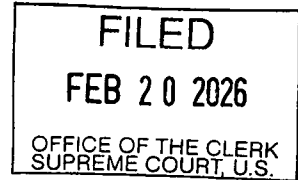


26-5704 ORIGINAL

NO.26-_____

IN THE SUPREME COURT OF THE UNITED STATES

IN RE LA VERNE KOENIG, Petitioner.



**PETITION FOR A WRIT OF MANDAMUS TO THE UNITED
STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT**

PETITION FOR A WRIT OF MANDAMUS

**La Verne Koenig
15520 HWY. 200A SE
Blanchard, North Dakota 58009-9326
(701) 430-0096
Email: olecowboy7053@gmail.com
Petitioner In Propria Persona**

QUESTIONS PRESENTED FOR REVIEW

QUESTION 1: THE JURISDICTION AND DISQUALIFICATION LOOPHOLE

Whether a federal district court deprives a litigant of due process and systematically evades the strict statutory limits on magistrate judge jurisdiction under 28 U.S.C. Section 636(c) and the mandatory disqualification requirements of 28 U.S.C. Section 455 by utilizing a combined localized practice of:

*(a) Withholding mandatory Federal Rule of Civil Procedure 73 notices while issuing judicial orders prior to the expiration of the statutory timeframe for party consent; and

*(b) Deploying a telephonic, administrative “referral judge” mechanism to reassign a civil action to a magistrate judge who has already been formally disqualified and rejected by the parties?

QUESTION 2: THE ADMINISTRATIVE FILING, VENUE TRANSFER, AND DUE PROCESS VIOLATIONS

Whether a federal district court violates a *pro se* litigant’s Fifth Amendment rights to due process and meaningful access to the courts by:

*(a) Verbally designating an Article III judge at the filing counter while simultaneously executing a concealed electronic docket entry that reassigns the case

and venue to a different division without notice, a hearing or a showing of good cause, in violation of 28 U.S.C. Sections 1391 and 1404;

*(b) Permitting an unconsented magistrate judge to summarily deny a request for Federal Rule of Civil Procedure 23 class counsel as moot; and

*(c) Issuing official, written administrative guidelines regarding service of process that are defective, deceptively vague, or contrary to the Federal Rules of Civil Procedure, thereby inducing a foreseeable procedural default?

QUESTION 3: THE MANDAMUS AND APPELLATE ABDICATION

Whether a United States Court of Appeals abdicates its supervisory duties and violates the Due Process Clause under *Will v. United States*, 389 U. S. 90 (1967) by summarily denying a petition for a writ of mandamus via a boilerplate order devoid of any factual or legal analysis, where the petitioner has demonstrated a structural violation of 28 U.S.C. Section 292(d) stemming from a chief judge's failure to certify a motion to disqualify an entire local federal bench?

PARTIES TO THE ACTION

PETITIONER:

- **La Verne Koenig**, Private Individual

RESPONDENTS:

- **The Honorable Judges** of the United States Court of Appeals for the District of Columbia
- **The Honorable Judges** of the United States Court of Appeals for the Eighth Circuit
- **The Honorable Judges** of the United States District Court for the District of North Dakota
- **The Clerk of Court** for the United States District Court for the District of North Dakota.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioner La Verne Koenig states that he is a private individual with no corporate ties or affiliations, and no publicly held corporation owns any stock or interest in this matter.

LIST OF RELATED CASES

- La Verne Koenig et al v. Scott Pruitt, Administrator of the Environmental Protection Agency, et al., Case No. 1:18-cv-01169, District of Columbia. Filed on 5/18/2018-transferred to District of North Dakota-5/21/2018.
- La Verne Koenig v. Scott Pruitt, Case No. 3:18-cv-00102, District of North Dakota, received from District of Columbia, on 5/21/2018.
- La Verne Koenig v. Scott Pruitt, (unconsented venue action) U.S. Court of Appeals for the District of Columbia, Case No. 18-5173, denial Order dated June 13, 2019.
- La Verne Koenig v. Scott Pruitt, (unconsented venue action), U.S. Court of Appeals for Eighth Circuit, Case No. 19-2014, denial August 4, 2019.
- La Verne Koenig v. Scott Pruitt, Case No. 19-3723, U.S. Court of Appeals For Eighth Circuit, dated March 20, 2020, denying relief.
- La Verne Koenig v. Traill County Water Resource District, State Dist. Case No. 49-2019-cv-00033.
- La Verne Koenig v. Traill County Water Resource District, [Removal action] Dist. Ct. No. 2:10-cv-00034 removal denied.
- La Verne Koenig v. Traill County Water Resource District, Eighth Circuit Court of Appeals, Case No. 20-1669, denied dated September 11, 2020.
- In re La Verne Koenig, State Supreme Court No. 20230114, denial of relief dated April 23, 2023 and rehearing denied June 2023.
- La Verne Koenig v. State of North Dakota et al., U.S. Dist. Case No. 3:25-cv-00205, Date filed August 26, 2025.
- In re La Verne Koenig, Eighth Circuit Court of Appeals, No. 25-3156, Mandamus denied, November 6, 2025 and December 15, 2025. Clerk of Court for the Eighth Circuit, January 06, 12 and 16, 2026, refusal to file.

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[X] For cases from **federal courts**:

* The opinion of the United States Court of Appeals for the District of Columbia No. 18-5173 dated June 19, 2019 and En Banc dated June 19, 2019 appears at App. T, p. 237, and is unpublished.

- The opinion of the United States Court of Appeals for the Eighth Circuit, No. 25-3156 dated November 06, 2025 appears at App. A, p. 2 to the petition and is unpublished. Order denying Injunctive Relief dated November 25, 2025, appears at App. A, p. 7 and is unpublished.

- The opinion of the United States Court of Appeals for the Eighth Circuit denying Rehearing En Banc Review, dated December 19, 2025, appears at App. B, p. 10 and is unpublished.

- The Clerk for the Eighth Circuit returned Petition for Rehearing En Banc Review, due to Local Rule 40A(c) dated January 04, 12 and 16, 2026, unfiled appears at App. B, p. 21.

- The decision of the North Dakota Supreme Court, Case No. 20230114, dated April 23, 2023, is attached as App. V, p. 252, and is unpublished. The Petition for Rehearing, was denied on June 20, 2023, is attached as App. V, p. 253, and is unpublished.

- A letter from the Clerk of the United States Supreme Court regarding Rules interpretation dated July 14, 2026, appears at App. B, p. 21A.

JURISDICTION

The jurisdiction of this Court is invoked pursuant to Article III, Section 2 of the United States Constitution and the All Writs Act, 28 U.S.C. Section 1651(a). This Court has appellate jurisdiction to review the action of the lower court by a common-law writ of mandamus because an ordinary appeal cannot provide an adequate remedy. *U.S. Alkali Export Ass'n v. United States*, 325 U. S. 196, 202 (1945).

The order of the United States Court of Appeals for the Eighth Circuit denying the petition for writ of mandamus was entered on November 6, 2025, and a copy of that order is set forth in the attached App. A at p. 2. A timely petition for rehearing en banc was subsequently denied by the Eighth Circuit on December 19, 2025, a copy of which is set forth in the attached App. B, p. 10.

The Clerk of the Courts for the Eighth Circuit refused the filing of corrected submission by letters dated January 5, 12, and 16, 2026, a copy of those letters are set forth in the App. B, p. 21.

Following a timely resubmission to this Court, the Clerk of the Supreme Court issued a formal correction and guidance letter dated July 14, 2026, establishing the operative timeline for the filing of this revised petition. A copy of that letter is set forth in the attached App. B, p. 21A. This revised petition is timely filed in compliance with the Clerk's directives.

CONSTITUTIONAL AND STATUTORY PROVISIONS

- **U.S. Const. Article III, Section 1:** "The judicial power of the United States in one Supreme Court and such inferior courts as Congress may ordain and establish..."
- **U.S. Const. Article III, Section 2, Clause 2 (The Exception Clause):** "The Supreme Court's original and appellate jurisdiction. The writ of mandamus, is an exercise of the Court's appellate jurisdiction (*per Marbury v. Madison*) "in aid of" the court's appellate authority. "
- **U.S. Const. amend I:** "...Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances..."
- **U.S. Const. amend V:** "...nor be deprived of life, liberty, or property, without due process of law..."
- **U.S. Const. amend XIV, Sec. 1:** "...No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws..."
- **U.S. Const. amend XIV, Sec. 5:** "...The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.
- **28 U.S.C. Sec. 1254:** Grants this Supreme Court general appellate jurisdiction over federal courts of appeals.
- **28 U.S.C. Sec. 1361:** Authorizes this Court to compel an officer or employee of the United States to perform a duty owed to the petitioner in a lower district or appellate court.
- **28 U.S.C. Sec. 1651(a):** "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

Due to the extensive statutory provisions involved, they are set forth fully in the

Attached Appendix, referenced as follows:

- U. S. Const. Art. III, Sec. 2, is set forth as App. AA-1, at p. 274
- U.S. Const., Art. I, Sec. 8, Cla. 3, set forth at App. AA-2, at p. 275.
28 U.S.C. Sec. 292, is set forth at App. AA-3, at p. 277.
- 28 U.S.C. Sec. 455, is set forth at App. R-3, at p. 200.
- 28 U.S.C. Sec. 636, is set forth at App. R-4, at p. 205.
- 28 U.S.C. Sec. 1391, is set forth at App. AA-4, at p. 278.
- 28 U.S.C. Sec. 1404, is set forth at App. AA-5, at p. 280.
- 28 U.S.C. Sec. 1631, is set forth at App. U-2, at p. 245.
- 28 U.S.C. Sec. 2072, is set forth at App. AA-6 at p. 281.
- FRCP Rule 23, is set forth at App. U-3, at p. 246.
- FRCP Rule 73, is set forth at App. R-1, at p. 198.
- N. D. Const. Art. XII, Sec. 5, is at App. BB-1, at p. 282.
- N.D.C.C. Ch. 28-34-01, is set forth as App. X-1, at p. 258.
- N.D.C.C. Ch. 28-32-21, is set forth as App. X-2, at p. 259.
- N.D.C.C. Ch. 61-01-06, is set forth as App. X-3, at p. 261.
- N.D.C.C. Ch. 61-16.1-30, is at App. X-4, at p. 262.
- N.D.C.C. Ch. 61-16.1-31, is at App. X-5, at p. 263
- N.D.C.C. Ch. 61-16.1-32, is at App. X-6, at p. 264
- N.D.C.C. Ch. 61-16.1-51, is at App. BB-1, at p. 283
N.D.C.C. Ch. 61-16.1-54, is at App. X-7, at p. 265

STATEMENT OF THE CASE

STATE ADMINISTRATIVE BACKGROUND AND INITIAL FEDERAL FILINGS

This dispute originates from an unverified, uncertified 2017 drainage complaint filed with the Traill County Water Resource District Board. The board formulated findings of fact and placed a \$12,746.89 assessment lien against Petitioner's real property under threat of total land forfeiture without providing Petitioner notice of hearings, a summons, or an opportunity to be heard. As established in *Griffin v. Griffin*, 327 U.S. 220, 228 (1946), a state entity commits a fatal violation of procedural due process when it conducts adverse proceedings completely isolated from basic notice, an open hearing, or a meaningful opportunity to object. Faced with immediate land forfeiture under this unconstitutional process, Petitioner paid the lien under protest on September 30, 2025. Local remedies were structurally blocked when the North Dakota Supreme Court issued an unreasoned summary denial on April 23, 2023. (App. V, at p. 252).

Operating in their quasi-judicial capacity, the Traill County Water Resource District Board investigated the unverified complaint and proceeded to formulate findings of fact and conclusions of law (App. W, the complaint, at p. 255). The Board executed these maneuvers without providing Petitioner any notice of hearings, an opportunity to be heard, or any form of due process protection. As this Court established in *Greene v. Lindsey*, 456 U.S. 444, 449–450 (1982), the failure to afford adequate notice of

judicial or administrative proceedings constitutes a direct violation of constitutional due process guarantees. The Board subsequently rendered a decision on November 17, 2017, Petitioner received notified thereof December 29, 2017. Furthermore, the record title owners of the underlying land, which was purchased under a contract for deed and whose deed holders resided in the State of Arizona, were never notified of any legal or administrative actions, were never served with a summons or complaint, were denied an opportunity to be heard in any manner or form, and were never advised of the Board's decision by anyone acting on the court's or the Board's behalf. The Traill County Water Resource District Board ultimately placed an assessment lien against Petitioner's property in the sum of \$12,746.89. (App. L3, at p. 143). Under the terms of that assessment, a failure to pay the lien in full would result in the total forfeiture of the underlying real property. App. L4, at p. 144. *See also* App. BB-1; -2, at p. 280. Faced with an immediate threat of land forfeiture, Petitioner paid the lien under protest on September 30, 2025.

The Board's non-consensual administrative assessment and collection practices are explicitly prohibited under N.D.C.C. § 61-16.1-54 and § 28-34-01, (App. X-7, at p. 264, X-1, at p. 258) which strictly outline the mandatory, exclusive statutory procedures required for water resource district appeals and local assessments. The severe due process defects built into this statutory framework are demonstrated by the North Dakota Supreme Court decision in *Banderet v. Sargent County Water Resource District*, 923 N.W. 2d 809 (N.D. 2019), which affirmed that the 30-day appeal clock

under N.D.C.C. § 28-34-01 strictly runs against landowners regardless of whether the water resource district ever provides them with actual notice of the underlying decision. *Id.* ¶ 19. Reaffirming their decision in *Zajac v. Traill County Water Resource District*, 881 N.W. 2d 666 (N.D. 2016) that the mandates of NDCC 28-34-01—within 30-days of the decision—were strictly held against the landowners in the appeal of the board’s decision. (App. X-1, at p. 258) As noted in *Banderet*, *Id.* at par. 19, this mandate was mandatory—whether or not the landowners were notified of the district’s decision—a severe unconstitutional mandate, contrary to this Court’s precedent in *Griffin v. Griffin*, 327 U. S. 220, 228 (1946); *Mullane v. Central Hanover Bank & Trust*, 339 U. S. 306, 314 (1950), a total absence of notice violates the Due Process Clause.

Following the structural breakdown at the state bench—where the court utilized statutory deadlines as a procedural shield to insulate a decision that was intentionally concealed past the 30-day timeframe (compare *Banderet*, *supra*)—Petitioner sought an unbiased forum outside the local jurisdiction. Upon consulting with over 30 independent law firms, legal counsel advised Petitioner that because a branch of the Elm River flowed directly through his property and joined federal navigable waterways, the neighboring landowners' posting of warning signs of deployment of poisons and unverified drainage methods directly threatened and being hazardous to livestock, Petitioner having livestock in the immediate area and polluted federal waters. Consequently, counsel recommended naming Scott Pruitt, in his official capacity as Administrator of the United States Environmental Protection

Agency, as a principal defendant for failure to enforce mandatory procedural guidelines under the Clean Water Act. This failure by a federal agency created a clear federal question, and under 28 U.S.C. § 1331, proper subject-matter jurisdiction and venue were legally established in the nation's capital.

Armed with this federal environmental mandate, Petitioner traveled directly to Washington, D.C., to initiate a federal civil rights action. Because court staff had refused to provide transparent written or telephonic information regarding the precise cost of initiating fees, Petitioner made a physical appearance at the filing counter of the U.S. District Court for the District of Columbia and paid the entire statutory filing fee in cash. Upon receiving this payment, the D.C. Clerk represented that the initiating papers would be immediately presented to an Article III judge for a ruling on Petitioner's pending emergency motion for a stay and preliminary injunction. However, in direct violation of Federal Rule of Civil Procedure 4(b), the D.C. Clerk suppressed and refused to issue the mandatory summonses. Instead, the D.C. Court executed an administrative, non-consensual transfer, shifting the entire action to the U.S. District Court for the District of North Dakota, where the file was assumed by District Judge Daniel L. Hovland and referred to a magistrate judge. No notice of this case assignment or magistrate referral was ever provided to Petitioner by the Clerk of the Court for the District of North Dakota, as mandated by 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73(b). *See* App. R-1, p. 198; R-4, p. 205. Petitioner desperately resisted this unauthorized judicial shift for over a year by launching a dual-front mandamus campaign, petitioning the U.S. Court of Appeals

for the D.C. Circuit to retrieve the case and the Eighth Circuit Court of Appeals to order a remand of the file back to the nation's capital. As explicitly documented by the true and correct copies of the circuit court summary orders attached hereto as App. C-2, at p. 26, the D.C. Circuit issued an unreasoned summary denial on June 13, 2019, completely rejecting Petitioner's petition for rehearing and rehearing en banc without writing a single line of legal analysis. A matching summary denial was issued by the Eighth Circuit, App. I, at p. 119. In 2019, newly commissioned District Judge Peter D. Welte assumed control of the escalating dispute. Judge Welte intervened to point out procedural conflicts between the court systems, ruling that Petitioner's service of process—while fully valid under North Dakota state pre-filing customs—violated Federal Rule of Civil Procedure 3 because the service occurred *prior* to the mechanical filing of the complaint in Washington, D.C., rather than constituting valid service under the Rules Enabling Act. Judge Welte used this timeline discrepancy to freeze the record and command a total duplication of service, this multi-front administrative barrier effectively stalled the litigation.

Petitioner thereafter returned to state court in an attempt to get a ruling on the lack of subject-matter and personal jurisdiction by the Traill County Water District. The lack of service of summons and complaint, lack of opportunity to be heard or to present evidence, that no dirt work has ever been performed on the property. The water board illegally obtained outside private legal counsel—Contrary to NDCC 11-16-01—the State's attorney *shall* represent the state, county and local public officials in *all legal proceedings*-and which the private legal counsel immediately requested a

specific judge be assigned to the case. This practice of judge-shopping stands in direct defiance of *Chandler v. Judicial Council of the Tenth Circuit*, 398 U. S. 74 (1970) established that litigants have zero legal right to select a specific judge. Faced with these illegal actions by boards legal counsel, Petitioner sought removal to federal court. Again the Board's legal counsel practiced fraud upon the court, transposing Petitioner's status from defendant to plaintiff, contrary to *West v. Aurora City*, 73 U. S. 139 (1867). Based upon this fraudulent representation, the federal court denied removal. The state court limited the parties to two specific issues, none of which addressed Petitioner's lack of jurisdiction issues, only addressing the procedural barrier issues of NDCC 28-34-01 raised by the water board. Notice of the court's order was withheld for 34 days, past the mandatory 30 days established in *Banderet v. Sargent Cty. Water Res. Dist.* 927 N.W. 2d 908 (2019) and deliberately withheld the notice of judgment dismissed with prejudice. Legal Aid of N.D. discovered that issue approximately one year after the decision. Unable to assist Petitioner because of Congressional limitations on their funding, contrary to *Legal Services Corp. v. Valazquez*, 531 U. S. 533 (2001).

The State Supreme Court summarily denied relief without providing any legal analysis on April 23, 2023. See App. V, at p. 252. Facing an illegal and unconstitutional local assessment lien, completely devoid of all due process protections, contrary to *Griffin v. Griffin*, 325 U. S. 220 (1946) and *Greene v. Lindsey*, 456 U. S. 444 (1982), petitioner restructured the complaint without the EPA as primary defendant, replacing with the State of North Dakota as primary defendant,

a defendant in the EPA filing, and as mandated in *Richards v. United States*, 369 U. S. 1 (1962), filed the action in the Western Division of the U.S. District of North Dakota, the exact center of state government where the acts and omissions occurred in the passage of the unconstitutional water laws enactment. This filing occurred at exactly 8:45 a.m on August 26, 2025. Petitioner paying the filing fee and specifically asking the clerk whom the case would be assigned to, which upon checking the judicial assignment calendar, made the explicit oral representation that Article III Judge Daniel Mack Traynor was assigned. The Clerk failed to give the written notice required by Article III, 28 U.S.C. Sec. 636 and FRCP 73(b). Later that day, the clerk issued the summonses and complaint, without compliance with the mandatory consent mandates of the federal statutes and contrary to *Hoffman v. Blaski*, 363 U. S. 335 (1960) administratively transferred the action to the Eastern Division, Fargo ND.

Upon reviewing the complaint for any potential flaws, petitioner realized the whole federal bench was named/unnamed defendants, on August 31, 2025 filed a motion for disqualification of the whole federal bench, requesting the Chief Judge Peter D. Welte, to certify to the Eighth Circuit Court of Appeals for reassignment to an out-of-state Article III judge, as documented by the Clerks official docket entry sheet, Entry No. 4, filed on September 02, 2025. Six days later, Chief Judge Welte enters a telephonic order stripping the nonconsensual disqualified magistrate judge of presiding jurisdiction, reassigning the case to himself and thereafter designating the disqualified magistrate judge as "referral judge." These unauthorized administrative

procedures clearly imply a repeal by implication by the local district court, resulting in Petitioner petitioning the Eighth Circuit Court of Appeals for mandamus relief, which on November 6, 2025, the Court denied relief without providing any legal analysis, contrary to *Will v. United States*, 389 U. S. 90 (1967), denying en banc relief on December 19, 2025. Petitioner has exhausted all available legal remedies.

REASONS FOR GRANTING THE WRIT

The Dispute Presents Exceptional Circumstances Warranting Supervisory Intervention to Remedy the Systematic Failure of Jurisdictional and Statutory Boundaries

The Eighth Circuit abdicated its supervisory duty by permitting the district court to evade the disqualification mandates of 28 U.S.C. Section 455 through an unauthorized administrative loophole.

This case presents an issue of exceptional nationwide importance concerning the integrity of the federal judiciary. The District of North Dakota has actively circumvented the strict non-waivable disqualification mandates of 28 U.S.C. Sec. 455. By subversively reassigning a disqualified magistrate judge to this matter under the administrative label of a “referral judge,” the lower court has created a mechanism that effectively repeals Section 455.

This administrative loophole allows a rejected judicial officer to continue to exercise authority over a case, bypassing non-waivable statutory *conditions precedent* regarding both magistrate jurisdiction and venue transfer consent. By issuing a boilerplate denial of mandamus relief, the Eighth Circuit sanctioned an evasion of

statutory mandates. This Court's intervention is urgently required to resolve this systemic threat to due process and statutory compliance.

This case presents an exceptional and extraordinary structural breakdown where a federal district court is utilizing unwritten, localized administrative shortcuts to override express federal statutes, resulting in a repeal by implication of federal statutes passed by Congress. In direct conflict with this Court's decisions in *United States v. Borden*, 308 U. S. 188, 198 (1939), *Steele Co. v. Citizens for a Better Environment*, 523 U. S. 83, 94 (1998).

Under *La Buy v. Howes Leather Co.*, 352 U.S.249 (1957) a writ of mandamus is the appropriate supervisory mechanism to correct a lower court's persistent, systemic disregard of the Federal Rules of Civil Procedure. The lower courts have completely subverted the jurisdictional boundaries established by Congress.

A writ of mandamus is appropriate because the structural violations across the lower tribunals have left Petitioner with absolutely no other adequate legal remedy. As established in *Will v. United States*, 389 U.S. 90 (1967), mandamus serves to confine an inferior court to a lawful exercise of its prescribed jurisdiction. The record establishes exceptional circumstances that demand this Court's intervention:

The Usurpation of Statutory Consent: The District Court Clerk and Chief Judge repeatedly bypass the explicit party-consent boundaries strictly mandated by 28 U.S.C. Sec. 636(c) and Federal Rule of Civil Procedure 73 by forcing an objecting litigant before disqualified magistrate officers. Written consent of the parties is a *condition precedent* an absolute jurisdictional boundary. Established by *Gomez v.*

United States, 490 U. S. 858 (1989), and *Roell v. Withrow*, 538 U. S. 580 (2003).

Documented in App. C thru F, p. 23-97 not a single case establishes the identity of the judge the direct assignment was made to by the Court Clerk at the time of filing, mandated by Article III, 28 U.S.C. Sec 636(c) and Rule 73. App. R-1 p.198, R-4 p.

205.The Violation of Venue Protections: The non-consensual administrative transfer of Case No. 1:18-cv-01169 and Case No. 3:25-cv-00206, directly subverted 28 U.S.C. Sec. 1404(a). This action ignored this Court's binding precedent in *Richards v. United States*, 369 U.S. 1 (1962), which dictates that venue and governing law are governed by the precise geographic location where the omissions occurred. The core omissions occurred in Washington, D.C., due to the EPA's failure to enforce Clean Water Act rules. In addition, the non-consensual administrative transfer in Case No. 3:25-cv-00206, similarly violate the federal statutes and this Court's precedent in *Richards*, which dictates that the Western Division, Bismarck, where the center of state government exists and where the unconstitutional laws were enacted, the exact location where the omissions occurred, proper venue for the action, with the lack of consent mandates, is contrary to this Court's decision in *Hoffman v. Blaski*, 363 U.S. 335 (1960).

The Reassignment under "Referral Judge" mechanism evades Disqualification mandates: Permitting the Chief Judge to utilize a telephonic loophole mechanism to assign a disqualified judicial officer as a "referral judge" eviscerates the mandates of 28 U.S.C. Sec. 455 and due process, contrary to *Liljeberg*

v. Health Services Acquisition Corp., 486 U. S. 847, 865 (1988) and *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009).

The Structural Breach of Neutrality: Permitting a Chief Judge with a disqualifying conflict of interest to issue final dismissals, entering orders in cases not properly assigned to him at the time of filing, is contrary to *In re Murchinson*, 349 U.S. 133,136 (1955), *Chandler v. Judicial Council of the Tenth Circuit*, 398 U. S. 74, 84-86 (1970) and *Hain Celestial Group Inc v. Palmquist*, 607 U. S. 421, 426 (2026).

The Administrative Evasion to Perform a Non-discretionary Managerial Act: 28 U.S.C. Section 1631 is a mandatory statutory mechanism enacted to protect litigant's original timeline by directing that the transferred action shall proceed as if they had been filed in the receiving court on the exact date they were actually filed in the transferor court. The District Court totally refuses to comply, as documented in App. C-3, p. 31 and App. U-2, p. 245, contrary to *Christianson v. Colt Industries Operating Corp.*, 486 U. S. 800 (1988) in addition, to a certification request mandated by 28 U.S.C. 292(d), a direct request to be certified to the Circuit Court of Appeals for the reassignment to an Article III District Judge due to the total Federal bench disqualification, as documented in App. F-2, p. 77, Docket entry #4. By failing to execute this non-discretionary statutory certification, the Chief Judge exercised authority that Congress had quite carefully withheld, creating a fatal structural defect that invalidates all subsequent transactions, as this Court held in *Nguyen v. United States*, 539 U.S. 69, 80-81 (2003), which includes a persistent and continuing practice of judicial refusal to recuse, contrary to *Liljeberg v. Health Services*

Acquisition Corp., 486 U. S. 847, 865 (1988), representing a total collapse of judicial neutrality and a fatal defect under the Fifth Amendment's Due Process Clause. **The Structural Design of a Procedural Trap:** The local federal court has implemented a defective pro se service packet that violates baseline guarantees of the Due Process Clause. By systematically distributing a "Information Sheet to Pro Se Litigants" intent to mislead unrepresented parties into utilizing legally ineffective methods of service, the court creates a deceptive procedural trap. *See* App. U-1, p. 244. This trap induces a foreseeable procedural default, allowing the trial court to summarily dismiss civil actions for manufactured lack of personal jurisdiction, entirely denying citizens access to the courts, contrary to *Hain Celestial Group Inc v. Palmquist*, 607 U. S. 421 (2026).

II. PETITIONER HAS A CLEAR AND INDISPUTABLE RIGHT TO RELIEF BECAUSE THE STATE STATUTORY APPELLATE SCHEME SANTIONS A TOTAL ABSENCE OF DUE PROCESS: The North Dakota Water Board unconstitutionally combined the functions of investigator, prosecutor and adjudicator to levy a \$12,746.89 assessment levy against Petitioner's real property (App. L-3A, p. 143A). *See also* App.BB-1, at p. 283. This administrative action was executed with zero notice, zero summons, zero opportunity to be heard and no venue to present evidence. This total deprivation of procedural safeguards directly violates bedrock Supreme Court precedent holding that notice and an opportunity to be heard are absolute prerequisites to a deprivation of property. *Griffin v. Griffin*, 327 U. S. 220, 228 (1946); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306, 314 (1950);

Greene v. Lindsay, 456 U. S. 444, 449 (1982). Rather than providing a meaningful corrective mechanism, N.D.C.C. Chapter 28-34-01 (App. X-1, p. 258) conditions the right to appeal on a hyper-technical, discriminatory procedural barrier. Contrary to, *California Coastal Comm'n v. Granite Rock Co* 480 U. S. 572 (1987). By conditioning judicial review of a void administrative action on this arbitrary trap, the state statutory scheme insulates unconstitutional deprivations from scrutiny.

State water laws are systematically structured to deny landowners equal protection under the Fifth and Fourteenth Amendments. Rather than maintaining consistent procedural safeguards, the Legislative Assembly continuously amends the state's water laws to enhance water board powers while incrementally eroding landowner rights. This deliberate legislative restricting explicitly immunizes water board's from the uniform due process mandates guaranteed to other landowners, under N.D.C.C. Section 28-32-21 (App. X-2, p. 259), cementing an intentionally discriminatory framework that singles out a distinct class of property owners for arbitrary deprivation. This expanding statutory authority and targeted elimination of procedural rights stands in direct opposition to precedent of this Court. Contrary to *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000); *Griffin v. Griffin*, 327 U. S. 220 (1940), *Goldberg v. Kelley*, 397 U.S. 254 (1970), *Greene v. Lindsey*, 456 U. S. 444 (1982), *California Coastal Comm'n v. Granite Rock Co.*, 480 U. S. 572 (1987).

Structural defects by unconsented magistrate in declaring Rule 23 class counsel as moot results in an procedural Catch-22 unconstitutional restriction upon the right to access the courts: While 28 U.S.C. section 1653,

FRCP 15, and FRCP 23 guarantee the right to amend jurisdiction defect allegations, correct pleadings, and retain class counsel, a non-consenting magistrate's order declaring class counsel moot creates an unconstitutional procedural Catch-22. This structural barrier deprives litigants of meaningful court access, under *Armstrong v. Manzo*, 380 U. S. 545, 552 (1965). Navigating the heightened pleading standards of *Bell Atlantic Corp v. Twombly*, 550 U. S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U. S. 662 (2009), requires professional representation because procedural rules are inherently hyper-complex. *Powell v. Alabama*, 287 U. S. 45, 68-69 (1932), and *Loper Bright Enterprises v. Raimondo*, 603 U. S. 369 (2024), requires independent, rigorous legal analysis. Forcing pro se litigants to comply with complex deadlines—such as responding to motions to dismiss to avoid automatic dismissal—while simultaneously withholding counsel creates an unconstitutional Catch-22. Either an immediate procedural default or permanent forfeiture of the vital assistance of legal counsel, rendering the protections of due process and Rule 23 completely illusory. This barrier transforms the right to petition the courts into a meaningless act. Contrary to *NAACP v. Button*, 371 U. S. 415, 429-430 (1963); *Bill Johnson's Restaurants, Inc v. NLRB*, 461 U. S. 731, 741 (1983). Consequently, a non-consented magistrate entering an adverse judgment acts entirely without jurisdiction, rendering the order *coram non judice* and *void ab initio*. *United States v. Arrendondo*, 31 U. S. (6 Pet.) 691 (1832).

Boilerplate summary denials act as prior restraint upon this Court's jurisdiction: The lower federal courts fundamentally lacked jurisdiction over both the transfer and the subsequent adjudication due to a complete absence of party

consent under 28 U.S.C. sections 1391, 1404, 636(c) and FRCP 73. Because the defendants had never been served with legal process, personal jurisdiction was never established over them, leaving Petitioner with the exclusive legal power to consent. By executing a venue transfer and allowing a non-consensual magistrate judge to declare Rule 23 class counsel request as moot and enter adverse orders, the district court committed a non-waivable structural defect that rendered the resulting judgment *coram non judice* and void *ab initio*. Contrary to *United States v. Arrendondo*, 31 U.S. (6. Pet.) 691, 709 (1932). Despite these compounding structural defects the Eighth Circuit Court of Appeals issued boilerplate, unreasoned summary denials based on local minor procedural rules infractions. A federal court is under a non-discretionary obligation to independently satisfy itself not only of its own jurisdiction, but also that of the lower courts in every cause under review. *Mitchell v. Maurer*, 293 U. S. 237, 244 (1934). Mechanically enforcing local rules violations to sidestep these core Constitutional defects directly contradicts this Court's mandate that cases must be decided on their factual merits rather than procedural technicalities. *Forman v. Davis*, 371 U. S. 178, 181-182 (1962). Because the appellate courts' total silence leaves this Court with an unreviewable record, it operates as an unconstitutional prior restraint on this Court's mandatory appellate jurisdiction, necessitating mandamus. This Court profoundly warned in *Boyd v. United States*, 116 U.S. 616, 635 (1886) constitutional protections are most frequently eroded when unconstitutional practices get their first footing through the "silent approach and slight deviations from legal modes of procedure." The issuance of the Writ of

Mandamus, is fully warranted and mandated by *Will v. United States*, 389 U. S. 90 (1967) and *Mallard v. U. S. District Court*, 490 U. S. 296 (1989).

LEGAL ARGUMENT

THE NORTH DAKOTA STATE WATER BOARD EXECUTED AN ILLEGAL PROPERTY ASSESSMENT WITHOUT NOTICE OR COMPLIANCE WITH DUE PROCESS:

The Due Process Clause mandates that notice of a sufficiently pleaded legal action must be served upon a party before an administrative body or court has jurisdiction to proceed. *See Griffin v. Griffin*, 327 U.S. 220 (1946). The Traill County Water Resource District Board investigated an alleged violation initiated by an unverified, uncertified complaint form filed by Curtis Reimer on April 18, 2017, as set forth in (App. W, at p. 255). This submission failed to identify which of three separate state statutes were allegedly violated. None of the statutes establishes that a farmer's "field drain" is a legally protected drain under the Board's jurisdiction. *See App. X-3*, at p. 279, NDCC 61-01-06. Furthermore, the Board failed to serve a summons or complaint upon Petitioner or the out-of-state deed holders. Although mandated under the North Dakota Administrative Agencies Practice Act, NDCC 28-32-21. *App. X-2*, at p. 259, all due process requirements, for water boards procedures were repealed by the State Legislature in 1981, the Water laws, Chapter 61-16.1et seq. The mandates of the NDAAP in 1991, have been explicitly disregarded in Chapter 61-16.1-51. *See App. BB-1*, at p. 280. Creating a structured Equal Protection violation. Contrary to **Village of Willowbrook v. Olech**, 528 U.S. 562 (2000).

Without affording notice of hearings or an opportunity to present evidence, the Board entered findings and dug drainage ditches on Petitioner's legally posted property. The Board executed this unauthorized intrusion in plain sight of physical warning signs explicitly cautioning that restricted environmental agents and poison-in-use, hazardous to livestock (App. L-2, p. 142). Following this trespass, the Board assessed an illegal lien of \$12,746.89 against the property. App. L-3A, p. 143A. Failure to pay in full, would result in Foreclosure on the property. See App. L-4, p. 144. See also App. X-4-6, at p. 261-264 (NDCC 61-16.1-30, -32). This immediate environmental hazard is precisely why Petitioner originally filed this action in the U.S. District Court for the District of Columbia under *Koenig v. Scott Pruitt, Administrator of the EPA* (Case No. 1:18-cv-01169) pursuant to the Clean Water Act. Because a branch of the Elm River—a federal navigable waterway—runs directly through the property, the use of poisons hazardous to livestock and poisons within the watershed required the regulatory involvement of the Environmental Protection Agency (EPA). The core of the action arose from the EPA's systemic failure to enforce the Clean Water Act rules. As firmly established by this Court in *Richards v. United States*, 369 U.S. 1 (1962), venue and governing law are dictated by the precise geographic location where the underlying unconstitutional acts and omissions occur.

Rather than respecting this established venue, the transferor court shifted the action to the District of North Dakota without the mandatory party consent required by 28 U.S.C. § 1391 and § 1404(a). See App. Z-4, -5, at pages 277- 278. Petitioner continuously and actively resisted this venue change, exhausting all standard

appellate avenues. On June 13, 2019, the D.C. Circuit Court of Appeals (Docket No. 18-5173) summarily denied a petition for rehearing en banc without providing any legal reasoning, as conclusively documented in the certified court record (App. T, p. 236). Similarly, the Eighth Circuit Court of Appeals refused to compel the District of North Dakota to return the case to its proper forum. Because these appellate courts issued boilerplate denials without legal justification, (App. I, p. 119). Petitioner has entirely exhausted ordinary remedies, leaving a Writ of Mandamus as the sole remaining protection for his constitutional rights.

Once the case was forced into North Dakota, a multi-layered administrative collapse of statutory consent boundaries and judicial impartiality closed the trap. Four separate district judges entered orders and presided over this illegal transfer without the Clerk ever issuing a written assignment order identifying who was assigned to the case, in total defiance of Article III, 28 U.S.C. § 636 and Federal Rule of Civil Procedure 73. *See*, App. Z-3 at p. 274, App. R-1, at p. 198 and App. R-4, at p. 205,

When Chief Judge Peter D. Welte assumed the case, the court executed an unconstitutional procedural bait-and-switch regarding the service of summons. The court's official informational packet directed pro se litigants that they could execute service by certified mail with a green card return, as explicitly documented in (App. U-1, at p. 244). After Petitioner expended substantial personal funds to comply fully with the court's written guidelines, Chief Judge Welte weaponized a technical contradiction—holding that while state procedures allowed the service of summons

and complaint *before* filing with the clerk, under the federal rules, service could only be performed *after* the filing with the clerk. The State Supreme Court has consistently held that it had adopted the federal rules as their own, thus no reasonable person would believe that to be a false statement of fact. The certified mail failed to achieve actual personal delivery under the federal rules, and demanding that Petitioner completely re-serve the defendants. Overlooking a major technical flaw, the duty of the U.S. District Court Clerk, for the District of Columbia, failure to issue the summons at the time of filing, as mandated by Federal Rule of Civil Procedure 4.

Petitioner formally challenged this trap under the Rules Enabling Act (28 U.S.C. § 2072), see (App. Z-5, at p.278) as the local court's deceptive practices operated to abridge, enlarge, or modify substantive constitutional rights by triggering automatic dismissals. The Eighth Circuit Court of Appeals summarily denied relief without written reasons. Chief Judge Erickson—who entered orders in the action- and Judge Welte—who entered the ultimate dismissal order based on this procedural entrapment—held disqualifying conflicts of interest as a member of the Ohnstad Twichell Law Firm, (App. J, at p. 122), a named defendant in the litigation and Vogel Law Firm, also a defendant in the litigation, set forth in (App. K-1, at p. 133).

This structural subversion of process and neutrality represents a flagrant denial of the Fifth Amendment's Due Process Clause. 28 U.S.C. Sec. 1653, FRCP 15 and FRCP 23 grants litigants the right to amend the pleadings for jurisdictional defects, right to amend the pleadings and the right to the assistance of class counsel upon request. These protections were completely compromised by an

unconsented magistrate judge. As this Court held in *Roell v. Withrow*, 538 U. S. 580 (2003), the power of a non-Article III magistrate judge is strictly limited by the absolute necessity of voluntary party consent. Under the Due Process Clause, a litigant's right to meaningful access to the courts demands a reasoned opportunity to be heard, and in a meaningful manner, as mandated by *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). Navigating higher pleading plausibility standards set in *Bell Atlantic Corp v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U. S. 662 (2009) is highly complex. As recognized in *Powell v. Alabama*, 287 U. S. 45, 68-69 (1932) and reaffirmed in *Loper Bright Enterprises v. Raimondo*, 603 U. S. 369 (2024), navigating intricate statutory frameworks requires independent, rigorous legal analysis. The magistrate's specific justification for denying counsel—ruling that the request was “moot” because Petitioner had filed responses to defendant's motions to dismiss—exposes an unconstitutional procedural trap. Under the rules, a plaintiff faces an automatic dismissal if they fail to timely respond to pending motions. A party is legally compelled to file responses to preserve their claims. Converting mandatory compliance with court deadlines into a justification to deny counsel creates an unconstitutional Catch-22: either face an immediate procedural default or permanently forfeit the vital assistance of legal counsel, rendering the protections of due process and rule 23 federal rules civil procedure completely illusory. As established in *NAACP v. Button*, 371 U.S. 415, 429-430 (1963), the right to group together and utilize legal litigation as a vehicle for collective constitutional redress is a form of association that cannot be restricted by local administrative rules. The right

to seek legal remedies is directly tethered to the right to petition the courts under *Bill Johnson's Restaurants v. NLRB*, 461 U. S. 731, 741 (1983). By systematically utilizing unwritten local rules, see App's C thru F, pages 22 to 97, the District of North Dakota keeps a class action litigant in the dark regarding judge identity, when disqualified, reassigned as a referral judge, which prohibits informed and documented disqualification requests, forcing non-consensual venue transfers, denying structural procedures, the court denies the meaningful access of the courts required by the first and fifth amendments, by denying request for the appointment of class counsel and a flagrant disregard for the protective structure of class action litigation under federal rule civil procedure 23, in addition to a lack of statutory mandatory consent is a fatal defect that invalidates all subsequent transactions. *United States v. Arredondo*, 31 U.S. (6 Pet.) 691 (1832), establishes the decision is *coram non juris* and *void ab initio*. This court must issue the writ of mandamus to vacate the unauthorized denial of counsel and protect the integrity of the record. This court has long recognized that when a litigant seeks the protection of a class format, the district court possesses far less discretion to summarily block the proceedings or deny the assistance of counsel. Permitting an unconsented disqualified magistrate judge to summarily deny a request for the appointment of class counsel under the false guise of mootness violates the strict mandates of rule 23(g) (FRCP). As noted in App. C thru F, at pages 22 thru 97, a documented district wide issue, Mandamus relief is fully warranted.

As this Court established in *Mitchell v. Maurer*, 293 U.S. 237, 244 (1934) a federal court is under a non-discretionary obligation to independently satisfy itself not only

of its own jurisdiction, but also that of the lower court in every cause under review. Rendering an unreasoned summary denial, this court is faced with the impossible task of determining if the circuit court even executed this inquiry regarding the total absence of consent to the magistrate's jurisdiction or the venue transfer below. Because the circuit court insulated these fatal structural defects rather than correct them, extraordinary intervention under the All Writs Act is fully vindicated. *Will v. United States*, 389 U.S. 90 (1967) mandates the issuance of the writ of mandamus.

The refusal to address the total lack of jurisdiction by state water boards illegal and unconstitutional practices and procedures the illegal assessment lien with the state Supreme Court's documented practice of upholding procedures that violate United States Constitutional protections insulated from this court's appellate review by the District of North Dakota. An independent violation of *Mitchell v. Maurer*, occurred. As noted *supra*, at page 13, an unverified, uncertified drainage complaint, was filed with the Traill County Water Resource District Board which identified no statute as being violated. The water board in their usual practice provided zero notice of a complaint, zero summons, no notice of hearings, no opportunity to be heard and no timely notice of the decision in which to appeal from. Contrary to established precedent of this court, the primary purpose of a service of process is to give the party notice of a cause of action and to afford the party an opportunity to answer the complaint. *Robinson v. Hanrahan*, 409 U.S. 38 (1972).

The state statutory right to appeal is conditioned on a procedural, illegal, and unconstitutional barrier as represented by North Dakota Century Code 28-34-01,

set forth in App. X-1, at p. 258. Compliance with North Dakota rule civil procedure, mandating service of a summons and complaint upon a specific board member within 30 days of the decision. No other appeal granted as a matter of right is dictated by the rules of civil procedure. The Water board acting in the capacity of the police, the prosecutor, and the court, *see, e.g.* App. BB-1, at p.280, without ever having allowed the property owners any right to be heard and no opportunity to present evidence, assessed an illegal \$12,746.89 assessment lien against petitioner's real property, App. L-3A, at p. 143A. With a mandatory real estate foreclosure and forfeiture if not paid in full by a date certain, October 1st, 2025. App. L-4, at p. 144 and App. X-4,-5 at p. 262-263. This court's bedrock precedent of *Griffin v. Griffin*, 327 U.S. 220, 228 (1946), *Mullane v. Central Hanover Bank & Trust*, 339 U. S. 306, 314 (1950) and *Greene v. Lindsey*, 456 U. S. 444 (1982) establishes that the total absence of notice violates the due process clause. Combined with the state Supreme Court decision that the state statute did not mandate notice of the decision, yet mandated a strict 30-day time frame to appeal within which was adverse to landowners' rights. *Banderet for Sargent County Water Resource District*, 923 N. W. 2d 809 (N.D. 2019) *Id.* Par. 19. An appeal of right that contains procedural barriers is contrary to *California Coastal Commission v. Granite Rock Co.* 480 U.S. 572 (1987). The procedural barrier, North Dakota Century Code 28-34-01, *see* App. W-1, at p. 258. *Banderet's* "whether or not they were so notified" stands in direct conflict with this court's decision in *Intel Corporation Investment Policy Committee v. Sulyma*, 589

U. S. 226 (2020) holding that actual notice is the start of the time clock. The state Supreme Court's representation they eliminate procedural traps, *Kopplin v. Burleigh County*, 47 N.W. 2d 137(N.D. 1951) stands as a direct conflict with *Banderet* water related, body politic corporate cases. *Banderet* documented North Dakota Supreme Court's practice of denying procedural due process equality under the Fourteenth Amendment. Petitioners case, was 42 days later. See e.g., App. Z-1, at p. 272. *Banderet* reaffirmed its decision in *Zajac v. Traill County Water Resource District*, 881 N.W. 2d 666 (N.D. 2016), which constituted an adverse, prejudicial holding to landowners rights. These decisions stand as clear Equal Protection of law violations and directly conflict with the State and Federal Constitutional mandates, including state mandated procedures. Article XII, Section 5 of the State Constitution:

“the police power of this state shall never be abridged or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the state.”

To authorize its local water boards—body politic corporates, corporations under state law—to operate without giving notice of their decisions, e. g, “whether or not they were so notified” stands in direct conflict with the Supremacy Clause due process and equal protection guarantees and this Court's precedent in *Griffin v. Griffin*, 327 U.S. 220 (1946), *Mullane v. Central Hanover Bank & Trust*, 339 U. S. 306 (1950), *Greene v. Lindsey*, 456 U.S. 444 (1982) and *Robinson v. Hanrahan*, 409 U. S. 38 (1972). The State legislative assembly repeal of all of the due process mandates in 1981, in N.D.C.C. Chapters 32, 40-05.1 and 61-16.1 thereafter in 1991, implementation of the

Administrative Agencies Practice Act (N.D.C.C. 28-38-21) (AAPA) (App. X-2, at p. 259), without mandating that all state agencies must comply—which local water boards are agencies of the state and recognized as corporations under state law—documented in *Banderet* and *Zajac*. N.D.C.C. Section 28-34-01 is set forth in (App. X-1, at p. 258) and N.D.C.C. 28-32-21 in (App. X-2, at p. 259). The lack of mandate for body politic corporates to comply with the AAPA, a certain class of landowners are being unequally treated contrary to the Due Process and Equal Protection Clauses and mandates of this Court in *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000). With over a 100 water related projects in progress statewide, this becomes a statewide due process and equal protection violation and not simply a localized issue. In the instant case the result of the water board's action—with a total lack of all notice mandates—resulted in an illegal assessment lien of \$12,746.89. App. L-1, at p. 143. The prejudice to Petitioner due to total lack of jurisdiction was a Lien, that took priority over all other liens except the local real estate tax liens. App.X-4-5, at p. 261. Even long recorded contract for deed liens, App.X-5, at p. 262, (contrary to the U.S. Const. Article I, Sec. 8, Cla. 3 Commerce Clause) which led to an additional penalties of \$1,829.33 and interest of \$2,342.49 for a total cost of \$16,920.71 and if not paid in full by October 1st, 2025 total real property foreclosure and forfeiture. App. L-4, at p. 144; App. X-5 at p. 262. Petitioner paid under protest on September 30, 2025. State Statutes cannot create a “super-priority” lien framework that disrupts national commercial systems or targets out-of-state interests under the Dormant Commerce

Clause. When NDCC Chapter 61-16.1-30 arbitrarily grants precedent to a local water assessment over an 18-year-old recorded private contract, it shatters that commercial uniformity. By allowing a rouge local board to unilaterally downgrade a senior secured interest, North Dakota creates an unconstitutional, unpredictable burden on the national real estate and investment markets. When a water board acts under Sections 61-16.1-30 and -31, they are not market participants; they are regulators exercising sovereign taxing powers. Because they are acting as regulators, their statutory scheme is fully subject to the strict limits of the Dormant Commerce Clause. Under this Courts *Pike v. Bruce Church Inc.*, 397 U. S. 137 (1970), a local law violates the Commerce Clause if the burden it inflicts on interstate commerce is "clearly excessive in relation to the putative local benefits." The local benefit of collecting a water assessment does not justify the massive, systemic burden of retroactively extinguishing decades-old, recorded private property contracts. In *United States v. Lopez*, 514 U. S. 549 (1995), a state statutory scheme that systematically alters or threatens the integrity of long-standing, recorded real estate deeds directly harms the instruments of national commerce. *Kaiser Aetna v. United States*, 444 U.S. 164 (1979). A vital water-rights case this Court confirmed that even though local governments have broad authority over water infrastructure, they cannot use that authority to invade, bypass, or destroy pre-existing, vested private property interests without violating federal constitutional protections. *Armstrong v. United States*, 364 U. S. 40 (1960) bridges the gap between lien priority and a constitutional violation.

When a government entity asserts statutory priority to leapfrog and destroy a pre-existing, recorded valid private lien, it completely destroys the financial value of that security interest, creating an unconstitutional “taking” under the Fifth Amendment. The North Dakota Supreme Court structurally foreclosed the lack of jurisdiction issue in a June 23, 2023 summary denial of a writ of mandamus without findings of fact or legal analysis. App. V, at p. 252.

Additionally, the local U.S. District Court in North Dakota has systematically refused to disqualify for their conflict of interest, while carrying out official court administrative materials “information sheet to pro se litigants” that violates the due process clauses of the Fifth Amendment because the instructions are defective, deceptively vague, as set forth in App. U-1, at p. 244. By affirmatively misleading unrepresented parties into utilizing legally ineffective methods of service, the court creates a deceptive procedural trap. This trap induces a foreseeable procedural default, allowing the trial courts to summarily dismiss civil actions for a manufactured lack of personal jurisdiction, entirely denying citizens access to the courts, contrary to this court's unanimous decision in *Hain Celestial Group v. Palmquist*, 607 U.S. 421 (2026). A procedural trap that even legal counsel had their proceedings dismissed for lack of proper service and dismissal for lack of personal jurisdiction. When a federal court's official instructions are so inherently defective that they mislead seasoned legal counsel into a procedural default, the practice completely destroys the constitutional guarantee of meaningful access to the courts. App. F-3, at p. 94.

When a seasoned magistrate judge accepts blatant attorney misrepresentations, transposing a defendant in the removal action of a state court proceeding, into a plaintiff in the federal court, a fraud upon the court being committed, when that unauthorized magistrate judge adopts the fraudulent misrepresentations contrary to this Courts established precedent in *ASARCO Inc. v. Kadish*, 490 U. S. 605 (1989) (an appealing defendant is not transposed into a plaintiff), *Boyd v. United States*, 564 U. S. 211 (2011) and *Selia Law LLC v. Consumer Financial Protection Bureau*, 591 U. S. 197 (2020). Petitioner's status did not change simply because of the removal process. The State Court record below conclusively proves that the Traill County Water Board instigated the proceedings against the Petitioner. The attempts to establish the lack of jurisdiction thereof, appealing the decision and removal to the Federal Court, as authorized by 28 U.S.C. Sec. 1441 was erroneously denied. A legally flawed remand, an abuse of discretion by an unconsented magistrate judge, resulting in the denial of due process officially sanctioned by the Eighth Circuit Court of Appeal summarily denial without independent factual findings or legal analysis. *See App. I*, at p. 120 (8th Circuit No. 20-1669, Sept. 11, 2020).

As established in *Mallard v. U.S. District Court*, 490 U.S. 296 (1989) a writ must issue to restore the lawful boundaries of federal jurisdiction when a lower court's persistent evasion leaves a diligent litigant with no other adequate legal remedy.

RELIEF REQUESTED

PART I: STRUCTURAL AND JURISDICTIONAL MANDATES

1.A writ of mandamus directing District Court Clerk Kari M. Knudson immediately

comply with Federal Rule of Civil Procedure 73(b). The Clerk must provide the specific name of the assigned Article III District Judge in writing at the exact time any civil action is started.

2. An order establishing a mandatory stay on all magistrate judge actions in the District of North Dakota. This will prevent any magistrate judge from entering substantive orders or handling civil cases until the legal timeline for parties to consent or object under 28 USC Section 636 has completely run out.
3. An order vacating the non-consensual administrative venue transfer ordered by Chief Judge Peter D. Welte. The underlying action must be returned immediately to its proper lawful home in the Western Division of North Dakota.
4. An order vacating all administrative reassignment and referral directives that sent this case to a magistrate judge who was already refused or disqualified by the parties.
5. An order declaring that the District of North Dakota's systemic practice of using magistrate jurisdiction before formal party consent is illegal. This practice acts as an unlawful administrative repeal of 28 USC Section 636(c).
6. An order declaring that the District of North Dakota's practice of moving case venues administratively without party consent is illegal. This practice acts as an unlawful administrative repeal of 28 USC Section 1404(a).
7. An order requiring Chief Judge Peter D. Welte to stop entering orders in cases assigned to equal Article III District Judges. Chief judges hold no appellate or superior authority over cases assigned to their peer judges.

PART II: APPOINTMENT OF UNBIASED BENCH AND CLASS COUNSEL

8. An order of direct assignment by the Chief Justice of the United States Supreme Court. This order will assign this action to an Independent, out-of-state Article III District Judge. Article III District Judge Daniel Mack Traynor, the original judge assigned was elevated to the Eighth Circuit Court of Appeals bench in July 2026.
9. An order declaring that Chief Judge Peter D. Welte's failure to certify the total disqualification of the North Dakota federal bench to the Eighth Circuit Court of Appeals was a clear abuse of discretion. This order mandates Chief Judge Welte to perform this mandatory ministerial task.
10. An order declaring that Chief Judge Peter D. Welte's failure to perform the non-discretionary act, mandated by 28 USC Section 1631 transfer to the proper court, was a clear abuse of discretion. This order mandates Chief Judge Welte to perform this mandatory ministerial task.
11. An order declaring that non-consensual Magistrate Judge Alice R. Senechal's order denying the petitioner's request for Rule 23 class counsel was an abuse of discretion, and completely vacating that order.
12. An order appointing formal class counsel under Federal Rule of Civil Procedure 23(g). This counsel must be provided with or have sufficient resources and legal experience in water laws and the Clean Water Act to successfully represent the class action.
13. An order immediately revoking and prohibiting the District of North Dakota's practice of giving pro se litigants administrative guidelines that are

discriminatory, deceptive and vague regarding the service of summonses and complaint under Rule 4.

14. An order mandating that any pro per party who previously followed those deceptive certified main guidelines shall have their service of process officially performed by an authorized process server, completely without cost or consequence to the pro se party and order vacating the judgments therein.
15. An order mandating the district court Chief Judge Welte and magistrate judge Alice R. Senechal to vacate all orders in the case *La Verne Koenig v. Traill County Water Resource District*, No. 3:20-cv-00033, the removal action, for an abuse of discretion, fraud upon the court, as a appealing defendant is not transposed into a plaintiff, contrary to *ASARCO Inc. v. Kadish*, 490 U. S. 605 (1989) with an order directing the Eighth Circuit Court of Appeals, to vacate their decision in the appeal, Case No. 20-1669, lack of legal analysis contrary to *Will v. United States*, 389 U. S. 90 (1967).
16. An order mandating the Clerk of Courts, Kari M. Knudson, extract and permanently seal, all filings and orders entered by the magistrate judge Alice R. Senechal and Chief Judge Welte from the file, after the date of September 04, 2025, in order that the newly assigned Article III District Judge has a clean slate to proceed under.

PART III. CONSITUTIONAL CHALLENGES AND PROPERTY REMEDIES

17. An order declaring North Dakota Century Code Chapter 61-16.1 et seq is unconstitutional on its face and as applied. It violates the Due Process and

Equal Protection Clauses of the Fourteenth Amendment by failing to require local water resource districts, body politic corporates to provide landowners with actual notice, hearings, summonses, and complaints, also violating the Commerce Clause of the U. S. Constitution. This creates a discriminatory conflict with the Administrative Agencies practice Act, which protects all other citizens.

18. An order declaring North Dakota Century Code Section 28-34-01

unconstitutional on its face and as applied. It violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment by placing unique, strict service burdens and procedural traps upon landowners appealing local board decisions, which are not required in any other state appeals.

19. An order directing the newly assigned Independent Article III District Judge to mandate that the Traill County Water Resource District immediately refund the illegal assessment total of \$16,920.71. This total includes the \$12,746.89 assessment, \$1,829.33 in penalty charges, and \$2,342.49 in interest. This refund shall not prejudice any other rights the petitioner has to pursue equitable relief.

20. An order directing the newly assigned Independent Article III District Judge to mandate that the Traill County Water Resource District Board immediately fill in the illegal ditches using the ground taken from the Petitioner's property that was placed on the property of Curtis Riemer be returned, without prejudice to any other rights Petitioner has to pursue equitable relief.

21. An order requiring the board members to personally pay all costs to retain an independent legal surveyor to physically re-establish the survey markers that

were illegally removed by their contractor, which shall not prejudice any other rights the petitioner has to pursue equitable relief.

22. An order for the newly designated Independent Article III District Judge to Stay any Order for Service of Process, in compliance with Federal Statutes, pending the assistance of legal class counsel amendment of the pleadings, in compliance with 28 U.S.C. Section 1653, FRCP 15 and FRCP 23, as provided by *Bell Atlantic v. Twombly* and *Ashcroft v. Iqbol*, higher plausibility pleading mandates.

PART IV: APPELLATE DEFERRALS, FILE TRANSFERS, AND EQUITABLE RELIEF:

23. A writ of mandamus reversing the summary decision of the Eighth Circuit Court of Appeals in Case Number 25-3156, and ordering the Circuit Court to decide the underlying structural violations on their true legal merits.
24. An order mandating that any pending appeal timeline be held in abeyance until the Eighth Circuit Court of Appeals has decided the underlying structural violations and rendered a decision with proper findings of fact and legal analysis.
25. An order directing the U.S. District Court for the District of North Dakota to vacate the dismissal order entered by Chief Judge Peter D. Welte in Case Number 3:18-cv-00102 due to a structural conflict of interest.
26. An order directing Clerk of Court Kari M. Knudson to immediately return the file for Case Number 1:18-cv-01169 back to the U.S. District Court for the District of Columbia, where proper venue and federal environmental question subject matter jurisdiction was originally established.

27. An order directing the U.S. District Court for the District of Columbia to designate a specific identified Article III District Court Judge, and to grant a temporary stay and delay the service of process under Rule 4. This will allow the petitioner a fair opportunity to formally amend the pleadings under 28 USC Section 1653, and Federal Rule of Civil Procedure 15, with the assistance of Rule 23(g) class counsel before final service is executed.
28. For such other and further relief that this court deems appropriate, fair, and just, as justice mandates.

CONCLUSION

For the foregoing reasons, this Court should grant this petition.

The structural and jurisdictional violations committed by the lower courts strike at the very heart of federal due process.

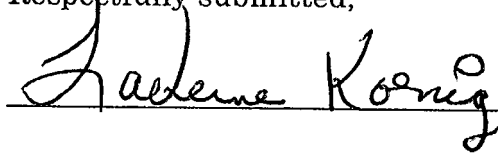
Furthermore, the widespread execution of North Dakota Century Code Chapter 61-16.1 *et seq.* continues to actively deprive citizens of their constitutional protections across the state every single day. The integrity of both the federal judiciary and constitutional land ownership mandates immediate intervention by this Court. This Court is presented with novel issues of first impression concerning the strict application of 28 U.S.C. Section 455. Specially, this petition addresses a critical administrative loophole: whether a disqualified magistrate judge may be subversively reassigned to the same matter as a 'referral judge' without the mandatory statutory consent of the parties. This practice effectively repeals the statutory mandates of Section 455, evades non-waivable *conditions precedent*

regarding magistrate jurisdiction and Section 1404 unconsented venue transfers,
presenting issues of exceptional nationwide importance.

The Petitioner respectfully requests that this petition be granted, and the specified
relief be ordered to restore lawful jurisdiction and justice.

Dated this 18th day of September, 2026.

Respectfully submitted,

A handwritten signature in cursive script, reading "La Verne Koenig". The signature is written in dark ink and is positioned below the "Respectfully submitted," text.

La Verne Koenig
15520 Hwy 200A SE
Blanchard, North Dakota 58009-9326
(701) 430-0096
Email: olecowboy7053@gmail.com
Propria Persona Petitioner