

No. _____

In the Supreme Court of the United States

BENZO ELIAS RUDNIKAS,

Petitioner,

v.

STATE OF FLORIDA, ET AL.

Respondents.

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

APPENDIX

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Appendix A

[Filed: Dec. 18, 2025]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10671

BENZO ELIAS RUDNIKAS,

Plaintiff-Appellant,

versus

FIDELITY BROKERAGE SERVICES LLC,
STATE OF FLORIDA,
GOVERNOR OF FLORIDA,
THE ELEVENTH JUDICIAL CIRCUIT OF FLOR-
IDA,
JORGE E. CUETO, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:24-cv-24547-JEM

Before ROSENBAUM, BRASHER, and ABUDU, Circuit
Judges.

BY THE COURT:

Appellant's motion to voluntarily dismiss the ap-
peal as to Appellees BankUnited, N.A.; Fidelity Bro-
kerage Services, LLC; and U.S. Century Bank is
GRANTED.

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The motions of Appellees BankUnited, N.A. and Fidelity Brokerage Services, LLC for extensions of time to file their response briefs are DENIED AS MOOT.

The motion of Appellees Alex Cuello and the Law Office of Alex Cuello, P.A. (the "Cuello Appellees") to supplement the rec-ord is GRANTED for the limited purpose of adjudicating the pend-ing motions to dismiss the appeal.

The motions of the Cuello Appellees, Appellee Elena Z. George, and Appellee Maria Rudnikas to dismiss this appeal pursuant to the fugitive disentitlement doctrine are GRANTED.

Appellant's motion to strike the Cuello Appellees' reply in support of their motion to dismiss is DENIED AS MOOT.

Appellant's motion to stay adjudication of the motions to dismiss is DENIED AS MOOT.

Appellant's motion for sanctions against Appellee George is DENIED.

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Appendix B

[Filed: Mar. 10, 2026]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10671

BENZO ELIAS RUDNIKAS,

Plaintiff-Appellant,

versus

FIDELITY BROKERAGE SERVICES LLC,
STATE OF FLORIDA,
GOVERNOR OF FLORIDA,
THE ELEVENTH JUDICIAL CIRCUIT OF FLOR-
IDA,
JORGE E. CUETO, et al.,

Defendants-Appellees.

STOKES & GONZALEZ, P.A., et al.,

Defendants.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:24-cv-24547-JEM

Before ROSENBAUM, BRASHER, and ABUDU, Circuit
Judges.

BY THE COURT:

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Conflict Raised in *Express Scripts, et. al. v. California*,
No. 25-357" is DENIED.

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Appendix C

[Filed: Feb. 26, 2025]

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case Number: 24-24547-CIV-MARTINEZ

BENZO ELIAS RUDNIKAS,

Plaintiff

v.

FIDELITY BROKERAGE
SERVICES, LLC, *et al.*,

Defendants.

ORDER DISMISSING AMENDED COMPLAINT

THIS CAUSE came before the Court upon a *sua sponte* review of the record. On January 13, 2025, *pro se* Plaintiff Benzo Elias Rudnikas filed his Verified Amended Complaint ("Amended Complaint" or "Am. Compl.") against thirty Defendants, (ECF No. 30). Upon reviewing the Amended Complaint, the Court finds that it is a shotgun pleading and must be **DISMISSED without prejudice**. Plaintiff may file a second amended complaint, that must comport with this order no later than **March 26, 2025**.

I. BACKGROUND

This action is one of several initiated by Plaintiff that arise out of pending probate and guardianship proceedings concerning the estates of Plaintiff's father, Elias B. Rudnikas, and grandmother, Marta S.

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Rudnikas.¹ Plaintiff asserts, with no factual support and in contradiction to the underlying probate case, that he “inherits the entire estate of Elias B. Rudnikas as the beneficiary of the Estate of Marta Santander Rudnikas.” (Am. Compl. ¶ 2). Plaintiff was denied standing to object to the administration of his father’s probate proceedings, and that decision was affirmed on appeal. *See Rudnikas*, 389 So. 3d at 694. The Amended Complaint appears to bring claims on behalf of Plaintiff’s deceased father and grandmother as well as claims based on state court rulings in the underlying probate case. (*See Am. Compl.*).

II. LEGAL STANDARD

Courts must “construe *pro se* pleadings liberally, holding them to a less stringent standard than those drafted by attorneys.” *Arrington v. Green*, 757 F. App’x 796, 797 (11th Cir. 2018) (citing *Hughes v. Lott*, 350 F.3d 1157, 1160 (11th Cir. 2003)). Still, a *pro se* party must abide by “the relevant law and rules of court, including the Federal Rules of Civil Procedure.” *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989). Specifically, Federal Rule of Civil Procedure 8(a)(2), requires a complaint include “a short and plain statement of the claim showing that the pleader is entitled to relief.” Rule 10(b) also provides that “[a] party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of

¹ See, e.g., *Rudnikas v. Gonazlez et al.*, Case No. 23-cv-21201-JEM; *Rudnikas v. State of Florida, et al.*, Case No. 24-cv-22031; *State of Florida v. Rudnikas*, Case No. 24-cv-22733; *State of Florida v. Rudnikas*, Case No. 24-cv-23364; *State of Florida v. Rudnikas*, Case No. 24-cv-24996; *Rudnikas v. Gonzalez*, 389 So. 3d 691 (Fla. 3d DCA 2024).

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circumstances." The failures to comply with the Federal Rules may lead to dismissal of the entire action. See *Toth v. Antonacci*, 788 F. App'x 688, 691 (11th Cir. 2019) (affirming dismissal of *pro se* complaint on shotgun pleading grounds).

The leniency afforded to *pro se* litigants does not permit them to file an impermissible shotgun pleading. *Arrington*, 757 F. App'x at 797. There are four types of shotgun pleadings: (1) a "complaint containing multiple counts where each count adopts the allegations of all preceding counts"; (2) a complaint "replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action."; (3) a complaint that does not separate "into a different count each cause of action or claim for relief"; and (4) a complaint that "assert[s] multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions or which of the defendants the claim is brought against." *Weiland v. Palm Beach Cnty. Sheriff's Off.*, 792 F.3d 131, 1321-23 (11th Cir. 2015). "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." *Id.* at 1323.

The Eleventh Circuit has expressed increased frustration with district courts that let the case proceed despite such shotgun pleadings. See *Byrne v. Nezhat*, 261 F.3d 1075, 1130 (11th Cir. 2001). The *Byrne* court sought to avoid having district courts undergo the time-consuming process of "rearranging the pleadings and discerning whether the plaintiff has stated a claim, or claims, for relief, and whether the

defendant's affirmative defenses are legally sufficient." *Id.* at 1129. "Shotgun pleadings, if tolerated, harm the court by impeding its ability to administer justice. The time a court spends managing litigation framed by shotgun pleadings should be devoted to other cases waiting to be heard." *Id.* at 1131.

III. DISCUSSION

Plaintiff's 124-page, thirty-defendant Amended Complaint, containing numerous federal and state law claims and voluminous factual allegations, supplemented by 177 pages of exhibits, is anything but "short and plain." Fed. R. Civ. P. 8(a)(2). As such, it contains elements of all four categories of shotgun pleadings but falls primarily into the third and fourth categories. See *Yeyille v. Miami Dade Cnty. Pub. Sch.*, 643 F. App'x 882, 884–85 (11th Cir. 2016) (finding a complaint containing an "85-paragraph fact section spanning 31 pages, much of it written in narrative, diary-like form . . . a quintessential shotgun pleading.").

First, the Amended Complaint fails to "seperat[e] into a different count each cause of action or claim for relief." *Weiland*, 792 F.3d at 1323. Although the Complaint contains numbered paragraphs, these paragraphs are not "limited as far as practicable to a single set of circumstances." Fed. R. Civ. P. 10(b). The Court notes that Plaintiff arguably did not bring any claims as his Amended Complaint never numbers or labels any claims as counts brought against specific defendants. What the Court liberally construes to be counts are not numbered and are not clearly separated, making it "impossible for Defendants and the Court to determine with any certainty which factual allegations give rise to which claims for relief." *Jackson v. Bank*

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of Am., N.A., 8988 F.3d 1348, 1356 (11th Cir. 2018); see also *Jean-Baptiste v. Publix Super Markets, Inc.*, No. 23-12949, 2024 WL 1988965, at *2 (11th Cir. May 6, 2024) (complaint that “improperly listed, within a single paragraph, numerous causes of action in violation of Rules 8 and 10” was a shotgun pleading). Plaintiff must clearly separate out each cause of action.

Second, the Amended Complaint “asserts[s] multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions or which of the defendants the claim is brought against.” *Weiland*, 792 F.3d at 1323. In what the Court liberally construes to be counts, Plaintiff lists the names or initials of several Defendants followed by legal conclusions that the listed Defendants harmed him. The Amended Complaint does not allege which Defendant committed which action or how or why that action harmed Plaintiff. (See Am. Compl.). For example, Plaintiff appears to bring a claim for Violation of the Stored Communications Act, but fails to provide the actions of each Defendant:

496. Plaintiff reavers and realleges paragraphs 1–292 as if set forth fully herein as to Defendants Stokes & Gonzalez PA, Jacinto Jose Gonzalez, Mark Lee Stokes, Teresa Galindo and Further alleges the following:

497. Defendants intentionally accessed without authorization, or exceeded authorized access to, Plaintiff's stored electronic communicationis in violation of 18 U.S.C. § 2701(a), via the emails and whatsapp cellular

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communications of Elias B. Rudnikas, that the Ward had equitable title and of which Plaintiff inherited on May 29, 2024[,] via the Florida laws of Intestate succession

498. Defendant's actions were willful, malicious, and caused economic harm to Plaintiff because they facilitated unlawful misappropriation of trade secrets by the Defendant[s].

499. Plaintiff is entitled to relief under 18 U.S.C. § 2707.

500. Plaintiff is entitled to injunctive relief.

501. Plaintiff is entitled to damages.

502. Plaintiff is entitled to reasonable attorney[']s fees and costs.

(Am. Compl. ¶ 496–502). Plaintiff also lists “Gonzalez” in several Counts, but there are several Defendant with Gonzalez in their name (Mercedes Gisela Gonzalez Artiles, Jacinto Jose Gonzalez, and Stokes & Gonzalez, P.A.). Plaintiff often does not specify which specific Gonzalez he is referring to:

Defendants, MMR, GONZALEZ, GEORGE, CUELLO, CUELLO PA, LINARES, BARRETO, BILLBROUGH, BILLBROUGH FIRM, tortiously interfered with the Plaintiffs inheritance from Marta Santander Rudnikas by conspiring together, to engage in illicit Estate Planning for Marta Santander

Rudnikas, evidenced by Bareto's time sheet entries referencing to "Marta's papers", where the aforementioned Defendants's [sic.] sought to disinherit Plaintiff from all or at least certain assets, of Marta Santander Rudnikas.

(Am. Compl. ¶ 363). Plaintiff also brings several claims against attorneys in their individual capacity and the law firm without distinguishing between the actions of individuals and their firms:

Defendants, GONZALEZ, LINARES, BARRETO, BILLBROUGH, BILLBROUGH FIRM, tortiously interfered with the Plaintiffs inheritance from Marta Santander Rudnikas by conspiring together, to opposed [sic.] the transfer of the 3670 NW 6th Street commercial property from the Estate of Elias B. Rudnikas to the sole beneficiary of the Estate of Elias B. Rudnikas.

(Am. Compl. ¶ 369). The Amended Complaint fails "to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests." *Weiland*, 792 F.3d at 1323. Plaintiff's Complaint must allow each Defendant to be aware of the specific claims and allegations brought against it.

Third, the Amended Complaint is "replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action." *Weiland*, 792 F.3d at 1322. For example, Plaintiff alleges in a vague and conclusory fashion that Defendants Governor Ron DeSantis, the State of Florida, The Eleventh Judicial Circuit of Florida, Jorge E. Cueto, and

Nushin G. Sayfie discriminated against him because of his disability. (Am. Compl. ¶¶ 293–344). However, Plaintiff alleges no facts to indicate that any action or inaction was due to his disability. (*See id.*). Rather, the Amended Complaint includes eleven pages of long paragraphs describing rulings made by state court judges in the underlying probate case that Plaintiff did not agree with. (*See id.*). In fact, the majority probate case that Plaintiff disagrees with. Plaintiff's Complaint must include specific facts that directly relate to a specific defendant's acts or omissions for each particular cause of action.

In sum, Plaintiff's Complaint is an impermissible shotgun pleading that fails to give Defendants enough clarity to respond. Shotgun pleadings "are flatly forbidden by the spirit, if no the letter, of these [federal] rules because they are calculated to confuse the enemy, and the court, so that theories for relief not provided by law and which can prejudice an opponent's case, especially before the jury, can be masked." *Barmapov v. Amuial*, 986 F.3d 1321, 1324 (11th Cir. 2021) (quotation and citation omitted). Permitting a shotgun pleading to proceed "waste[s] scarce judicial resources, inexorably broaden[s] the scope of discovery, wreak[s] havoc on appellate court dockets, and undermine[s] the public's respect of the courts." *Id.* (quotation and citation omitted). Accordingly, Plaintiff's Complaint must be dismissed as a shotgun pleading.

IV. LEAVE TO AMEND

Plaintiff must be given at least one chance to amend his Complaint to adequately state a claim for relief. *Wagner v. First Horizon Pharm. Corp.*, 464 F.3d 1273, 1280 (11th Cir. 2006). Any amended pleading shall

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comply with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of Florida. Specifically, Rule 8(a) provides that a pleading which states a claim for relief must contain:

- (1) a short and plain statement of the grounds for court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;
- (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and
- (3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

Plaintiff must cure the deficiencies indentified in this Order by stating his claims as concisely as possible. To promote clarity, "each claim founded on a separate transaction or occurrence . . . must be stated in a separate count[.]" Fed. R. Civ. P. 10(b). Separate causes of action must be asserted independently and with supporting factual allegations as to each Defendant Plaintiff is bringing a claim against.

Plaintiff is forewarned that failure to comply with this Order may result in the dismissal of this case with prejudice or other appropriate sanctions. See *Jackson v. Bank of Am., N.A.*, 898 F.3d 1348, 1357–58 (11th Cir. 2018) ("[I]f the plaintiff fails to comply with the court's order—by filing a repleader with the same deficiency—the court should strike his pleading or, depending on the circumstances, dismiss his case and consider the imposition of monetary sanctions.").

This Court has serious concerns about Plaintiff's claims. The Court has explained to Plaintiff that it does not have authority to interfere with state court proceedings. (ECF No. 58). The Court has also explained to Plaintiff—at length—that he does not have standing to bring claims on behalf of his grandmother or his father. *Rudnikas v. Gonzalez et al.*, Case No. 23-cv-21201-JEM, ECF No. 222 at 4–9 (Sept. 6, 2024). The Court reminds Plaintiff that filings made to this Court must be “warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law,” and “the factual contentions [made in a pleading, written motion, or other paper must] have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.” Fed. R. Civ. P. 11(b)(2)–(3). Failure to comply with Rule 11 of the Federal Rules of Procedure may lead to appropriate sanctions. Fed. R. Civ. P. 11(c).

V. CONCLUSION

Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

1. The Verified Amended Complaint, (ECF No. 30), is **DISMISSED WITHOUT PREJUDICE** as a shotgun pleading.
2. On or before Wednesday, March 26, 2025, Plaintiff may file an amended complaint, labeled “Second Amended Complaint,” that must comply with the instructions in this Order.

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3. The Second Amended Complaint must show **Case Number: 24-24547-CIV-MARTINEZ** so that it will be filed in this case.
4. Plaintiff is cautioned that failure to file an amended complaint by **March 26, 2025, that complies with the instructions in this Order**, will result in the dismissal of this action under Fed. R. Civ. P. 41(b) for failure to prosecute or failure to comply with court orders.
5. This case is **CLOSED** for administrative purposes only, pending the filing of an Amended Complaint. This shall not affect the substantive rights of the parties.
6. All pending motions are **DENIED as moot**.

DONE AND SO ORDERED in chambers at Miami, Florida, this 25 day of February, 2025.

/s/ Jose E. Martinez
JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
Benzo Elias Rudnikas, *pro se*
All counsel of record

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Appendix D

[Filed: Jan. 31, 2025]

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case Number: 24-24547-CIV-MARTINEZ

BENZO ELIAS RUDNIKAS,

Plaintiff

v.

FIDELITY BROKERAGE
SERVICES, LLC, *et al.*,

Defendants.

OMNIBUS ORDER

THIS CAUSE came before the Court upon Plaintiff Benzo Elias Rudnikas's Verified Emergency Motion to Set Evidentiary Hearing for Preliminary, Permanent Injunction, (ECF No. 43), and Plaintiff's Emergency Motion¹ for Preliminary, Permanent Injunction, (ECF No. 35) (the "Motions"). The Court has reviewed the Motions, the Responses, (ECF Nos. 48, 49, 50), Plaintiff's Reply, (ECF No. 55), the record, and is otherwise fully advised in the premises. For the following reasons, Plaintiff's Motions, (ECF Nos. 35, 43), are **DE-NIED**.

¹ This Court struck the emergency designation because the motion failed to comply with S. D. Local Rule 7.1(a)(2). (ECF No. 39)

I. BACKGROUND

This action is one of several initiated by Plaintiff that arise out of pending probate and guardianship proceedings concerning the estates of Plaintiff's father, Elias B. Rudnikas, and grandmother, Marta S. Rudnikas.²

In the underlying probate case, the state court found that Plaintiff did not have standing to object to the administration of his father's probate proceedings³, and that Plaintiff was an abusive litigant deserving of a sanction limiting his filings. *In re: Rudnikas, Elias B.*, No. 2022-000238-CP-02, D.E. 243 at 2 (May 22, 2023); (ECF No. 55-1). The state court ordered that Plaintiff was barred from "further filings in this estate proceeding unless signed by a member in good standing of the Florida Bar. If [Plaintiff] submits a filing in violation of this order, he may be subjected to contempt proceedings or other appropriate sanctions." *Id.* at 3–4. However, in flagrant disregard of the state court's order, Plaintiff continued to make filings.

² See, e.g., *Rudnikas v. Gonzalez et al.*, Case No. 23-cv-21201-JEM; *Rudnikas v. State of Florida, et al.* Case No. 24-cv-22031; *State of Florida v. Rudnikas*, Case No. 24-cv-24996; *Rudnikas v. Gonzalez*, 389 So. 3d 691 (Fla. 3d DCA 2024).

³ Plaintiff continues to ignore this ruling. Plaintiff either does not understand that an appellate court affirming a lower court's ruling means that the ruling is still in effect, or Plaintiff—and Plaintiff's counsel—are intentionally misleading this Court. The state court clearly did not "reverse their previous decision of denying the disabled incompetent Ward her homestead," as touted by Plaintiff. (ECF No. 55 at 2). Rather, the court denied Plaintiff's motion to determine homestead because Plaintiff did not have standing to bring the motion.

The state court's ruling that Plaintiff lacked standing was affirmed on appeal. *Rudnikas*, 389 So. 3d at 694; (ECF No. 55-3 at 176-82). Despite this ruling, Plaintiff continued to make multiple filings in the proceeding. On May 6, 2024, Mercedes Gisela Gonzalez, as Personal Representative of the Estate of Elias Rudnikas, filed a motion for an order to show cause as to why Benzo Elias Rudnikas should not be found to be in indirect criminal contempt and/or motion for attorney fees and costs. (ECF No. 55-3 at 1).

On May 28, 2024, Plaintiff filed suit against the State Defendants⁴ in federal court asserting, among other claims, violations of Title II and Title V of the Americans with Disabilities Act ("ADA"). *Rudnikas v. State of Florida, et al.*, Case No. 24-cv-22031, ECF No. 1 at 27-37.

On May 30, 2024, after a hearing held on May 21, 2024, the state court struck three notices of *lis pendens* filed by Plaintiff because they were filed "in derogation of" the court's previous order barring Plaintiff from making filings in the case unless signed by a member in good standing of The Florida Bar. (ECF No. 55-5 at 1-2. The court "FURTHER ORDERED AND ADJUDGED that Benzo Rudnikas shall not interfere with the approved sale of the real property . . . Interference of any kind may result in contempt proceedings or other appropriate sactions." (*Id.* at 3).

On June 13, 2024, also as a result of the hearing held on May 21, 2024, the court issued an order to

⁴ Governor Ron DeSantis, The Eleventh Judicial Circuit of Florida, State Judge Jorge E. Cueto, and State Chief Judge Nushin G. Sayfie are collectively referred to as the "State Defendants" throughout this Order.

show as to why Plaintiff should not be held in criminal contempt for willfully failing to comply with the court's order. *In re: Rudnikas, Elias B.*, No. 2022-000238-CP-02, D.E. 338 (June 13, 2024); (ECF No. 55-6). The state court set a hearing on the court's order to show cause for February 5, 2025. *Id.* at D.E. 367 (Jan. 24, 2025).

On January 21, 2025, Plaintiff moved this Court to enjoin a criminal contempt proceeding in the underlying state probate case, (ECF No. 35). On January 24, 2025, after the Court struck the emergency designation, Plaintiff filed an emergency motion to set an evidentiary hearing regarding his motion for an injunction, (ECF No. 43). Plaintiff argues that an injunction should issue because the order to show cause, issued on June 13, 2024, was retaliation for Plaintiff filing ADA claims against State Defendants in Case No. 24-cv-22031. (ECF No. 35 at 2). Plaintiff presents no other evidence other than the temporal proximity. (See ECF No. 35).

II. DISCUSSION

Plaintiff seeks injunctive relief against the State Defendants, requesting that this Court prohibit (1) "the state defendants from moving forward with the ex post facto retaliatory indirect criminal contempt proceedings are [sic.] currently being reviewed at the United States Court of Appeals for the Eleventh Circuit; Case # 24-13914"; (2) "the State Defendants from issuing any other sanction in lieu of the criminal contempt proceedings, including but not limited to, awarding the [ex parte] non[-] compensable attorney's fees that Plaintiff is requesting this federal [c]ourt to disgorge"; and (3) "requiring the State Defendants to

immediately appoint him the Personal Representative of the Estate of Marta Santander Rudnikas which they are refusing to do so because of the ex post retaliatory criminal contempt proceedings[.]” (ECF No. 36 at 17–18).

A. The Anti-Injunction Act bars this Court from Granting an Injunction to Stay State Court Proceedings.

The Anti-injunction Act, §7 2283 of Title 28 of the United States Code (“Act”) states that “[a] court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.” Plaintiff seeks an injunction directing State Defendants to name him as Personal Representative of his grandmother’s estate, disgorge attorneys’ fees, and to prevent State Defendants from seeking criminal contempt proceedings. These issues are to be litigated in the state proceeding. Thus, this Court has no power to grant Plaintiff’s injunction.

Plaintiff argues that the May 22, 2023 order barring him from filing without a Florida attorney “lacks merit” because the issuing Judge later recused herself. (ECF No. 55 at 2–3). Plaintiff cites no case law to support to support the argument a Judge recusing from a case renders previous orders meritless. Further, the order was affirmed by an appellate court. *Rudnikas*, 389 So. 3d at 694. Plaintiff presents no argument and no evidence as to why this Court should disregard the order. Plaintiff also argues that the Act does not apply because “42 U.S.c. 12203(a)–(c) expressly authorized statutory injunctions by Federal Courts against public

entities, which includes all branches of state and local government, including state courts.” (ECF No. 55 at 5). This is false. Plaintiff has not, and cannot, cite any viable exception to the Act.

Plaintiff was ordered to refrain from filing in the probate case. Plaintiff ignored that directive and continued to make filings. Judge Cueto was acting well within his jurisdiction by issuing an order to show cause and is well within his jurisdiction to hold a hearing on the matter. The Anti-Injunction Act “serves as an absolute prohibition against enjoining state proceeding,” and exceptions to the Act are “construed narrowly by the courts.” *Burr & Forman v. Blair*, 470 F.3d 1019, 1028 (11th Cir. 2006). Thus, this Court is barred from granting Plaintiff his requested injunctive relief.

B. Plaintiff Fails to Establish Entitlement to Injunctive Relief.

“A preliminary injunction is an extraordinary remedy never awarded as of right.” *Winter v. Nat. res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). To obtain one, the moving party must establish four separate requirements: “(1) it has a substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest.” *Jones v. Governor of Fla.*, 950 F.3d 795, 806 (11th Cir. 2020) (quotation omitted). This Court will not grant a preliminary injunction “unless the movant clearly established the burden of persuasion as to each of the four prerequisites.” *Siegel v.*

LePore, 234 f.3d 1163, 1176 (11th Cir. 2000) (quotation omitted). Plaintiff fails to establish any of the four required prerequisites.

1. Plaintiff fails to show a substantial likelihood of success on the merits.

Plaintiff's request for injunctive relief relies heavily on the argument that he sufficiently demonstrated a prima facie case for retaliation pursuant to Title II of the ADA and section 504 of the Rehabilitation Act of 1973. (*See* ECF no. 35). To demonstrate a prima facie case of retaliation under the ADA, a plaintiff must show that (1) he engaged in statutorily protected expression; (2) he suffered an adverse action; and (3) the adverse action was causally related to the protected expression. *Higdon v. Jackson*, 393 F.3d 1211, 1219 (11th Cir. 2004). "The failure to satisfy any of these elements is fatal to a complaint of retaliation." *Id.*

Plaintiff argues that he engaged in statutorily protected expression when he filed federal lawsuits alleging Title II ADA claims against the State of Florida. (ECF No. 35 at 4). Plaintiff alleged Title II ADA claims on his own behalf for the first time on May 28, 2024, a few weeks after the motion to show cause was filed. *Rudnikas v. State of Florida, et al.*, Case No. 24-cv-22031, ECF No. 1 (May 28, 2024); (ECF No. 55-3 at 1). However, Plaintiff had already been threatened with contempt proceedings on May 22, 2023, when he was sanctioned for filing the first *lis pendens*, among other documents and motions—five months before he mentioned ADA in his federal lawsuits and one year before he made ADA claims on his own behalf. *See In re: Rudnikas, Elias B.*, No. 2022-000238-CP-02, D.E. 243 at 2 (May 22, 2023). Plaintiff cannot reasonably establish

that this contempt proceeding is in retaliation for his ADA claim.

Also, Plaintiff must show he has suffered an adverse action. The adverse action he attempts to establish is the contempt proceeding. But Plaintiff has been aware since May 22, 2023, that his violation of the order prohibiting him from filing in the probate case without a signature provided by a Florida attorney could lead to contempt proceedings. *See id.* Despite this knowledge, he continued to file documents in the case. Further, because the hearing is still pending, and he will receive the process he is due in the proceeding, there has been no adverse action at this time. A scheduled hearing alone is insufficient to demonstrate that the Plaintiff would suffer harm.

Finally, Plaintiff does not and cannot show that any adverse action taken was causally connected to the protected expression. Plaintiff's lawsuits were filed months after the probate court threatened to hold him in contempt if he violated the May 22, 2023 court order—which he violated multiple times. As Plaintiff cannot show that he has a substantial likelihood of success on the merits of his claims, he has not met the necessary requirements for injunctive relief.

2. Plaintiff cannot show that he will suffer irreparable harm.

Plaintiff must show the presence of irreparable injury if the injunction does not issue. Plaintiff argues that “irreparable harm is immediate because the judicial assistant for the state Defendants is instating [sic] on setting the criminal proceedings for hearing[.]” (ECF No. 35 at 10). A scheduled hearing to determine Plaintiff's case status and to address whether the

court should sanction him does not warrant an actual and imminent threat of harm. *It's A 10, Inc. v. Beauty Elite Grp., Inc.*, 932 F. Supp. 2d 1325, 1335 (S.D. Fla. 2013) (noting that a party seeking an injunction must show that such harm is actual and imminent, not remote or speculative).

3. Plaintiff cannot show that that the balance of equities and the public interest weigh in favor of granting the Motions.

The Court will consider the third and fourth requirements jointly. See *Scott v. Roberts*, 612 F.3d 1279, 1280 (11th Cir. 2010) (“[w]hen the state is a party, the third and fourth considerations are largely the same”); *Swain v. Junior*, 958 F.3d 1081, 1091 (11th Cir. 2020) (“where the government is the party opposing the preliminary injunction, its interest and harm merge with the public interest”). The balance weighs in favor of the State Defendants and against the extraordinary remedy of preliminary injunctive relief. The Anti-Injunction Act, combined with Plaintiff’s inability to show likelihood of success on the merits weigh in favor of denying the Motions. If the Motions were to be granted, the State itself would suffer a form of irreparable injury because it would substantially harm and disrupt the duty of the presiding state Judge to oversee the administration of the deceased person’s estate as swiftly and justly as possible.

Plaintiff cannot show any of the requirements for the Court to issue a preliminary injunction. Thus, Plaintiff fails meet his burden to establish his entitlement to injunctive relief.

C. An Evidentiary Hearing is Not Necessary

“An evidentiary hearing is required for entry of a preliminary injunction only ‘where facts are bitterly contested and credibility determinations must be made to decide whether injunctive relief should issue.’” *Cumulus Media, Inc. v. Clear Channel Commc’ns, Inc.*, 304 F.3d 1167, 1178 (11th Cir. 2002) (quoting *McDonald’s Corp. v. Robertson*, 147 F.3d 1301, 1312 (11th Cir. 1998)). “[W]here material facts are not in dispute, or where facts in dispute are not material to the preliminary injunction sought, district courts generally need not hold an evidentiary hearing.” *Robertson*, 147 F.3d at 1313. When there is little dispute as to raw facts, but much dispute as to the inferences to be drawn from those facts, “the balancing between speed and practicality versus accuracy and fairness [is a matter committed] to the sound discretion of the district court.” *Cumulus Media*, 304 F.3d at 1178 (quoting *Robertson*, 147 F.3d at 1313).

Plaintiff argues that the May 30, 2024 order striking the notices of *lis pendens* filed by Plaintiff is an order “denying the contempt and warning the Plaintiff herein that contempt could [sic.] proceedings could be initiated in the future,” and the June 13, 2024 order “completely diverted from the language in the initial [o]rder” and “initiated indirect criminal contempt proceedings” (ECF No. 55 at 7). This is an inaccurate representation of the state court orders. The May 30, 2024 order does not “deny[] the contempt,” rather, it grants the motion to strike because Plaintiff was acting in derogation of the court’s previous order. The order goes on to separately warn Plaintiff that

interference with the sale of the property at issue “may result in contempt proceedings or other appropriate sanctions.” (ECF No. 55-5 at 2–3). Put simply, the court established a second ground for sanctions, including contempt proceedings: interfering with the sale of the property at issue. (*See id.*). The June 13, 2024 order to show cause relates back to the May 22, 2023 order barring Plaintiff from filing in the case without a signature from a Florida attorney, and grants the motion to show cause filed on May 6, 2024. (*See* 55-6). The orders are not contradictory.

The material facts are not in dispute. All parties base their arguments on the filings in the underlying probate case. As such, there is no need for an evidentiary hearing. The Court’s review of the filings show that Plaintiff has not carried his burden of proof to support his motion for an injunction.

III. CONCLUSION

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Plaintiff’s Verified Emergency Motion to Set Evidentiary Hearing for Preliminary, Permanent Injunction, (ECF No. 43), and Plaintiff’s Motion for Preliminary, Permanent Injunction, (ECF No. 35), are **DENIED**.

DONE AND ORDERED in chambers at Miami, Florida, this 31 day of January, 2025.

/s/ Jose E. Martinez
JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
Benzo Elias Rudnikas, *pro se*
All counsel of record

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Appendix E

**Constitutional and Statutory
Provisions Involved**

U. S. Const., Art. III, § 2, cl. 1:

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party;—to Controversies between two or more States; between a State and Citizens of another State, between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

U. S. Const., Amdt. V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall

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be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

28 U. S. C. § 1291:

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.

28 U. S. C. § 1292(a):

(a) Except as provided in subsections (c) and (d) of this section, the courts of appeals shall have jurisdiction of appeals from:

- (1) Interlocutory orders of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the

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District Court of the Virgin Islands, or of the judges thereof, granting continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court."

28 U. S. C. § 1447(d):

An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1442 or 1443 of this title shall be reviewable by appeal or otherwise.

28 U.S.C. § 1443:

Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

- (1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;

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- (2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.

28 U. S. C. § 1442(a)(2):

(a) A civil action or criminal prosecution that is commenced in a State court and that is against or directed to any of the following may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending:

- (1) The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, in an official or individual capacity, for or relating to any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.
- (2) A property holder whose title is derived from any such officer, where such action or prosecution affects the validity of any law of the United States.

29 U. S. C. § 794:

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.

42 U. S. C. § 12203:

- (a) Retaliation No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter. (b) Interference, coercion, or intimidation It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter. (c) Remedies and procedures. The remedies and

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procedures available under sections 12117, 12133, and 12188 of this title shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to subchapter I, subchapter II and subchapter III, respectively.