED: 08/22/2023

Defendant

Florida Third District Court of Appeals
TERMINATED: 08/22/2023

Defendant

Segarra & Asociates, P.A.

represented by **Stephanie Elaine Demos**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jennifer Rebeca Perez Alonso
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

St. Thomas University, Inc.

represented by **Roberto Javier Diaz**
J. Patrick Fitzgerald and Associates, P.A.
110 Merrick Way
Suite 3-B
Coral Gables, FL 33134
305-443-9162
Fax: 443-6613
Email: rjd@jpfitzlaw.com
ATTORNEY TO BE NOTICED

Defendant

Miami-Dade County
TERMINATED: 08/22/2023

Defendant

Miami-Dade County Police Department
TERMINATED: 08/22/2023

Defendant

Merlin Hernandez
in her personal capacity

Defendant

Randolph Martinez
in his personal capacity

Defendant

Armando Garcia
in his official capacity
TERMINATED: 08/22/2023

Defendant

Fleur J. Lobree
(in her official capacity)
TERMINATED: 08/22/2023

Defendant

Third District Court of Appeals
TERMINATED: 08/19/2024

Date Filed	#	Docket Text

05/04/2023	1	Clerks Notice of Judge Assignment to Judge Robert N. Scola, Jr. Pursuant to 28 USC 636(c), the parties are hereby notified that the U.S. Magistrate Judge Jonathan Goodman is available to handle any or all proceedings in this case. If agreed, parties should complete and file the Consent form found on our website. It is not necessary to file a document indicating lack of consent. Pro se (NON-PRISONER) litigants may receive Notices of Electronic Filings (NEFS) via email after filing a Consent by Pro Se Litigant (NON-PRISONER) to Receive Notices of Electronic Filing. The consent form is available under the forms section of our website. (drz) (Entered: 05/04/2023)
05/04/2023	2	COMPLAINT against All Defendants. Filing fees $ 402.00, filed by Frank Polo, SR. (Attachments: # 1 Civil Cover Sheet)(drz) (Entered: 05/04/2023)
05/04/2023	3	Consent by Pro Se Litigant (Non-Prisoner) Frank Polo, SR to receive Notices of Electronic Filing at email address: Frank.Polo@MSN.COM (drz) (Entered: 05/04/2023)
05/04/2023	4	Clerks Notice of Receipt of Filing Fee received on 5/4/2023 in the amount of $ 402.00, receipt number FLS268964. (vt) (Entered: 05/04/2023)
05/05/2023	5	Summons Issued as to David A. Armstrong, Scott Marcus Bernstein, Alexander S. Bokor, Marcia Del Rey, Eleventh Judicial Circuit Court of Florida, Kevin Emas, Ivan F. Fernandez, Florida Third District Court of Appeals, Armando Garcia, Monica Gordo, Erick WM. Hendon, Merlin Hernandez, Tamara Lawson, Daniella Levine Cava, Norma S. Lindsey, Fleur J. Lobree, Tomas Logue, Randolph Martinez, Miami-Dade County, Miami-Dade County Police Department, Patricia Moore, Spencer Multack, Juan Carlos Planas, Nushin G. Sayfie, Manual A. Segarra, III, Segarra & Associates, P.A., Jay S. Silver, Robert S. Singer, Bertila Soto, St. Thomas University, Inc.. (ls) (Entered: 05/05/2023)
05/08/2023	6	ORDER STRIKING 2 Complaint. (Amended Complaint due by 5/22/2023.) Signed by Judge Robert N. Scola, Jr. on 5/8/2023. *See attached document for full details.* (ls) (Entered: 05/08/2023)
05/08/2023	7	Order Requiring Discovery and Scheduling Conference and ORDER REFERRING CASE to Magistrate Judge Jonathan Goodman for Discovery Matters. Signed by Judge Robert N. Scola, Jr. on 5/8/2023. *See attached document for full details.* (ls) (Entered: 05/08/2023)
05/09/2023	8	MAGISTRATE JUDGE GOODMAN'S DISCOVERY PROCEDURES ORDER. Signed by Magistrate Judge Jonathan Goodman on 5/9/2023. *See attached document for full details.* (fbn) (Entered: 05/09/2023)
05/22/2023	9	STRICKEN per DE# 10 , AMENDED COMPLAINT against David A. Armstrong, Scott Marcus Bernstein, Alexander S. Bokor, Marcia Del Rey, Eleventh Judicial Circuit Court of Florida, Kevin Emas, Ivan F. Fernandez, Florida Third District Court of Appeals, Armando Garcia, Monica Gordo, Erick WM. Hendon, Merlin Hernandez, Tamara Lawson, Daniella Levine Cava, Norma S. Lindsey, Fleur J. Lobree, Tomas Logue, Randolph Martinez, Miami-Dade County, Miami-Dade County Police Department, Patricia Moore, Spencer Multack, Juan Carlos Planas, Nushin G. Sayfie, Manual A. Segarra, III, Segarra & Asociates, P.A., Jay S. Silver, Robert S. Singer, Bertila Soto, St, Thomas University, Inc., filed by Frank Polo, Sr.(jas) Modified text on 6/8/2023 (jas). (Entered: 05/23/2023)
06/08/2023	10	SECOND ORDER STRIKING 9 Amended Complaint. (Amended Complaint due by 6/22/2023.). Signed by Judge Robert N. Scola, Jr on 6/8/2023. *See attached document for full details.* (jas) (Entered: 06/08/2023)
06/20/2023	11	MOTION for Leave to Proceed in forma pauperis by Frank Polo, Sr.. (jas) (Entered: 06/21/2023)

06/20/2023	12	MOTION for Appointment of Special Process Server by Frank Polo, Sr.. Responses due by 7/5/2023. (jas) (Entered: 06/21/2023)
06/20/2023	13	MOTION to File Under Seal by Frank Polo, Sr. (kpe) (Entered: 06/21/2023)
06/20/2023	14	EXPEDITED MOTION for Extension of Time to File the Second Amended Complaint by Frank Polo, Sr. (Responses due by 7/5/2023) (kpe) (Entered: 06/21/2023)
06/21/2023	15	PAPERLESS ORDER: The Court grants 14 the Plaintiff's motion for an extension of time to file his second amended complaint. The Plaintiff must file his second amended complaint on or before **August 21, 2023**. In the meantime, while there is no viable complaint before the Court, the Court directs the Clerk to administratively **close** this case. If the Plaintiff submits a second amended complaint in compliance with the Court's orders, the Court will reopen this case. The Court denies as moot 13 the Plaintiff's motion to file his medical records under seal. The Plaintiff sought to submit his medical records in support of his motion for an extension of time to file his second amended complaint. Since the Court has granted the extension, there is no need for the Court to review the medical records. Finally, the Court denies, without prejudice, both 11 the Plaintiff's motion for leave to proceed *in forma pauperis* and 12 the Plaintiff's motion for an appointment of a special process server. If this case is reopened, the Plaintiff can refile these motions. Signed by Judge Robert N. Scola, Jr. (kbe) (Entered: 06/21/2023)
06/21/2023	16	EMERGENCY MOTION for Extension of Time to File Second Amended Complaint by Frank Polo, Sr.. Responses due by 7/5/2023. (jas) (Entered: 06/21/2023)
06/21/2023		Civil Case Terminated per DE 15 Order. Closing Case. (kpe) (Entered: 06/22/2023)
06/22/2023	17	PAPERLESS ORDER denying 16 pro se Plaintiff Frank Polo, Sr.'s "emergency" motion for an extension of time. A motion seeking an extension of time to file an amended complaint in this case does not amount to a true emergency. Additionally, the Court has already granted Polo the relief he requests. Polo is forewarned that, in the future, should he file another motion that is improperly certified as an emergency, he will be subjected to sanctions. Signed by Judge Robert N. Scola, Jr. (kbe) (Entered: 06/22/2023)
08/21/2023	18	STRICKEN SECOND AMENDED COMPLAINT against Scott M. Bernstein, St. Thomas University, Inc., filed by Frank Polo, Sr.(kpe) Modified on 9/29/2023 per DE 22 Order (kpe). (Entered: 08/22/2023)
08/30/2023	19	MOTION for Appointment of the U.S. Marshal's Office as a Process Server to Serve Summons and Complaints Upon the Defendants, and for an Extension of 90 days to serve the Defendants by Frank E. Polo, Sr. Responses due by 9/13/2023.(kpe) (Entered: 08/30/2023)
08/30/2023	20	MOTION for Leave to Proceed in forma pauperis by Frank E. Polo, Sr. (kpe) Modified on 10/17/2023 (mf). (Entered: 08/30/2023)
09/15/2023	21	MOTION to Reopen and Take Notice of Pending Motions by Frank E. Polo, Sr. (ls) (Entered: 09/18/2023)
09/29/2023	22	OMNIBUS ORDER. Order deferring ruling on 19 Motion for the appointment of the U.S. Marshals Service to effect service; denying 21 Motion to Reopen Case.(Amended Complaint due by 10/23/2023.) Signed by Judge Robert N. Scola, Jr on 9/29/2023. *See attached document for full details.* (kpe) (Entered: 09/29/2023)

10/02/2023	23	MOTION to Reopen Case by Frank E. Polo, Sr. (kpe) (Entered: 10/03/2023)
10/04/2023	24	PAPERLESS ORDER denying 23 the Plaintiff's motion to reopen his case. The Court recently 22 ordered the Plaintiff, proceeding pro se, to file an amended complaint, by October 23, 2023, addressing the various deficiencies the Court identified after reviewing his complaint under the screening provisions of section 1915(e)(2)(B). Signed by Judge Robert N. Scola, Jr. (kbe) (Entered: 10/04/2023)
10/23/2023	25	THIRD AMENDED COMPLAINT against Scott Marcus Bernstein, St. Thomas University, Inc., filed by Frank E. Polo, Sr.. (jas) (Entered: 10/24/2023)
11/09/2023	26	VACATED per DE# 29 , OMNIBUS ORDER: DISMISSING CASE WITHOUT PREJUDICE BUT WITHOUT FURTHER LEAVE TO AMEND; AND DENYING ANY PENDING MOTIONS AS MOOT. Case Previously Closed. Signed by Senior District Judge Robert N Scola, Jr., on 11/9/2023. *See attached document for full details.* (caw) Modified text on 2/27/2024 (jas). (Entered: 11/09/2023)
12/07/2023	27	MOTION to Alter or Amend the Judgment by Frank E. Polo, Sr. Responses due by 12/21/2023 (ls) (Entered: 12/08/2023)
02/22/2024	28	NOTIFICATION OF 90 DAYS EXPIRING ON MARCH 7,2024, by Frank E. Polo, Sr. (caw) (Entered: 02/23/2024)
02/27/2024	29	ORDER granting 27 Motion for Reconsideration. Amended Complaint due by 4/26/2024. Signed by Senior Judge Robert N. Scola, Jr on 2/26/2024. *See attached document for full details.* (jas) (Entered: 02/27/2024)
02/27/2024		Case Reopened, per DE# 29 ORDER granting 27 Motion for Reconsideration. (jas) (Entered: 02/27/2024)
03/18/2024	30	EMERGENCY Verified Petition for Ex Parte Application for Temporary Restraining Order; Order to Show Cause Why a Preliminary Injunction Should not be issued, Memorandum Support Thereof by Frank E. Polo, Sr. (Responses due by 4/1/2024.), (Attachments: # 1 Index to Appendix, # 2 Proposed Order)(kpe) Modified by unsealing document on 3/26/2024 per DE 32 Order (kpe). (Entered: 03/19/2024)
03/18/2024	31	Sworn Affidavit Accompanying Motion for Preliminary Injunction by Frank E. Polo, Sr. (kpe) Modified by unsealing document on 3/26/2024 per DE 32 Order (kpe). (Entered: 03/19/2024)
03/26/2024	32	PAPERLESS ORDER: The Court denies, without prejudice, 30 pro se Plaintiff Frank Polo's "emergency" "ex parte" motion for a temporary restraining order. As an initial matter, the motion does not comply with the Court's Local Rule 5.4(d). First, Polo does not "explain the reasons for ex parte treatment." L.R. 5.4(d)(1). Accordingly, the Court directs the Clerk to **unseal** Polo's 30 motion for a temporary restraining order (including its exhibits) along with 31 his accompanying sworn affidavit. Although Polo indicates his filings are being submitted "ex parte," the Court finds nothing in the motion's contents that warrants shielding the motion, or any associated exhibits, from public view. If Polo would like the Court to maintain these filings under seal, he must file a motion to seal, setting forth the legal and factual basis for departing from the Court's general policy that all filings should be publicly available. Additionally, Polo's [30-2] proposed order is substantively and procedurally lacking. As to its substance, the proposed order fails to lay out the legal standard for granting a temporary restraining order, on an ex parte basis, nor does it explain how that legal standard applies to the facts in this case such that a finding in Polo's favor is warranted. Procedurally, the motion fails to comply with Local Rule 7.1(a)(2) which requires a party to submit a

		proposed order via email to chambers as prescribed by Section 3I(6) of the Courts CM/ECF Administrative Procedures. Next, Polo's motion fails to comply with Local Rule 7.1(c)(2)'s page-limitation restriction. Under that rule, "[a]bsent prior permission of the Court," a motion and its incorporated memorandum of may not exceed twenty pages. The Plaintiff's motion is over 65-pages long and almost impossible to follow based on its breadth as well its nonlinear and disorganized presentation. Accordingly, any request for an enlargement of the page-limitation is unlikely to be granted. Finally, while Polo recites the certification language that the Local Rules require a movant to include when requesting emergency treatment, he fails to "set forth in detail the nature of the emergency"or he at least fails to make that justification clear. L.R. 7.1(d)(1). Instead, as best the Court can tell, Polo simply argues, in conclusory fashion, that his motion is an emergency "because the 3d DCA Judges are about to retaliate against [him] for [his] engagement in Political speech." (Pl.s Mot. at 2.) That is insufficient to support the extraordinary relief Polo now seeks. Further, the Court strongly cautions Polo: "Motions are not considered emergencies if the urgency arises because of the attorney's or partys own dilatory conduct." L.R. 7.1(d)(1). Lastly, it bears repetition, even though Polo acknowledges this in his certification: **an unwarranted certification as to the emergency nature of a motion may lead to sanctions.** *Id.* This is especially so where a litigant is not only demonstrably aware of the possibility of sanctions but where that same litigant has also been directly warned about the possibility of those sanctions by the Court. Signed by Senior Judge Robert N. Scola, Jr. (kbe) (Entered: 03/26/2024)
03/26/2024	33	CLERK'S NOTICE of Compliance by unsealing documents 30 and 31 per 32 Order. (kpe) (Entered: 03/26/2024)
04/26/2024	34	FOURTH AMENDED COMPLAINT against Scott Marcus Bernstein, Marcia Del Rey, Eleventh Judicial Circuit Court of Florida, Merlin Hernandez, Tomas Logue, Randolph Martinez, Spencer Multack, Manual A. Segarra, III, Segarra & Asociates, P.A., St. Thomas University, Inc., Third District Court of Appeals filed in response to Order Granting Motion for Leave, filed by Frank E. Polo, Sr.(caw) Modified on 4/29/2024 (caw). (Entered: 04/29/2024)
04/26/2024	35	Summons Issued as to Scott Marcus Bernstein, Marcia Del Rey, Eleventh Judicial Circuit Court of Florida, Merlin Hernandez, Tomas Logue, Randolph Martinez, Spencer Multack, Manual A. Segarra, III, Segarra & Asociates, P.A., St. Thomas University, Inc., Third District Court of Appeals. (caw) (Entered: 04/29/2024)
05/01/2024	36	MOTION TO AMEND 34 FOURTH Amended Complaint AND FOR GUIDANCE, by Frank E. Polo, Sr. (caw) (Entered: 05/02/2024)
05/03/2024	37	PAPERLESS ORDER granting 36 the Plaintiff's motion for leave to file an amended complaint to add header. Consistent with Local Rule 15.1, the Plaintiff must separately file his amended complaint on or before May 8, 2024. Signed by Senior Judge Robert N. Scola, Jr. (kbe) (Entered: 05/03/2024)
05/06/2024	38	AMENDED COMPLAINT TO ADD HEADER against Scott Marcus Bernstein, Marcia Del Rey, Eleventh Judicial Circuit Court of Florida, Florida Third District Court of Appeals, Merlin Hernandez, Tomas Logue, Randolph Martinez, Spencer Multack, Manual A. Segarra, III, Segarra & Asociates, P.A., St. Thomas University, Inc. filed in response to Order Granting Motion for Leave, filed by Frank E. Polo, Sr.(caw) (Entered: 05/08/2024)
05/09/2024	39	MOTION FOR EXTENSION TO SERVE SUMMONS AND COMPLAINT, AND TO GRANT LEAVE TO FILE NEW PETITION TO PROCEED IN FORMA PAUPERIS AND MOTION FOR SERVICE OF PROCESS BY U.S. MARSHAL OR COURT

		APPOINTED INDIVIDUAL by Frank E. Polo, Sr. Responses due by 5/23/2024. (caw) Modified on 5/9/2024 (caw). (Entered: 05/09/2024)
05/13/2024	40	Consent by Pro Se Litigant (Non-Prisoner) Frank E. Polo, Sr., to receive Notices of Electronic Filing at email address: FEPM2024@hotmail.com. (caw) (Entered: 05/14/2024)
05/24/2024	41	MOTION for Disqualification, and/or MOTION to Disclose Conflict of Interest by Frank E. Polo, Sr.. (jas) (Entered: 05/24/2024)
05/24/2024	42	NOTICE of Dismissal of Some Defendants With Prejudice by Frank E. Polo, Sr.. (jas) (Entered: 05/24/2024)
06/11/2024	43	Summons Issued as to Randolph Martinez. (caw) (Entered: 06/11/2024)
07/04/2024	44	NOTICE of Attorney Appearance by Jennifer Rebeca Perez Alonso on behalf of Manual A. Segarra, III, Segarra & Asociates, P.A.. Attorney Jennifer Rebeca Perez Alonso added to party Manual A. Segarra, III(pty:dft), Attorney Jennifer Rebeca Perez Alonso added to party Segarra & Asociates, P.A.(pty:dft). (Perez Alonso, Jennifer) (Entered: 07/04/2024)
07/04/2024	45	Unopposed MOTION for Extension of Time to File Response/Reply/Answer as to 38 Amended Complaint/Amended Notice of Removal, by Manual A. Segarra, III, Segarra & Asociates, P.A.. (Perez Alonso, Jennifer) (Entered: 07/04/2024)
07/08/2024	46	Clerk's Notice to Filer re 44 Notice of Attorney Appearance,. **Attorney Did Not Associate Themselves**; ERROR - Filing attorney neglected to associate themselves to the case. The Clerk has added the attorney to the case. It is not necessary to refile this document future filings must comply with the CM/ECF Administrative Procedures and Local Rules by filing a Notice of Attorney Appearance and linking themselves to the case. (caw) (Entered: 07/08/2024)
07/08/2024	47	PAPERLESS ORDER: The Court grants 45 Defendants Manuel A. Segarra, III, and Segarra & Associates, P.A.'s unopposed motion for an extension of time to respond to the complaint. The Defendants must file their response to the complaint on or before August 12, 2024. Signed by Senior Judge Robert N. Scola, Jr. (kbe) (Entered: 07/08/2024)
07/08/2024	48	NOTICE of Attorney Appearance by Roberto Javier Diaz on behalf of St. Thomas University, Inc.. Attorney Roberto Javier Diaz added to party St. Thomas University, Inc.(pty:dft). (Diaz, Roberto) (Entered: 07/08/2024)
07/09/2024	49	Defendant's EXPEDITED MOTION for Extension of Time to File a Response to the Amended Complaint by Scott Marcus Bernstein, Marcia Del Rey, Tomas Logue, Spencer Multack. Attorney Martha Hurtado added to party Scott Marcus Bernstein(pty:dft), Attorney Martha Hurtado added to party Marcia Del Rey(pty:dft), Attorney Martha Hurtado added to party Tomas Logue(pty:dft), Attorney Martha Hurtado added to party Spencer Multack(pty:dft). (Attachments: # 1 Text of Proposed Order Proposed Order) (Hurtado, Martha) (Entered: 07/09/2024)
07/10/2024	50	Amended EXPEDITED MOTION For Extension of Time to Respond to the Amended Complaint by Scott Marcus Bernstein, Marcia Del Rey, Tomas Logue, Spencer Multack. (Attachments: # 1 Text of Proposed Order Proposed Order)(Hurtado, Martha) (Entered: 07/10/2024)
07/10/2024	51	PAPERLESS ORDER granting in part 50 the Defendants' unopposed amended motion for an extension of time to respond to the complaint. Defendants Scott Marcus Bernstein, Marcia Del Rey, Spencer Multack, and Thomas Logue must respond to the complaint on or before August 15, 2024. Signed by Senior Judge Robert N. Scola, Jr. (kbe) (Entered: 07/10/2024)
07/10/2024	52	Summons Issued as to Tomas Logue. (caw) (Entered: 07/11/2024)

07/11/2024	53	MOTION to Dismiss with Prejudice by St. Thomas University, Inc.. Responses due by 7/25/2024. (Diaz, Roberto) (Entered: 07/11/2024)
07/22/2024	54	ORDER DENYING 41 MOTION TO RECUSE. Signed by Senior Judge Robert N. Scola, Jr., on 7/22/2024. *See attached document for full details.* (caw) (Entered: 07/23/2024)
07/22/2024	55	SECOND OMNIBUS ORDER; DISMISSING CASE; AND CLOSING CASE. Any remaining pending Motions are DENIED AS MOOT. Signed by Senior Judge Robert N. Scola, Jr., on 7/22/2024. *See attached document for full details.* (caw) (Entered: 07/23/2024)
07/23/2024	56	JUDGMENT in favor of DEFENDANTS against PLAINTIFF, Frank E. Polo, Sr. CASE CLOSED. Signed by Senior Judge Robert N. Scola, Jr., on 7/23/2024. *See attached document for full details.* (caw) (Entered: 07/24/2024)
08/19/2024	57	MOTION to Amend 54 Order on Motion to Recuse by Frank E. Polo, Sr. Responses due by 9/3/2024. (Attachments: # 1 Proposed Order)(scn) (Entered: 08/20/2024)
08/19/2024	58	MOTION to Join Parties Under Fed. R. Civ. P. 20(a) and to Amend Under Fed. R. Civ. P. 15(a)(2) by Frank E. Polo, Sr. (scn) (Additional attachment(s) added on 8/21/2024: # 1 Proposed Amended Complaint) (caw). (Entered: 08/20/2024)
08/19/2024	59	MEMORANDUM of Law in Support of the Motion to Alter or Amend the Judgment ECF No. 55 . (scn) (Entered: 08/20/2024)
08/19/2024	60	NOTICE of Proposed Order by Frank E. Polo, Sr re 55 Motion to Alter or Amend the Judgment. (scn) (Entered: 08/20/2024)
08/19/2024	61	AMENDED COMPLAINT To Add Parties against Scott Marcus Bernstein, Marcia Del Rey, Merlin Hernandez, Thomas Logue, Randolph Martinez, Spencer Multack, Manual A. Segarra, III, Segarra & Asociates, P.A., St. Thomas University, Inc., filed by Frank E. Polo, Sr.(scn) (Entered: 08/20/2024)
08/21/2024	62	AMENDED MOTION to Alter or Amend 56 Judgment and 55 Order Dismissing/Closing Case, by Frank E. Polo, Sr. Responses due by 9/4/2024. (caw) (Entered: 08/21/2024)
08/21/2024	63	NOTICE TO CLERK OF ERROR IN FILING 61 AMENDED COMPLAINT by Frank E. Polo, Sr. (caw) (Entered: 08/21/2024)
09/03/2024	64	RESPONSE to Motion re 62 MOTION to Amend/Correct 56 Judgment, 55 Order Dismissing/Closing Case filed by St. Thomas University, Inc.. Replies due by 9/10/2024. (Diaz, Roberto) (Entered: 09/03/2024)
09/04/2024	65	RESPONSE in Opposition re 62 MOTION to Amend/Correct 56 Judgment, 55 Order Dismissing/Closing Case *and Order Denying Motion to Recuse 54* filed by Manual A. Segarra, III, Segarra & Asociates, P.A.. Replies due by 9/11/2024. (Perez Alonso, Jennifer) (Entered: 09/04/2024)
09/10/2024	66	REPLY TO DEFENDANTS' 64 AND 65 RESPONSES (ANSWERS) to Motion re 57 MOTION to Amend/Correct 54 Order on Motion to Disqualify Judge, Order on Motion for Miscellaneous Relief, filed by Frank E. Polo, Sr. (caw) (Entered: 09/10/2024)
09/10/2024	67	RESPONSE to Motion re 62 MOTION to Amend/Correct 56 Judgment, 55 Order Dismissing/Closing Case filed by Scott Marcus Bernstein, Marcia Del Rey, Thomas Logue, Spencer Multack. Replies due by 9/17/2024. (Hurtado, Martha) (Entered: 09/10/2024)
09/16/2024	68	REPLY to Response to Motion re 62 MOTION to Alter Amend 56 Judgment, 55 Order Dismissing Case filed by Frank E. Polo, Sr. (scn) (Entered: 09/17/2024)

11/19/2024	69	MOTION for Reassignment to Another Judge by Frank E. Polo, Sr. (jcy) (Entered: 11/19/2024)
11/19/2024	70	Notification of 90 Days Expiring by Frank E. Polo, Sr. (jcy) (Entered: 11/19/2024)
11/27/2024	71	AMENDED MOTION for Reassignment to Another Judge and to Expedite by Frank E. Polo, Sr.. (jas) (Entered: 11/27/2024)
12/04/2024	72	THIRD OMNIBUS ORDER: DENYING 57 MOTION to Amend/Correct; DENYING 58 MOTION to Adopt/Join; DENYING 62 MOTION to Amend/Correct; DENYING 69 MOTION to Reassign Case; AND DENYING 71 MOTION to Disqualify Judge. This case is to remain closed and any other pending motions are denied as moot. Signed by Senior Judge Robert N. Scola, Jr., on 12/3/2024. *See attached document for full details.* (caw) (Entered: 12/04/2024)
01/02/2025	73	Notice of Appeal re 56 Judgment by Frank E. Polo, Sr.. IFP Filed. Within fourteen days of the filing date of a Notice of Appeal, the appellant must complete the Eleventh Circuit Transcript Order Form regardless of whether transcripts are being ordered [Pursuant to FRAP 10(b)]. For information go to our FLSD website under All Forms and look for Transcript Order Form www.flsd.uscourts.gov/forms/all-forms. (jgo) (Entered: 01/03/2025)
01/02/2025	74	MOTION for Leave to Appeal in forma pauperis by Frank E. Polo, Sr. (jgo) (Entered: 01/03/2025)
01/02/2025	75	NOTICE of filing "Statement of Issues on Appeal" by Frank E. Polo, Sr (jgo) (Entered: 01/03/2025)
01/03/2025		Transmission of Notice of Appeal, Judgment under appeal, and Docket Sheet to US Court of Appeals re 73 Notice of Appeal. Notice has been electronically mailed. (jgo) (Entered: 01/03/2025)
01/03/2025	76	CLERK'S NOTICE of Mailing Pro Se Instructions to Frank E. Polo, Sr., re 73 Notice of Appeal. (jgo) (Entered: 01/03/2025)
01/03/2025	77	MOTION for Leave to Appeal in forma pauperis by Frank E. Polo, Sr. (jgo) (Entered: 01/03/2025)
01/06/2025	78	PAPERLESS ORDER denying, without prejudice, 77 Plaintiff Frank E. Polo, Sr.'s motion to proceed *in forma pauperis* on appeal. Polo has failed to fully comply with the requirements of Federal Rules of Appellate Procedure 24(a)(1). Rule 24(a)(1) requires a party seeking to appeal *in forma pauperis* to file a motion and attach to that motion an affidavit that (A) shows the party is unable to pay the filing fee; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal. Polo appears to have attempted to comply but separately filed 74 an affidavit establishing his indigency and claiming an entitlement to relief; 75 an unsworn statement of issues on appeal; and 77 a motion to proceed *in forma pauperis* on appeal to which he attached an *unsigned* application to proceed without prepaying costs. Accordingly, the Court directs Polo, if he still wishes to proceed *in forma pauperis* on appeal, to file one motion, that complies with Rule 24(a)(1), by attaching to that motion not only a *signed* affidavit of indigency and entitlement to redress but also an affidavit stating the issues that he intends to present on appeal (as opposed to his separately filed and unsworn statement of issues). Signed by Senior Judge Robert N. Scola, Jr. (kbe) (Entered: 01/06/2025)
01/06/2025	79	Acknowledgment of Receipt of NOA from USCA re 73 Notice of Appeal, filed by Frank E. Polo, Sr. Date received by USCA: 1/3/2025. USCA Case Number: 25-10016-B. (apz) (Entered: 01/07/2025)

01/08/2025	80	DESIGNATION of Record on Appeal by Frank E. Polo, Sr re 73 Notice of Appeal. (apz) (Entered: 01/09/2025)
01/08/2025	81	MOTION for Leave to Appeal in forma pauperis by Frank E. Polo, Sr. (Attachment: # 1 E Application Form)(apz) (Entered: 01/09/2025)
01/13/2025	82	PAPERLESS ORDER granting 81 pro se Plaintiff Frank E. Polo, Sr.'s motion to proceed on appeal *in forma pauperis*. The Plaintiff has sufficiently established that he is indigent and, reading Polo's motion generously, the Court concludes he has complied with Federal Rule of Appellate Procedure 24(a)(1). Accordingly, any requirement to pay a filing fee for the appeal is waived. Signed by Senior Judge Robert N. Scola, Jr. (kbe) (Entered: 01/13/2025)
01/16/2025	83	Notice of Filing Certificate of No Transcript Ordered re 73 Notice of Appeal. USCA #25-10016-B. (apz) (Entered: 01/16/2025)
04/22/2025	84	Pursuant to 11th Cir. R. 11-2 and 11th Cir. R. 11-3, the Clerk of the District Court for the Southern District of Florida certifies that the record is complete for purposes of this appeal re: 73 Notice of Appeal, Appeal No. 25-10016-DD. The entire record on appeal is available electronically. (apz) (Entered: 04/22/2025)

PACER Service Center			
Transaction Receipt			
12/04/2025 14:13:37			
PACER Login:	FrankP72	**Client Code:**	
Description:	Docket Report	**Search Criteria:**	1:23-cv-21684-RNS
Billable Pages:	10	**Cost:**	1.00

APPENDIX 13

Docket sheets from the Eleventh Circuit.

General Docket
United States Court of Appeals for the Eleventh Circuit

Court of Appeals Docket #: 25-10016
Nature of Suit: 3440 Other Civil Rights
Frank Polo, Sr. v. Scott Bernstein, et al
Appeal From: Southern District of Florida
Fee Status: IFP Granted

Docketed: 01/03/2025
Termed: 10/01/2025

Case Type Information:
1) Private Civil
2) Federal Question
3) -

Originating Court Information:
District: 113C-1 : 1:23-cv-21684-RNS
Civil Proceeding: Robert N. Scola, Junior, Senior U.S. District Court Judge
Secondary Judge: Jonathan Goodman, U.S. Magistrate Judge
Date Filed: 05/04/2023
Date NOA Filed:
01/02/2025

Prior Cases:
None

Current Cases:
None

FRANK E. POLO, SR. Appellant	Plaintiff -	Frank E. Polo, Sr. [NTC Pro Se] 1475 SW 8TH ST APT 411 MIAMI, FL 33135
versus		
SCOTT M. BERNSTEIN Appellee	Defendant -	Christopher M. Sutter Direct: 954-712-4733 [COR LD NTC Government] Office of the Attorney General 110 SE 6TH ST FL 10 FORT LAUDERDALE, FL 33301 Florida Attorney General Service [NTC Government] Office of the Attorney General Firm: 850-414-3300 PL-01 THE CAPITOL 107 W GAINES ST TALLAHASSEE, FL 32399-1050
MARCIA DEL REY Appellee	Defendant -	Christopher M. Sutter Direct: 954-712-4733 [COR LD NTC Government] (see above) Florida Attorney General Service [NTC Government] (see above)
SPENCER MULTACK Appellee	Defendant -	Christopher M. Sutter Direct: 954-712-4733 [COR LD NTC Government] (see above) Florida Attorney General Service [NTC Government] (see above)

THOMAS LOGUE Appellee	Defendant -	Christopher M. Sutter Direct: 954-712-4733 [COR LD NTC Government] (see above) Florida Attorney General Service [NTC Government] (see above)
MANUEL A SEGARRA, III Appellee	Defendant -	Jennifer Rebeca Perez Alonso Direct: 305-669-3131 [NTC Retained] Beasley Demos & Brown LLC 201 ALHAMBRA CIR STE 801 CORAL GABLES, FL 33134 Stephanie E. Demos Direct: 305-371-3741 [NTC Retained] Beasley Demos & Brown LLC 201 ALHAMBRA CIR STE 801 CORAL GABLES, FL 33134
SEGARRA & ASOCIATES, P.A. Appellee	Defendant -	Jennifer Rebeca Perez Alonso Direct: 305-669-3131 [NTC Retained] (see above) Stephanie E. Demos Direct: 305-371-3741 [NTC Retained] (see above)
ST. THOMAS UNIVERSITY, INC. Appellee	Defendant -	Roberto J. Diaz Direct: 305-443-9162 [COR NTC Retained] J. Patrick Fitzgerald & Associates, PA Firm: 305-443-9162 110 MERRICK WAY STE 3B CORAL GABLES, FL 33134-5236
MERLIN HERNANDEZ Appellee	Defendant -	
RANDOLPH MARTINEZ Appellee	Defendant -	

FRANK E. POLO, SR.,

Plaintiff - Appellant,

versus

SCOTT M. BERNSTEIN,
in his Personal and Official Capacity,
MARCIA DEL REY,
in her Personal and Official Capacity,
SPENCER MULTACK,
in his Personal and Official Capacity
JUDGE THOMAS LOGUE,
MANUEL A SEGARRA, III,
in his Personal and Official Capacity, et al.,

Defendants - Appellees,

BERTILA SOTO,
in her official capacity, et al.,

Defendants.

01/03/2025	☐ 1 6 pg, 348.43 KB	CIVIL APPEAL DOCKETED. Notice of appeal filed by Appellant Frank E. Polo, Sr. on 01/02/2025. Fee Status: IFP Pending. USDC motion pending: Motion for leave to appeal in forma pauperis, DE 77 filed on 01/03/2025. Awaiting Appellant's Certificate of Interested Persons due on or before 01/24/2025 as to Appellant Frank E. Polo Sr.. Awaiting Appellee's Certificate of Interested Persons due on or before 02/03/2025 as to Appellees Scott M. Bernstein, Manuel A Segarra III and St. Thomas University, Inc.. [Entered: 01/06/2025 10:36 AM]
01/06/2025	☐ 2 4 pg, 144.48 KB	***No Action Taken - See DE 3*** Certificate of Interested Persons and Corporate Disclosure Statement filed by Party Frank E. Polo, Sr.. On the same day the CIP is served, any filer represented by counsel must also complete the court's web-based stock ticker symbol certificate at the link here http://www.ca11.uscourts.gov/web-based-cip or on the court's website. See 11th Cir. R. 26.1-1(b). [25-10016]--[Edited 01/07/2025 by MNL] (ECF: Frank Polo) [Entered: 01/06/2025 08:37 PM]
01/07/2025	☐ 3	Notice that no action will be taken on Certificate of Interested Persons filed by Appellant Frank E. Polo, Sr. Reason(s) no action being taken on filing(s):the CIP is not signed, see 11th Cir. R. 25-4. [Entered: 01/07/2025 08:49 AM]
01/07/2025	☐ 4 4 pg, 212.17 KB	AMENDED Certificate of Interested Persons and Corporate Disclosure Statement filed by Party Frank E. Polo, Sr.. On the same day the CIP is served, any filer represented by counsel must also complete the court's web-based stock ticker symbol certificate at the link here http://www.ca11.uscourts.gov/web-based-cip or on the court's website. See 11th Cir. R. 26.1-1(b). [25-10016] (ECF: Frank Polo) [Entered: 01/07/2025 11:31 AM]
01/13/2025	☐ 5 5 pg, 283.26 KB	*** NO ACTION TAKEN, SEE DE 6 *** Notice of Filing Designation of Record on Appeal with the lower court. filed by Party Frank E. Polo, Sr.. [25-10016]--[Edited 01/15/2025 by ASR] (ECF: Frank Polo) [Entered: 01/13/2025 09:32 PM]
01/15/2025	☐ 6 2 pg, 136.66 KB	Notice that no action will be taken on filed by Party Frank E. Polo, Sr.. Reason(s) no action being taken on filing(s): The filing is deficient for failure to comply with this Court's rules on Certificate of Compliance. See FRAP 32(g)(1). Additionally, the filing is deficient for failure to comply with this Court's rules on Certificates of Interested Persons and Corporate Disclosure Statements. See 11th Cir. R. 26.1-1.. [Entered: 01/15/2025 02:32 PM]
01/15/2025	☐ 7 2 pg, 145.26 KB	Notice of Correcting Address on File filed by Party Frank E. Polo, Sr.. [25-10016] (ECF: Frank Polo) [Entered: 01/15/2025 10:24 PM]
01/16/2025	☐ 8 1 pg, 59.41 KB	APPEARANCE of Counsel Form filed by Christopher Sutter for Appellees Scott Marcus Bernstein, Marcia Del Rey, Thomas Logue, and Spencer Multack Related cases? No. [25-10016] (ECF: Christopher Sutter) [Entered: 01/16/2025 09:30 AM]
01/16/2025	☐ 9 4 pg, 112.15 KB	AMENDED Certificate of Interested Persons and Corporate Disclosure Statement filed by Party Frank E. Polo, Sr.. On the same day the CIP is served, any filer represented by counsel must also complete the court's web-based stock ticker symbol certificate at the link here http://www.ca11.uscourts.gov/web-based-cip or on the court's website. See 11th Cir. R. 26.1-1(b). [25-10016] (ECF: Frank Polo) [Entered: 01/16/2025 12:43 PM]
01/16/2025	☐ 10 5 pg, 126.16 KB	Amended Notice of Filling Designation of Record on Appeal. filed by Party Frank E. Polo, Sr.. [25-10016] (ECF: Frank Polo) [Entered: 01/16/2025 12:45 PM]
01/16/2025	☐ 11 1 pg, 37.07 KB	USDC order granting IFP as to Appellant Frank E. Polo, Sr. was filed on 01/13/2025. Docket Entry 82. [Entered: 01/16/2025 02:27 PM]
01/16/2025	☐ 12 2 pg, 62.79 KB	TRANSCRIPT ORDER form filed by Party Frank E. Polo, Sr.. No transcript is required for appeal purposes. [Entered: 01/16/2025 02:36 PM]
01/16/2025	☐ 13 2 pg, 92.72 KB	Briefing Notice issued to Appellant Frank E. Polo, Sr.. The appellant's brief is due on or before 02/12/2025. The appendix is due no later than 7 days from the filing of the appellant's brief. [Entered: 01/16/2025 02:39 PM]
01/20/2025	☐ 14 1 pg, 137.86 KB	APPEARANCE of Counsel Form filed by Roberto J. Diaz for St. Thomas University, Inc.. Related cases? No. [25-10016] (ECF: Roberto Diaz) [Entered: 01/20/2025 09:25 AM]
01/29/2025	☐ 15 4 pg, 128.4 KB	Certificate of Interested Persons and Corporate Disclosure Statement filed by. On the same day the CIP is served, any filer represented by counsel must also complete the court's web-based stock ticker symbol certificate at the link here http://www.ca11.uscourts.gov/web-based-cip or on the court's website. See 11th Cir. R. 26.1-1(b). [25-10016] (ECF: Christopher Sutter) [Entered: 01/29/2025 10:44 AM]
01/29/2025	☐ 16 5 pg, 377.71 KB	Certificate of Interested Persons and Corporate Disclosure Statement filed by Roberto J. Diaz for St. Thomas University. On the same day the CIP is served, any filer represented by counsel must also complete the court's web-based stock ticker symbol certificate at the link here http://www.ca11.uscourts.gov/web-based-cip or on the court's website. See 11th Cir. R. 26.1-1(b). [25-10016] (ECF: Roberto Diaz) [Entered: 01/29/2025 03:40 PM]

02/11/2025	☐ 17 41 pg, 274.06 KB	Appellant's brief filed by Frank E. Polo, Sr.. [25-10016] (ECF: Frank Polo) [Entered: 02/11/2025 10:48 PM]
02/11/2025	☐ 18 128 pg, 6.86 MB	Appendix filed [1 VOLUMES] by Appellant Frank E. Polo, Sr.. [25-10016] (ECF: Frank Polo) [Entered: 02/11/2025 10:59 PM]
02/17/2025	☐ 19 7 pg, 42.18 KB	*MOTION to correct or amend brief, to correct appendix filed by Frank E. Polo, Sr.. Opposition to Motion is Unknown. [19]* [25-10016] (ECF: Frank Polo) [Entered: 02/17/2025 03:23 PM]
03/03/2025	☐ 20	Notice of deficient Motion to Amend filed by Frank E. Polo, Sr.. Amended Brief and Appendix weren't attached as exhibits. Appellant must file a corrected motion using the Amend, Correct or Supplement Motion event within 5 days. --[Edited 03/10/2025 by JFC] [Entered: 03/03/2025 03:25 PM]
03/07/2025	☐ 21	Over the phone extension granted by clerk as to Attorney Christopher M. Sutter for Appellees Scott M. Bernstein, Thomas Logue, Marcia Del Rey and Spencer Multack. Appellee's Brief due on 04/14/2025 as to Appellee Scott M. Bernstein.. **Any request for a second or subsequent extension of time shall be subject to 11th Cir. R. 31-2(d).** [Entered: 03/07/2025 09:39 AM]
03/07/2025	☐ 22	Over the phone extension granted by clerk as to Attorney Roberto J. Diaz for Appellee St. Thomas University, Inc.. Appellee's Brief due on 04/14/2025 as to Appellee St. Thomas University, Inc.. **Any request for a second or subsequent extension of time shall be subject to 11th Cir. R. 31-2(d).** [Entered: 03/07/2025 09:59 AM]
03/13/2025	☐ 23 557 pg, 29.84 MB	*Amended Motion to correct or amend brief [19], Motion to correct appendix [19] filed by Appellant Frank E. Polo, Sr.*. [25-10016] (ECF: Frank Polo) [Entered: 03/13/2025 07:58 PM]
03/17/2025	☐ 24 1 pg, 85.68 KB	ORDER: Motion to correct or amend brief filed by Appellant Frank E. Polo, Sr. is GRANTED by clerk [23].; [19]. [Entered: 03/17/2025 02:47 PM]
03/17/2025	☐ 25 40 pg, 201.45 KB	AMENDED Appellant's brief filed by Frank E. Polo, Sr.. Service date: 03/17/2025 [25-10016] Attorney for Appellee: Alonso - US mail; Attorney for Appellee: Attorney General Service - email; Attorney for Appellee: Demos - US mail; Attorney for Appellee: Diaz - email; Attorney for Appellee: Sutter - email. [Entered: 03/17/2025 02:51 PM]
03/17/2025	☐ 26 510 pg, 28.72 MB	AMENDED Appendix filed [2 VOLUMES - 1 copies] by Party Frank E. Polo, Sr.. Service date: 03/17/2025 email - Appellant Polo; Attorney for Appellees: Attorney General Service, Diaz, Sutter; US mail - Attorney for Appellees: Alonso, Demos. [Entered: 03/17/2025 02:52 PM]
03/21/2025	☐ 27	Received 4 paper copies of EBrief, filed by pro se Appellant Frank E. Polo, Sr.. [Entered: 03/21/2025 02:43 PM]
03/21/2025	☐ 28	Received paper copies of EAppendix filed by pro se Appellant Frank E. Polo, Sr.. 2 VOLUMES - 1 COPY.--[Edited 07/02/2025 by KJJ] [Entered: 03/21/2025 02:44 PM]
04/07/2025	☐ 29 7 pg, 44.07 KB	*MOTION (1) Direct the Clerk's office to ensure that the Appellant's address is properly included on all relevant service lists for filings related to this case, and (2) that all future filings, notices, and documents are promptly sent to the Appellant. filed by Frank E. Polo, Sr.. Opposition to Motion is Unknown. [29]* [25-10016] (ECF: Frank Polo) [Entered: 04/07/2025 02:02 PM]
04/11/2025	☐ 30 22 pg, 204.33 KB	Appellee's Brief filed by Appellee St. Thomas University, Inc.. [25-10016] (ECF: Roberto Diaz) [Entered: 04/11/2025 11:21 AM]
04/14/2025	☐ 31 28 pg, 248.51 KB	Appellee's Brief filed by Appellees Scott M. Bernstein, Marcia Del Rey, Thomas Logue and Spencer Multack. [25-10016] (ECF: Christopher Sutter) [Entered: 04/14/2025 02:19 PM]
05/02/2025	☐ 32 24 pg, 229.45 KB	Reply Brief filed by Appellant Frank E. Polo, Sr.. [25-10016] (ECF: Frank Polo) [Entered: 05/02/2025 07:03 PM]
05/13/2025	☐ 33 3 pg, 108.11 KB	ORDER: Appellant's Motion Regarding Failure to Receive Filings and Service Notifications is DENIED AS UNNECESSARY. [29] ALB (See attached order for complete text) [Entered: 05/13/2025 11:19 AM]
05/16/2025	☐ 34 2 pg, 113.27 KB	NOTICE TO PARTIES: Within **seven days** of the date of this notice, each party must send to the Court paper copies of the party's brief(s) and appendix, if any, as specified in the attached notice. [Entered: 05/16/2025 12:40 PM]
05/20/2025	☐ 35 92 pg, 3.62 MB	***FILED WITHOUT LEAVE OF COURT***Supplemental Appendix [1 VOLUMES] filed by Appellees Scott M. Bernstein, Marcia Del Rey, Thomas Logue and Spencer Multack. [25-10016]--[Edited 05/30/2025 by KJJ] (ECF: Christopher Sutter) [Entered: 05/20/2025 01:13 PM]
05/21/2025	☐ 36	Received paper copies of Appellee brief [2 copies] for Appellee St. Thomas University, Inc.. [Entered: 05/21/2025 10:02 AM]
05/21/2025	☐ 37 8 pg, 136.98 KB	*MOTION for access to record on appeal, to correct appendix filed by Frank E. Polo, Sr.. Opposition to Motion is Unknown. [37]* [25-10016] (ECF: Frank Polo) [Entered: 05/21/2025 01:51 PM]
05/21/2025	☐ 38 7 pg, 130.52 KB	*MOTION to strike Docket 35, Filed on May 20, 2025. Supplemental Appendix [1 VOLUMES] filed by Appellees Scott M. Bernstein, Marcia Del Rey, Thomas Logue and Spencer Multack. [25-10016] (ECF:*

		Christopher Sutter) [Entered: 05/20/2025 01:13 PM] filed by Frank E. Polo, Sr.. Opposition to Motion is Unknown. [38] [25-10016] (ECF: Frank Polo) [Entered: 05/21/2025 01:55 PM]
05/22/2025	☐ 39	Received paper copies of Appellees brief [2 copies] and appendix, [2 copies] [1 volume] for Appellees Scott M. Bernstein, Marcia Del Rey and Spencer Multack. [Entered: 05/22/2025 10:49 AM]
05/23/2025	☐ 40 6 pg, 143.45 KB	*MOTION filed by Scott M. Bernstein, Marcia Del Rey, Thomas Logue and Spencer Multack. Motion is Opposed. [40]* [25-10016] (ECF: Christopher Sutter) [Entered: 05/23/2025 11:31 AM]
05/24/2025	☐ 41 9 pg, 51.92 KB	RESPONSE to Motion [40] with incorporated *MOTION to strike Docket No. 35. Supplemental Appendix [1 VOLUMES] filed by Appellees Scott M. Bernstein, Marcia Del Rey, Thomas Logue and Spencer Multack.* filed by Appellant Frank E. Polo, Sr.. Motion is Opposed. [41] [25-10016] (ECF: Frank Polo) [Entered: 05/24/2025 06:30 PM]
05/25/2025	☐ 42 6 pg, 127.47 KB	Notice of Partial Withdrawal of MOTION for access to record on appeal, to correct appendix filed by Frank E. Polo, Sr. [docket No. 37] filed by Party Frank E. Polo, Sr.. [25-10016] (ECF: Frank Polo) [Entered: 05/25/2025 02:41 PM]
05/27/2025	☐ 43	Received paper copies of Appellant Corrected brief [2 copies] and reply brief, [2 copies] for Appellant Frank E. Polo, Sr.. [Entered: 05/27/2025 02:07 PM]
05/27/2025	☐ 44 2 pg, 113.59 KB	Notice that no action will be taken on Notice of Partial Withdrawal of Motion for access to record on appeal, to correct appendix filed by Appellant Frank E. Polo, Sr.. Reason(s) no action being taken on filing(s): Motion for partial withdrawal of motion filed with the incorrect event. [Entered: 05/27/2025 04:49 PM]
05/29/2025	☐ 45 6 pg, 41.72 KB	*Amended Motion for access to record on appeal [37], Motion to correct appendix [37] filed by Appellant Frank E. Polo, Sr.*. [25-10016] (ECF: Frank Polo) [Entered: 05/29/2025 12:34 AM]
05/30/2025	☐ 46 2 pg, 116.19 KB	Notice that no action will be taken on Supplemental Appendix filed by Appellees Scott M. Bernstein, Marcia Del Rey and Thomas Logue. Reason(s) no action being taken on filing(s): A motion to file the document(s) out of time has not been filed. See 11th Cir. R. 42-1(b).. [Entered: 05/30/2025 12:28 PM]
06/02/2025	☐ 47 98 pg, 3.76 MB	*MOTION for leave to file Appellees Bernstein, Del Rey, Multack and Logue's Appendix out of time filed by Scott M. Bernstein, Marcia Del Rey, Thomas Logue and Spencer Multack. Opposition to Motion is Unknown. [47]* [25-10016] (ECF: Christopher Sutter) [Entered: 06/02/2025 12:30 PM]
06/10/2025	☐ 48 11 pg, 56.02 KB	RESPONSE to Motion for Leave to File Out of Time filed by Appellees Scott M. Bernstein, Marcia Del Rey, Thomas Logue and Spencer Multack [47] filed by Party Frank E. Polo, Sr.. [25-10016] (ECF: Frank Polo) [Entered: 06/10/2025 03:32 PM]
07/07/2025	☐ 49 3 pg, 109.21 KB	ORDER: Appellant's motion to withdraw his request for relief from the ECF header requirement is GRANTED. That request is WITHDRAWN. Appellant's motions to correct docket entry 28 are DENIED AS MOOT. The motions by Appellees Bernstein, Del Rey, Multack, and Logue to file their appendix out of time are GRANTED. Appellant's motions to strike are DENIED.[37]; [37]; [38], [41]; [40]; [45]; [47] EJK (See attached order for complete text) [Entered: 07/07/2025 10:29 AM]
07/07/2025	☐ 50 91 pg, 3.54 MB	Appendix filed [1 VOLUMES - 1 copies] by Attorney Christopher M. Sutter for Appellees Scott M. Bernstein, Thomas Logue, Marcia Del Rey and Spencer Multack. Service date: 07/07/2025 email - Appellant Polo; Attorney for Appellees: Attorney General Service, Diaz, Sutter; US mail - Attorney for Appellees: Alonso, Demos. [Entered: 07/07/2025 10:33 AM]
10/01/2025	☐ 51 8 pg, 152.38 KB	Opinion issued by court as to Appellant Frank E. Polo, Sr.. Decision: Affirmed. Opinion type: Non-Published. Opinion method: Per Curiam. The opinion is also available through the Court's Opinions page at this link http://www.ca11.uscourts.gov/opinions. [Entered: 10/01/2025 11:59 AM]
10/01/2025	☐ 52 2 pg, 29.45 KB	Judgment entered as to Appellant Frank E. Polo, Sr.. [Entered: 10/01/2025 12:03 PM]
10/14/2025	☐ 53 22 pg, 188.35 KB	Petition for rehearing en banc (with panel rehearing) filed by Appellant Frank E. Polo, Sr.. [25-10016] (ECF: Frank Polo) [Entered: 10/14/2025 09:37 AM]
10/20/2025	☐ 54	Received FOUR paper copies of pro se E-PFR filed by Appellant Frank E. Polo, Sr.. [Entered: 10/20/2025 01:53 PM]
11/21/2025	☐ 55 3 pg, 108.83 KB	ORDER: The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. FRAP 40. The Petition for Panel Rehearing also is DENIED. FRAP 40 [55] [Entered: 11/21/2025 01:51 PM]
11/30/2025	☐ 56 11 pg, 159.23 KB	*MOTION to stay mandate filed by Frank E. Polo, Sr.. Opposition to Motion is Unknown. [56]* [25-10016] (ECF: Frank Polo) [Entered: 11/30/2025 11:54 PM]
12/02/2025	☐ 57 2 pg, 25.53 KB	ORDER: Appellant's motion to stay the issuance of the mandate pending a petition for writ of certiorari is DENIED. [56] ENTERED FOR THE COURT - BY DIRECTION. [Entered: 12/02/2025 03:25 PM]

Select All | Clear All

◉ **Documents and Docket Summary**
○ **Documents Only**

☐ **Include Page Numbers**

Selected Pages: 0 **Selected Size:** 0 KB

View Selected

PACER Service Center			
Transaction Receipt			
12/04/2025 14:17:17			
PACER Login:	FrankP72	**Client Code:**	
Description:	Docket Report (filtered)	**Search Criteria:**	25-10016
Billable Pages:	5	**Cost:**	0.50

APPENDIX 14

Excerpts from Appellant's AMENDED Initial Brief (11th Cir. Doc. No. 25) (Filed on March 17, 2025).

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

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

FRANK E. POLO, SR.

Plaintiff/Appellant,

v.

SCOTT BERNSTEIN, et al.

Defendants/Appellees,

On Appeal from the Southern District of Florida
Case No. 1:23-cv-21684-RNS
Miami-Dade County Division;
The Hon. Robert N. Scola, Jr.

AMENDED APPELLANT'S INITIAL BRIEF

Frank E. Polo Sr.
Pro Se
1475 SW 8th St Apt 411
Miami, FL. 33135
Phone: (305) 901-3360
Email: Frank.Polo@msn.com

JURISDICTIONAL STATEMENT

District Court's Subject Matter Jurisdiction: Jurisdiction is proper under 42 U.S.C. §§ 1983, and federal question jurisdiction exists under 28 U.S.C. §§ 1331 and 28 U.S.C. § 1343. The District Court may grant declaratory relief under 28 U.S.C. § 2201, injunctive relief and damages under 28 U.S.C. § 1343(a), and attorneys' fees under 42 U.S.C. § 1988. The Court also has supplemental jurisdiction over all related claims under 28 U.S.C. § 1367.

Appellate Jurisdiction: This Honorable Court has jurisdiction pursuant to 28 U.S.C. § 1291, as this is an appeal from a final decision of the United States district court for the Southern District of Florida, which is within the Eleventh Circuit. Furthermore, on **July 24, 2024**, the United States District Court for the Southern District of Florida entered judgment (**VOL 2- ECF: 56**) in the lower court case. The plaintiff filed a timely Rule 59(e) motion, which the lower court disposed of on **December 4, 2024** (**VOL 2- ECF: 72**). The plaintiff has since filed a timely notice of appeal on **January 3, 2025**, seeking a review of the district court's decision by this Honorable Court, thereby conferring jurisdiction over this appeal.

STATEMENT OF THE ISSUES ON APPEAL

ISSUE No. 1: Whether the district judge's failure to recuse himself—despite his professional and political connections to parties involved—violated the Appellant's constitutional rights to access to the court and to a fair and just

proceeding under the First and Fifth Amendments and constituted an abuse of discretion under 28 U.S.C. § 455, thereby requiring vacatur of the final judgment and reassignment to a different judge.

ISSUE No. 2: Whether the lower court erred in failing to apply the correct legal standard in determining whether the pro se pleading was "informative enough to permit a court to readily determine if it states a claim upon which relief can be granted," as established in **Downing v. MIDLAND FUNDING, LLC**, No. 2: 15-cv-00737-RDP (N.D. Ala. Jan. 12, 2016), and derived from **Weiland v. Palm Beach Cty. Sheriff's Office**, 792 F.3d 1313 (11th Cir. 2015).

ISSUE No. 3: Whether the court failed to apply the correct principle of law by ignoring the long-standing principle in the 11th Circuit that states, "a dismissal with prejudice, whether on motion or sua sponte, is an extreme sanction that may be properly imposed only when: `(1) a party engages in a clear pattern of delay or willful contempt (contumacious conduct); and (2) the district court specifically finds that lesser sanctions would not suffice[,]'" (**Weiland**, 792 F. 3d 1313 at 1331. Fn. 10).

STATEMENT OF THE CASE

1. PROCEDURAL HISTORY

1. On **May 4, 2023**, Appellant filed suit in the U.S. District Court for the Southern District of Florida, alleging violations of the First and Fourteenth

assessed the complaint, it would have found plausible claims that warrant further review under § 1983.

36.The dismissal with prejudice was an extreme and improper sanction, as it failed to meet the criteria outlined in **Weiland**, requiring a pattern of delay or willful contempt. The Appellant had made significant efforts to improve the complaint, reducing it from 140 pages to 40, organizing facts, and removing irrelevant details. The classification of the complaint as a "shotgun pleading" was incorrect, as it was organized and specific. The dismissal with prejudice would unfairly harm the Appellant, forcing him to litigate in a biased state court system. Therefore, the dismissal should be reversed.

ARGUMENT

4. ISSUE No. 1

(A) STANDARD OF REVIEW IS DENOVO AND ABUSE OF DISCRETION

37. This honorable Court reviews "a district court's denial of a motion to recuse or a motion to disqualify for abuse of discretion." **Crawford v. MARRIOTT INTERNATIONAL, INC.** (11th Cir, 2021) (citing **United States v. Bailey**, 175 F.3d 966, 968 (11th Cir. 1999); **Giles v. Garwood**, 853 F.2d 876, 878 (11th Cir. 1988).

38.However, constitutional claims, involving fundamental legal principles, are reviewed de novo. See **Ornelas v. United States**, 517 U.S. 690 (1996) (de novo

review applied to 4th Amendment reasonable suspicion and probable cause challenges).

(B) The Judge's Failure to Recuse Violated the Fifth Amendment right to Due Process, the First Amendment Access to the Court, and an abuse of Discretion under 28 U.S.C. § 455.

39. The Due Process Clause of the Fifth Amendment guarantees litigants the fundamental right to a fair and impartial tribunal. A judge's failure to recuse when impartiality is in question constitutes a violation of both procedural and substantive due process. As the U.S. Supreme Court has recognized, due process ensures that litigants receive "a *reasonably adequate opportunity to raise constitutional claims before impartial judges*." **Woodford v. Ngo,** 548 U.S. 81, 91 (2006) (citing **Lewis v. Casey,** 518 U.S. 343, 351 (1996)).

40. The U.S. Supreme Court has repeatedly emphasized that the right to access the courts is a *fundamental* constitutional right protected by the U.S. Const. 1st Amend. As the Court held in **Woodford v. Ngo,** 548 U.S. 81 (2006):

> "'[T]he right of access to the courts is an aspect of the First Amendment right to petition the Government for redress of grievances.'" (citing **Bill Johnson's Restaurants, Inc. v. NLRB**, 461 U.S. 731, 741 (1983)).

41. Rights that are "'deeply rooted in this Nation's history and tradition'" like access to the court, receive Constitutional Protection. *See* **Washington v. Glucksberg,** 521 U.S. 702, 720-721 (1997).

42. **Bounds v. Smith**, 430 US 817 (1977) the U.S. Sup. Ct. held that access to the court should be "meaningful and effective."

43. Moreover, as the U.S. Supreme Court recognized in **Bounds**, **430 U.S. 817** "[T]here is a 'fundamental constitutional right to access the courts'..."

44. Fed. R. Civ. P. 4(c)(3) creates a mandatory duty upon the court by stating that "[a]t the plaintiff's request, the court ... must so order [that service be made by a United States marshal or deputy marshal] if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. §1915."

45. In **Liljeberg v. Health Services Acquisition Corp.**, 486 U.S. 847 (1988) The Supreme Court emphasized that even the appearance of partiality can undermine public confidence in the judiciary and warrants vacatur. Moreover, the U.S. Sup. Ct. Stated:

> [P]roviding relief in cases such as this will not produce injustice in other cases; to the contrary, the Court of Appeals' willingness to enforce § 455 may prevent a substantive injustice in some future case by encouraging a judge or litigant to more carefully examine possible grounds for disqualification and to *promptly disclose* them when discovered.
>
> Id., at 868.

46. Under **28 U.S.C. § 455(a)**, a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." The statute mandates recusal when a judge has personal bias or prejudice concerning a party or has a close connection to a party involved in the litigation.

47.The district judge's actions demonstrate a lack of impartiality, violating the Appellant's right of court access. This includes: (1) inconsistently applying procedural rules, dismissing the case as a "shotgun pleading" without merit screening; (2) obstructing service by closing the case for a "non-viable complaint," then reopening it eight months later and ordering service of a similar defective complaint; (3) failing to disclose relationships with a party and Appellant's political rival; (4) closing the case and dismissing related motions; (5) later approving the renewed motion to proceed in forma pauperis but not ruling on service; (6) misleading Appellant about Judge Bernstein's immunity despite acknowledging his lack of subject matter jurisdiction when interfering with Appellant's property rights; (7) misleading Appellant about the sufficiency of facts establishing Judge Bernstein's deprivation of federal rights; (8) ignoring Appellant's legal brief supporting Fed. R. Civ. P. 59(e) motion; (9) knowing all along that the Appellant was suing on behalf of his children, which is prohibited in the 11th Circuit, but remaining silent about it; and (10) using 28 U.S.C. § 1915(e)(2)(B) as a pretext for dismissal, evidenced by denying Appellant's mandatory requested relief.

48.Arbitrary application of rules, preventing service, and misleading statements suggest bias, denying the Appellant a fair hearing and court access. Judge Scola's undisclosed 16-year work relationship with Defendant Judge Bernstein, and ties to Appellant's political rival, raise conflict of interest concerns and undermine

impartiality. Judge Scola abused his discretion by not recusing himself, given this undisclosed relationship and actions benefiting his former colleague, warranting reversal and reassignment.

49. The judge's refusal to step aside despite his ties to key figures involved in the case creates an appearance of bias that undermines confidence in the judicial process. His inconsistent rulings, failure to disclose pertinent relationships, ignoring clear defects like the Appellant suing on behalf of his children, and ultimate dismissal of the case with prejudice—despite the procedural irregularities—demonstrate a clear abuse of discretion that warrants reversal and reassignment.

5. ISSUE NO. 2:

(A) STANDARD OF REVIEW IN ISSUE 2 IS ABUSE OF DISCRETION

50. This Court reviews a district court's dismissal of a complaint as a shotgun pleading for abuse of discretion. **Weiland**, 792 F.3d 1313, at 1320.

(B) ARGUMENT: The Lower Court Erred by Dismissing the Complaint Without Properly Assessing Whether It Stated a Claim for Relief

51. The district court improperly dismissed the Appellant's complaint without a substantive analysis of whether it stated a claim upon which relief could be granted.

52.This Court, and the U.S. Sup. Ct. liberally construe pro se pleadings. **Tannenbaum v. United States**, 148 F.3d 1262, 1263 (11th Cir. 1998) *see also* **Haines v. Kerner**, 404 U.S. 519, 520 (1972).

53.In **Weiland**, 792 F.3d 1313, at 1320, this honorable court held that "The unifying characteristic of all types of shotgun pleadings is that they fail to one degree or another, and in one way or another, to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests." *See also* **Petlechkov v. Gilmer**, Court of Appeals, (11th Cir.), No. 24-11399 (2025) (vacating and remanding lower court's final Judgment when the complaint "provided the defendants with sufficient notice of the claims against them.")

54. A complaint is facially plausible where there is enough factual content to allow "the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." **Ashcroft v. Iqbal**, 556 U.S. 662, 678, 129 S. Ct. 1937, 1949, 173 L.Ed.2d 868 (2009).

55. Rule 12(e) provides in pertinent part that "[a] party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response." Fed. R. Civ. P. 12(e).

56. The district court in this case failed to follow the approach stated in **Weiland**, 792 F.3d 1313, dismissing Appellant's complaint outright rather than assessing whether it plausibly alleged a cause of action.

57. Furthermore, the lower court's dismissal is particularly problematic given the Appellant's pro se status, the court was required to construe the pleadings liberally. However, the district court disregarded this principle by failing to attempt any construction of the pleading, let alone liberally, and by striking multiple amended complaints without properly considering their substance, prioritizing form over substance.

58. Accordingly, the district court's dismissal should be reversed.

(C) The Complaint States Plausible Claims Under § 1983

59. For a § 1983 claim to allege a denial of procedural due process has three elements: "(1) a constitutionally protected interest in life, liberty or property; (2) governmental deprivation of that interest; and (3) the constitutional inadequacy of procedures accompanying the deprivation." **Bank of Jackson Cnty. v. Cherry**, 980 F.2d 1362, 1366 (11th Cir. 1993)

60. In this case, the complaint is meticulously organized. The facts pertaining to each defendant are presented in separate sections of the Statement of Facts, with only the relevant facts for each defendant included in their respective sections.

61. Each count is further subdivided to explain how each defendant's actions violated the plaintiff's constitutional rights under that specific count.

62. This structure ensures a clear, concise presentation, with a limited number of facts for each defendant's actions, illustrating how those actions violated the appellant's constitutional rights. The appellant also distinguished between Judge Bernstein's judicial acts, non-judicial acts, and actions committed after his recusal, i.e., those taken without jurisdiction.

63. The appellant's organizational approach resulted in 18 paragraphs detailing Bernstein's actions before recusal and 5 paragraphs addressing his acts after recusal. For St. Thomas University, there are 24 paragraphs in total. The facts concerning other defendants are not addressed here, as the appellant was unaware of the requirement to seek court permission to rejoin parties that were already part of the initial case. As a result, those defendants are not currently under the court's jurisdiction.

64. In sum, the appellant's approach led to: (1) 18 paragraphs for Bernstein's actions before recusal, and 5 paragraphs for his actions after recusal; (2) 24 paragraphs for St. Thomas University; and (3) exclusion of facts regarding other defendants, who are not presently under the court's jurisdiction due to the appellant's lack of awareness regarding the need to request permission to rejoin them.

65. The following is a summary of how the complaint stated a Plausible claim if it had been liberally construed:

COUNT 1

66. **PROPERTY INTEREST:** The Plaintiff alleges an **implied contract** with STU, based on the terms of the "Student Handbook 2014-2015," which guaranteed his enrollment in the legal education program. This forms the basis of his property interest in continued enrollment and receipt of a JD degree and Tax Law Certificate.

67. Courts have recognized property interests in education where an implied or explicit contract exists between the student and the institution.

68. **LIBERTY INTEREST:** The Plaintiff also asserts a liberty interest in his good name, reputation, honor, and integrity, which are protected under the 14th Amendment. The claim that Judge Bernstein's letter to STU contained false allegations of ethical misconduct implicates these interests, as damage to reputation can affect future career opportunities.

69. Consequently, liberally construed, Plaintiff's Count 1 sufficiently alleges deprivation of property and liberty interest under § 1983 by (1) identifying protected property and liberty interests; (2) Alleging state action by a public official acting under color of state law; (3) Describes a lack of procedural safeguards (notice and opportunity to be heard).

COUNT 2

70. Admittedly, the name of the count could be improved to clearly reflect the claim made within it: First Amendment Retaliation.

71. "'[T]he law is settled that as a general matter the First Amendment prohibits *government officials* from *subjecting an individual to retaliatory actions*, including criminal prosecutions, for speaking out.'" **Gonzalez v. Trevino**, 144 S. Ct. 1663 (2024) *quoting* **Hartman v. Moore**, 547 U.S. 250, 256, 126 S.Ct. 1695, 164 L.Ed.2d 441 (2006).

72."At the first step, the plaintiff must demonstrate that he engaged in protected speech and that his speech was a `substantial' or `motivating' factor in the defendant's decision to take action against him." **Gonzalez**, 144 S. Ct. 1663 at 1670.

73.*Protected Property Right*: The Appellant established that he had a protected property right to continued enrollment at STU, arising from STU's contractual obligations to the Plaintiff

74. *Engagement in Protected Activities*: The Appellant states that he engaged in protected activities such as "(1) requesting the government to vacate the final Judgment based on the corrupt acts of the GAL, (2) pursuing legal action against BERNSTEIN's co-conspirators for their wrongful acts, and (3) MR. POLO, as part of his political campaign, making public statements, printing materials, and giving

interviews, all promising to combat judicial corruption in the 11TH JUDICIAL CIRCUIT OF FLORIDA."

75.*Retaliatory Acts*: (1) The Appellant establishes that "Judge Bernstein, while acting as a State Judge and without subject matter jurisdiction, retaliated against the Plaintiff by engaging in the non-judicial act of sending a letter to STU on January 31, 2019, containing as an attachment his order of recusal (this, if true, overcomes judicial immunity, establishes state action, and retaliation). Additionally, (2) it established that Bernstein exercised his "judicial powers to terminate the Plaintiff's property interest in MR. POLO's continued enrollment at STU (representing his legal career) and his financial future, as retaliation for their engagement in the Protected Activities."

76.The Appellant established that Judge Bernstein, by engaging in the retaliation, violated the Appellant's First and Fourteenth Amendments, and thus violated 42 U.S.C. § 1983. It is clear that if the retaliation resulted in a procedural violation of due process, namely, depriving the Appellant of his right to notice and an opportunity to be heard before losing his right to continued enrollment, then not only was the First Amendment violated, but also the Fourteenth Amendment.

77.Therefore, had the District Court properly analyzed whether the Appellant stated a cause of action for which relief could be granted, the Court would have found that the Appellant stated a plausible cause of action under the First

Amendment for retaliation and the Fourteenth Amendment for deprivation of due process as a result of Judge Bernstein's retaliatory acts.

COUNT 3 It's Against Parties that Were Never Properly Joined

COUNT 4

78.Count 4 is a "Petition for Prospective Declaratory Judgment Under 28 U.S.C. § 2201 and Fed. R. Civ. P. 57"

79. "28 U.S.C. § 2201 (1982), echoing 1552*1552 the 'case or controversy' requirement of article III of the Constitution, provides that a declaratory judgment may only be issued in the case of an 'actual controversy.' That is, under the facts alleged, there must be a *substantial continuing controversy between parties* having adverse legal interests." **Emory v. Peeler**, 756 F. 2d 1547 (11th Cir. 1985), (*citing* **Lake Carriers' Association v. MacMullan**, 406 U.S. 498, 506, 92 S.Ct. 1749, 1755, 32 L.Ed.2d 257 (1972).

80. In this case, the Appellant's allegations demonstrate an ongoing controversy concerning his inability to access the courts and his claim that retaliation by judicial officers, including those at the Appellate level, continues to harm him.

81. Declaratory relief is appropriate if the Plaintiff can demonstrate a likelihood of future harm or ongoing deprivation of constitutional rights. For instance, the allegations of being barred from filing anything suggest ongoing harm, and being

denied due process by the Appellate court refusing to apply proper legal standards suggests ongoing harm.

82. Therefore, the petition for Prospective Declaratory Judgment Under 28 U.S.C. § 2201 and Fed. R. Civ. P. 57, is justified by the facts stated under COUNT 4.

COUNT 5

83. "In conspiracy cases, a defendant must be informed of the nature of the conspiracy which is alleged. It is not enough to simply aver in the complaint that a conspiracy existed." **Fullman v. Graddick**, 739 F. 2d 553 (11th Cir. (1984) (*citing* **Ostrer v. Aronwald**, 567 F.2d 551 (2d Cir.1977)

84. A conspiracy under § 1983 requires (1) an agreement by two or more individuals to deprive a person of his constitutional rights, and (2) the commission of an overt act that results in "an actual denial of one of his constitutional rights." **Weiland**, 792 F.3d at 1327.

85. ***Existence of a Conspiracy (Agreement):*** Paragraphs 169-170 allege that state actors (e.g., Judges Bernstein, Del Rey, and Multack) conspired with private individuals (e.g., Hernandez and Martinez) to achieve a common objective of depriving Mr. Polo of his constitutional rights.

86. The "meeting of the minds" is alleged in the form of coordinated actions, such as fabricating emergencies, delaying motions, and influencing decisions, which courts may infer from circumstantial evidence if sufficiently detailed.

87. **Overt Acts in Furtherance**: The Complaint describes numerous overt acts by the alleged conspirators, including: (1) Fabricating a false emergency to justify depriving Mr. Polo of custody (Paragraph 174); (2) Entrapping Mr. Polo into actions that could serve as pretexts for custody changes or contempt findings (Paragraphs 175-177); (3) Preventing Mr. Polo from filing motions or participating in hearings, thereby denying him access to the courts (Paragraphs 191-194); (4) Intentionally misapplying legal principles or delaying rulings to harm Mr. Polo's ability to challenge decisions (Paragraphs 205-210).

88. These detailed allegations outline specific acts that could support a plausible inference of conspiracy.

89. ***State Action:*** The Complaint identifies state actors (e.g., judges and magistrates) who allegedly abused their judicial authority to carry out the conspiracy.

90. Private individuals, such as Segarra, Hernandez, and Martinez, are alleged to have acted in concert with these state actors by fabricating evidence, influencing

court proceedings, and creating false allegations. If proven, these collaborations satisfy the state action requirement.

91. **Constitutional Violations**: The allegations assert multiple violations of constitutional rights, including (1) *Denial of Access to the Courts*: Repeated orders barring Mr. Polo from filing motions without notice or opportunity to be heard (Paragraphs 191, 194); (2) *Procedural Due Process*: Fabricated emergencies, false allegations, and delayed motions deprived Mr. Polo of custody rights without adequate legal process (Paragraphs 174-181); and (3) *Retaliation*: Adverse actions allegedly taken in response to Appellant's exercise of First Amendment-protected activities, including his legal filings and public advocacy against judicial corruption.

92. Therefore, the allegations contained in COUNT 5, when read liberally, outline a plausible conspiracy claim by describing coordinated actions, overt acts, and constitutional violations.

COUNT 6

93. COUNT 6 is a count for Conspiracy to Deprive Mr. Polo of His Right to Continued Enrollment at STU Without Due Process of Law

94. This count alleges that Judge Bernstein, Manuel A. Segarra III, and Merlin Hernandez conspired to deprive Mr. Polo of his property interest in continued enrollment at St. Thomas University (STU) without due process of law, in violation

of 42 U.S.C. § 1983. The Plaintiff asserts that the Defendants acted under color of state law and in concert with STU officials to fabricate a pretext for expulsion.

95.As previously stated, a conspiracy under § 1983 requires (1) an agreement by two or more individuals to deprive a person of his constitutional rights, and (2) the commission of an overt act that results in "an actual denial of one of his constitutional rights." **Weiland**, 792 F.3d at 1327.

96.1. *Agreement to Violate Constitutional Rights*: Paragraphs 218-219 allege that Judge Bernstein convened a meeting with STU officials (Dean Lawson and Dean Moore) to conspire to fabricate a pretext for expelling Mr. Polo from law school using STU's Honor Council process.

97.The allegation of a "meeting" where this agreement was made supports the existence of a conspiracy.

98.Paragraph 220 further asserts that the Honor Council rules prohibited such interference to resolve "personal conflicts," which strengthens the claim that the Defendants acted improperly in furtherance of the agreement they had with Bernstein.

99.Moreover, the timeline of events shows a synchrony between when STU made the agreement, and next day Scott Bernstein removed the Appellant's access to the Court without notice and opportunity to be heard.

100. Judge Bernstein is clearly a state actor, as he was acting in his capacity as a state judge.

101. STU officials (Dean Lawson and Dean Moore) and private individuals (e.g., Manuel A. Segarra) allegedly collaborated with Judge Bernstein. If true, their actions could be attributed to state action under joint action doctrine, where private parties act jointly with state actors to violate constitutional rights.

102. The allegation that Bernstein sent a letter in the "absence of all jurisdiction" containing his order of recusal, meaning that he was not the judge in the case anymore, reinforces that his actions may fall outside judicial immunity protections.

103. *Overt Acts in Furtherance of the Conspiracy*: Paragraph 219: Bernstein sent a letter containing his order of recusal as pretext to initiate the Honor Council process.

104. Paragraph 222: Segarra allegedly acted as an investigator for STU, providing filings to be used against Mr. Polo.

105. Paragraph 223: Dean Lawson finalized the expulsion based on allegedly false grounds.

106. *Deprivation of a Constitutional Right*: Property Interest: The Plaintiff claims a property interest in continued enrollment at STU, stemming from the terms

of the "Student Handbook 2014-2015." Courts have recognized such property interests when there is a contractual relationship between a student and an educational institution.

107. Lack of Due Process: The Plaintiff alleges that STU officials failed to follow their own Honor Code rules and did not base their decision on clear and convincing evidence as required. Additionally, he claims he was not afforded meaningful notice or an opportunity to be heard.

6. ISSUE No. 3

(A) Standard of Review de Novo

108. **Hopper v. Solvay Pharm., Inc.**, 588 F.3d 1318, 1324 (11th Cir. 2009) (holding that a dismissal with prejudice is reviewed de novo)

109. The dismissal with prejudice is an extreme and improper sanction under **Weiland**, 792 F.3d 1313, which requires (1) a pattern of delay or *willful contempt*, and (2) a finding that lesser sanctions would not suffice. The Court failed to meet these criteria in this case.

110. The dismissal with prejudice was improper under **Weiland**, which requires a pattern of delay or willful contempt and a finding that lesser sanctions would suffice. The court failed to meet these criteria. While citing Abdulla v. S. Bank, the court overlooked the Appellant's significant improvements to the complaint, reducing it from 140 pages to 40, organizing facts, and providing

supporting details. Classifying it as a "shotgun pleading" was an error, as the complaint was focused and organized, contrary to typical shotgun complaints. I cannot be said that the Complaint fails to state a cause of action.

111. There was no claim of confusion from the Appellees, nor did they request a more definite statement, indicating the complaint was sufficiently clear. Dismissing with prejudice was an extreme sanction, as there was no evidence of willful contempt or bad faith. The Appellant's efforts to comply with court instructions should not have been disregarded. The dismissal with prejudice unjustly harms the Appellant, forcing litigation in a biased state court system that has infringed on his rights, and should be reversed.

CONCLUSION

112. The judge's failure to recuse himself violated the Appellant's due process rights under the Fifth Amendment, as well as his First Amendment right to access the courts, constituting an abuse of discretion under 28 U.S.C. § 455. His failure to disclose a relationship with a political rival and his inconsistent rulings necessitate vacating the lower court's judgment and reassignment to preserve judicial integrity.

113. The lower court improperly dismissed the complaint without applying the correct legal standard for shotgun pleadings and without addressing the pending motion to dismiss. The Appellant's complaint clearly stated a cause of action and

put the defendants on notice. The dismissal with prejudice is unjust, as the Appellant made significant efforts to comply with court directives, and no evidence of willful misconduct exists to justify such a severe sanction. The case involves political retaliation, and the Appellant cannot expect a fair trial in the biased state court system.

WHEREFORE: Appellant respectfully asks this court to:

114. Remand this case to the District Court with instruction to assign a new judge to this case,

115. Vacate the final judgment with instruction to allow this case to continue into the discovery stage without any further delay, or/and

116. other and further relief as the court may deem to be just and proper.

Respectfully submitted,

By: /s/ 

Frank Polo Sr.

APPENDIX 15

Excerpts from Petition for Panel Rehearing and Rehearing En Banc. (Filed on Oct 14, 2025).

U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

FRANK E. POLO, SR.
Appellant,

v.

SCOTT BERNSTEIN, et al.
Appellees,
_____/

CASE NO.: 25-10016-B

DIST. CT. CASE NO.: 1:23-cv-21684-RNS

APPELLANT'S PETITION FOR PANEL REHEARING AND REHEARING EN BANC PURSUANT TO FED. R. APP. P. 40

1. **COMES NOW**, the Appellant Frank E. Polo, Sr., Pursuant to Fed. R. App. P. 40[1], and respectfully petitions for **panel rehearing** and **rehearing en banc** of this Court's **October 1, 2025**, opinion affirming dismissal of his action.

2. This case arises from Appellant's claims under 42 U.S.C. § 1983 alleging that a state judge and university officials colluded to retaliate against him for protected speech criticizing political and judicial corruption. The issues concern the integrity of judicial impartiality and access to the courts, matters of exceptional public importance warranting en banc review.

3. Rehearing is warranted because the panel opinion (1) **misapprehended critical facts** in the record, and (2) **misapplied or overlooked binding precedent** concerning judicial recusal, dismissal with prejudice, and liberal construction of pro se pleadings. These errors go to the heart of Appellant's constitutional claims of judicial bias and denial of access to the courts.

§ 1. PANEL REHEARING IS WARRANTED

I. FAILURE TO CONDUCT DE NOVO REVIEW OF LEGAL ISSUES

---

[1] Effective December 1, 2024, Fed. R. App. P. 35 was incorporated into Rule 40. Accordingly, this petition is filed under Rule 40, which now governs both panel and en banc rehearing.

4. Although this Court has described dismissals on "shotgun pleading" grounds as reviewed for abuse of discretion, see **Vibe Micro, Inc. v. Shabanets**, 878 F.3d 1291, 1294–95 (11th Cir. 2018), appellate review must still ensure that the district court correctly applied the governing legal standards. Whether the operative complaint actually fits within one of the four Weiland categories, and whether dismissal with prejudice was justified, are legal determinations that require independent review for legal error. See **Weiland v. Palm Beach County Sheriff's Office**, 792 F.3d 1313, 1320–23 (11th Cir. 2015).

5. The panel failed to apply that level of scrutiny. Rather than examining whether the operative complaint actually satisfied any of the **Weiland** categories, the panel summarily affirmed the dismissal. Appellant's amended complaint clarified the claims, reduced redundancy, and gave adequate notice to each defendant, as evidenced by the absence of any motion for a more definite statement under Rule 12(e). By deferring to the district court's conclusory "**shotgun**" label instead of independently verifying whether the complaint met **Weiland's** definitions, the panel effectively treated a legal determination as unreviewable discretion. That approach conflicts with **Vibe Micro** and **Weiland** and deprived the Appellant of full appellate consideration.

6. The panel also failed to conduct de novo review of a related pure question of law: whether the district judge's failure to disclose his long-standing professional and political relationships with parties involved, and his subsequent rulings that benefited his former judicial colleague, rose to the level of a constitutional violation of Appellant's right to a fair and impartial tribunal under the Fifth and Fourteenth Amendments. See **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009); **Liljeberg v. Health Servs. Acquisition Corp.**, 486 U.S. 847 (1988). This question, which implicates the structural integrity of the judicial process itself, required independent review because whether a judge's conduct violates the Due Process Clause is a structural constitutional question reviewed de novo.

II. THE PANEL MISCHARACTERIZED APPELLANT'S RECUSAL ARGUMENTS

7. The panel miscast Appellant's recusal claim as dissatisfaction with "adverse rulings" and the district judge's refusal to advise him of the law. (Op. 3–4). That is not what Appellant argued.

8. Appellant identified **two independent conflicts** that created at least an appearance of bias:

A) FAILURE TO DISCLOSE PROFESSIONAL RELATIONSHIP CONFLICT (SCOLA–BERNSTEIN).

9. Judge Scola worked in the **same Family Division of the Miami-Dade Circuit Court** as Defendant Judge Bernstein for **16 years,** not merely "in the same building."

10. This is not a casual acquaintance but a longstanding professional relationship.

11. Under **Liljeberg v. Health Servs. Acquisition Corp.**, 486 U.S. 847 (1988), impartiality is reasonably questioned when a judge presides over a case involving his long-term departmental colleague, fails to disclose that relationship, and issues rulings that objectively operate to that colleague's benefit.

B) POLITICAL RELATIONSHIP CONFLICT (SCOLA–RUBIO).

12. Judge Scola was recommended for his federal appointment by Senator Marco Rubio.

13. Senator Rubio was Appellant's **political rival**.

14. Appellant specifically asked Judge Scola to disclose any conflict concerning Rubio; Judge Scola denied any.

15. Appellant cited the **Congressional Record** showing Rubio's recommendation, yet the panel dismissed this argument as "speculative."

16. This was not speculation; it was documentary evidence establishing a political relationship relevant to impartiality under 28 U.S.C. § 455(a).

17. By mischaracterizing both conflicts as either speculative or based on "adverse rulings," the panel avoided the required recusal analysis under **Liljeberg**. Even if no actual bias existed, 28 U.S.C. § 455(a) requires recusal whenever a reasonable person, fully informed of the facts, would question the judge's impartiality.

III. THE PANEL OVERLOOKED KEY LEGAL ERRORS BY THE DISTRICT COURT, WHICH CONSISTENTLY BENEFITTED DEFENDANT JUDGE BERNSTEIN

18. **Misuse of § 1915(e)(2)(B):** The district court dismissed under § 1915(e)(2)(B) despite Appellant having paid filing fees, using In Forma Pauperis ("IFP") status as a pretext to dismiss without ordering Marshal service as required by Rule 4(c)(3). The panel did not address this contradiction. This deprived the Appellant of the benefit of proper service and judicial neutrality in the screening process. See Farese v. Scherer, 342 F.3d 1223, 1228 n.7 (11th Cir. 2003) ("Section 1915(e)(2)(B) applies only to IFP cases.").

19. **Dismissal With Prejudice Contrary to Weiland:** The district court dismissed with prejudice without findings of contumacious conduct or

consideration of lesser sanctions, contrary to **Weiland v. Palm Beach Cty. Sheriff's Off.**, 792 F.3d 1313 (11th Cir. 2015). The panel overlooked this precedent.

IV. FAILURE TO ANALYZE THE "SHOTGUN PLEADING" ISSUE

20. The panel affirmed dismissal by simply labeling Appellant's complaint a "shotgun pleading" without conducting the required analysis.

A) NO IDENTIFICATION OF SHOTGUN CATEGORY.

21. The panel opinion did not specify which category of shotgun pleading applied to Appellant's complaint. Instead, it summarily declared the pleadings "shotgun" and pointed only to the fact that Appellant had amended multiple times. This statement, by itself, does not make the final and operative complaint a shotgun pleading. Nor does the fact that Appellant added multiple parties. Neither circumstance satisfies any of the four categories identified in **Weiland**, 792 F.3d 1313, 1321–23, which focus on the internal structure and clarity of the pleadings, rather than the procedural history of amendments or the joinder of defendants.

B) FAILURE TO ADDRESS APPELLANT'S GOOD FAITH EFFORTS.

22. Appellant's amended complaint reduced the length from 147 to 40 pages, reorganized the claims, and removed unrelated allegations. These revisions show an effort to comply with court instructions, not contumacious

disregard. Additionally, none of the Appellees ever claimed to be confused or unable to understand the pleadings or what causes of action were brought against them, as shown by the absence of any motion for a more definite statement under Fed. R. Civ. P. 12(e). The only defendant to file a motion to dismiss, St. Thomas University (a law school), challenged the merits by asserting immunity from liability for breach of implied-in-law contract, gross negligence, and intentional infliction of emotional distress; it did not contend that the pleading was unclear. This record creates a prima facie perception of clarity that the panel ignored.

C) IGNORING CONTROLLING PRECEDENT.

23. Appellant cited **Weiland** and other Eleventh Circuit precedent establishing that dismissal with prejudice is a drastic sanction reserved for willful delay or contumacious conduct, and only after considering lesser sanctions.

24. The panel did not address why these precedents were inapplicable.

D) CONFLICT WITH PRO SE LIBERAL CONSTRUCTION STANDARD.

25. The Supreme Court has directed that pro se pleadings be liberally construed. **Haines v. Kerner**, 404 U.S. 519 (1972).

26. The panel opinion conflicts with **Haines** by affirming dismissal based on a conclusory label, without considering whether Appellant's allegations, if liberally construed, stated plausible claims under 42 U.S.C. § 1983. See **Haines**, 404 U.S. 519.

27. By refusing to analyze the pleadings under the standards of **Weiland** and **Haines**, the panel effectively substituted a label for reasoning. This conflicts with binding precedent and justifies rehearing.

§ 2. REHEARING EN BANC IS WARRANTED

28. En banc review is appropriate under Fed. R. App. P. 40(b)(2) because this case presents questions of **exceptional importance** and conflicts with precedent.

I. FAILURE TO APPLY DE NOVO REVIEW WARRANTS EN BANC CONSIDERATION

29. The panel's opinion conflicts with controlling Eleventh Circuit precedent governing dismissal of shotgun pleadings and with the Circuit's standards for reviewing pure legal questions. Under Eleventh Circuit law, dismissal of a complaint on *Rule 8* "shotgun pleading" grounds is subject to **abuse-of-discretion** review. *See* **Vibe Micro, Inc. v. Shabanets**, 878 F.3d 1291, 1294–95 (11th Cir. 2018). **Weiland v. Palm Beach County Sheriff's Office**, 792 F.3d 1313 (11th Cir. 2015), supplies the substantive framework,