

ORIGINAL

No. 26-**26-5710**

In the
Supreme Court of the United States

SHANNON L. PERRY,

Petitioner,

v.

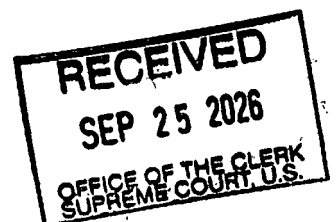
ENCORE AT BLVD ONE LLC, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Tenth Circuit

PETITION FOR WRIT OF CERTIORARI

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September 18, 2026

SUPREME COURT PRESS

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QUESTIONS PRESENTED

Disabled adults are entitled under the Fourteenth Amendment to meaningful court access and due process when pursuing civil-rights disability-discrimination claims. Petitioner, a disabled pro se litigant, sued under 42 U.S.C. § 1983, the Fair Housing Act, the Americans with Disabilities Act, and the Violence Against Women Act, alleging housing discrimination, perjury, and fraud on the court that deprived her of housing. The District of Colorado denied a guardian ad litem under Rule 17(c)(2) and ADA accommodations despite documented disabilities that impaired her ability to brief. The Tenth Circuit affirmed dismissal on March 6, 2026, without reaching the merits and by applying strict waiver rules. That ruling conflicts with this Court's authority on due process, equal protection, fraud on the court, the Mathews balancing test, and meaningful access, leaving Petitioner unable to litigate her federal claims and denying equal protection to the protected disability class.

The Questions Presented are:

1. Whether the Tenth Circuit, in its Order and Judgment in Appendix G, created a conflict with this Court's authority under the Fourteenth Amendment by affirming the dismissal of a disabled pro se litigant's civil rights claims under 42 U.S.C. § 1983, the Fair Housing Act, the Americans with Disabilities Act, and the Violence Against Women Act on waiver and inadequate-briefing grounds, despite the denial of a guardian ad litem under Federal Rule of Civil Procedure 17(c)(2) and reasonable accommodations under the Americans with Disabilities Act, thereby denying meaningful access to the courts in conflict with *Tennessee v. Lane*, 541 U.S. 509

(2004), *Mathews v. Eldridge*, 424 U.S. 319 (1976), and *Boddie v. Connecticut*, 401 U.S. 371 (1971).

2. Whether the Tenth Circuit, in its Order and Judgment in Appendix G, created a conflict with this Court's decision in *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), by affirming the district court's judgment without reaching the merits of well-documented perjury and fraud-on-the-court claims, thereby affirming the denial of any evidentiary hearing on those claims in violation of due process.

3. Whether the Tenth Circuit, in its Order and Judgment in Appendix G, created a conflict with this Court's authority by affirming the dismissal of the litigants federal civil rights claims on procedural grounds, thereby resulting in indirect permission of Colorado statute to authorize or encourage private discrimination in housing in violation of the Equal Protection Clause, and the Fair Housing Act, in a manner that permits the state statute to supersede the Fair Housing Act, 42 U.S.C. §§ 3600, 3604, and 3615, contrary to this Court's decisions in cases such as *Reitman v. Mulkey*, 387 U.S. 369 (1967), *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015), and *Olmstead v. L.C.*, 527 U.S. 581 (1999).

LIST OF PARTIES

Petitioner and Plaintiff–Appellant below

- Shannon L. Perry

Respondents and Defendants–Appellees below

- Encore at Blvd One LLC
- Mark T. Schetter
- Ricci Donati
- Jessica Brandl

CORPORATE DISCLOSURE STATEMENT

There is no corporate petitioner.

LIST OF PROCEEDINGS

Direct Federal Court Proceedings below

U.S. Court of Appeals for the Tenth Circuit

No. 25-1128

Shannon Perry, *Plaintiff-Appellant* v. Encore at Boulevard One LLC; Ricci Donati; Jessica Brandl;

Mark T. Schetter, *Defendants-Appellees*.

Order and Judgment: March 6, 2026

U.S. District Court for the District of Colorado

No. 1:23-CV-02188

Shannon Perry, *Plaintiff* v. Encore at Boulevard One LLC; Ricci Donati; Jessica Brandl; Mark T. Schetter, *Defendants*

Final Judgment: March 28, 2025

Prior State Court Proceedings

Colorado Supreme Court

No. 23SC803

Shannon Perry, *Petitioner* v. Encore at Boulevard One LLC, *Respondent*

Order Denying Petition: April 8, 2024

Colorado Court of Appeals

No. 2023CA1614

Encore at Boulevard One LLC, *Plaintiff-Appellee* v. Shannon Perry, *Defendant-Appellant*

Order Dismissing Appeal: September 20, 2023

County Court for the City and County of Denver, CO

No. 23C62826

Encore at Blvd One LLC, *Plaintiff* v. Shannon Perry, *Defendant*

Eviction Order: August 28th, 2023

County Court for the City and County of Denver, CO

No. 23C59137

Encore at Blvd One LLC, *Plaintiff* v. Shannon Perry, *Defendant*

Order Dismissing with Prejudice: May 31, 2023

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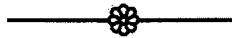
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PETITION FOR WRIT OF CERTIORARI

Petitioner **SHANNON PERRY**, for the reasons articulated below in this petition; and to ensure that disabled litigants receive meaningful access to the courts and the prophylactic protections Congress intended under Section 5 of the Fourteenth Amendment, this Court should grant the petition.



OPINIONS BELOW

The U.S. Court of Appeals for the Tenth Circuit issued its opinion on March 6, 2026. (App.1). That opinion affirmed the decision of the U.S. District Court for the District of Colorado, dated March 28, 2025. (App.21, App.23).



JURISDICTION

The Tenth Circuit entered judgment on March 6, 2026. No petition for rehearing was filed. Petitioner was granted an extension of time to file this petition through September 20, 2026. This petition is filed pursuant to Rule 33.2. This Court has jurisdiction under 28 U.S.C. § 1254(1).



CONSTITUTIONAL AND STATUTORY PROVISIONS AND JUDICIAL RULES AND REGULATIONS INVOLVED

I. Constitutional Provisions

1. U.S. Constitution, Article VI. Clause 2 (Supremacy Clause)

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof: and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land: and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

2. U.S. Constitution, Fourteenth Amendment, Section 1 (Equal Protection and Due Process Clauses)

"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."

As applied in *State of Colorado Denver County Court. Encore v. Shannon*, Case No. 23C62826, under C.R.S. § 13-40-101 to 13-40-123 & The Forcible Entry and Detainer Act).

3. U.S. Constitution. Fourteenth Amendment. Section 5 ((Enforcement Clause)

"The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. " (Prophylactic Protections)

II. Statutory Provisions

1. Colorado Forcible Entry and Detainer Statute (C.R.S. § 13-40-101 et seq.) This state statutory scheme governs summary eviction proceedings in Colorado and was applied in Denver County Court Case Nos. 23C59137 and 23C62826 against

Petitioner. Key provisions include procedures for issuance of writs of restitution and forcible entry and detainer orders that resulted in Petitioner's physical eviction on September 20, 2023.

2. Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. In 1988, Congress passed the Fair Housing Amendments Act, which explicitly added handicap (disability) as protected classes.

3. 42 U.S. Code § 3601—Declaration of Policy

"It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." (Pub. L. 90-284, title VIII, § 801, Apr. 11, 1968, 82 Stat. 81.)

4. 42 U.S. Code § 3604—Discrimination in the sale or rental of housing and other prohibited practices.

As made applicable by section 3603 of this title and except as exempted by sections 3603(b) and 3607 of this title, it shall be unlawful—

- (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, national origin. OR DISABILITY.
- (b) To discriminate against any person in the terms, conditions. or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status. or national origin OR DISABILITY

[...]

(f)

- (1) To discriminate in the sale or rental. or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

- (A) that buyer or renter.
- (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of
 - (A) that person; or
 - (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available: or

5. 42 U.S. Code § 3615—Effect on State Laws and Validity Clause:

“but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.”

6. Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.

Title II, 42 U.S.C. § 12132; Specifically the Title II of the Americans with Disability Act at Title 42 U.S.C. § 12132: Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

7. Title 42 U.S.C. § 12131(1)

(1) Public entity The term “public entity” means—

- (A) any State or local government:
- (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government:

8. Title III of the Americans with Disabilities Act, 42 U.S.C. § 12182

Prohibition of discrimination by public accommodations; § 12182(b)(1)(A)(i)–(iv) — Activities; § 12182(b)(1)(B) — Integrated settings; § 12182(b)(1)(C) — Opportunity

to participate' § 12182(b)(1)(D)(i)–(ii) — Administrative methods; § 12182(b)(1)(E) — Association; § 12182(b)(2)(A)(i)–(v) — Specific forms of discrimination; § 12182(b)(3) — Direct threat

This statute prohibits discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, or accommodations of any place of public accommodation. These provisions apply to private entities that own, lease, or operate such accommodations, ensuring equal access for individuals with disabilities.

9. Violence Against Women Act (VAWA). 34 U.S.C. § 12351 et seq. sub. 4—

Transitional housing assistance grants for victims of domestic violence, dating violence, sexual assault, or stalking. Part C—Civil Rights for Women 12361 Civil rights, specifically, provisions: (17) Homeless: The term “homeless” has the meaning given such term in section 12473 of this title. (46) Underserved populations: The term “underserved populations” means populations who face barriers in accessing and using victim services, and includes populations underserved because of geographic location, religion, sexual orientation, gender identity, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General or by the Secretary of Health and Human Services, as appropriate. (13) Civil rights (A) Nondiscrimination

10.42 U.S. Code § 1983—Civil action for deprivation of rights:

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be a statute of the District of Columbia.” (R.S. § 1979; Pub. L. 96-170. § 1. Dec. 29. 1979. 93 Stat. 1284; Pub. L. 104 317, title III. § 309(c). Oct. 19, 1996, 110 Stat. 3853.)

III. Federal Rules of Civil Procedure and Local Rules

1. Fed. R. Civ. P. 17(c)(2)

“A minor or an incompetent person who does not have a duly appointed representative may sue or defend by a next friend or by a guardian ad litem. The court must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action.”

2. Fed. R. Civ. P. 60(b)(3)

“On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for . . . fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party.”

3. Fed. R. Civ. P. 60(d)(3)

“This rule does not limit a court’s power to . . . set aside a judgment for fraud on the court.

4. Tenth Circuit Local Rule 27.5 Authorizes the Clerk to act on certain motions without submission to a panel. This rule was applied to deny Petitioner’s requests for a guardian ad litem and reasonable accommodations without judicial review.



IV. ISSUES OF RIGHTS

Petitioner asserts the following fundamental rights were violated in this case:

1. The right to meaningful access to the courts under the Due Process Clause of the Fourteenth Amendment and Title II of the Americans with Disabilities Act (*Tennessee v. Lane*, 541 U.S. 509 (2004)).

2. The right to procedural due process and an individualized inquiry before denial of a guardian ad litem under Fed. R. Civ. P. 17(c)(2) and the Fourteenth Amendment (*Mathews v. Eldridge*, 424 U.S. 319 (1976); *Boddie v. Connecticut*, 401 U.S. 371 (1971)).

3. The right to equal protection and freedom from state action that authorizes or encourages private disability discrimination in housing (*Reitman v. Mulkey*, 387 U.S. 369 (1967); *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015)).

4. The right to community integration and reasonable accommodations to avoid unnecessary removal from housing (*Olmstead v. L.C.*, 527 U.S. 581 (1999)).

5. The right to have fraud-on-the-court claims heard on the merits under this Court's inherent authority and *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944).

6. The right to protection against discriminatory housing practices under the Fair Housing Act and the Americans with Disabilities Act.



INTRODUCTION

In *Tennessee v. Lane*, 541 U.S. 509 (2004), this Court held that Congress may use Section 5 of the Fourteenth Amendment and Title II of the ADA to require reasonable measures that make court access real for people with disabilities. Failure to accommodate can be the practical equivalent of a due-process denial.

This case is that denial. Petitioner, a disabled pro se litigant with a documented traumatic brain injury, Asperger syndrome, and related cognitive impairments, sued under 42 U.S.C. § 1983, the Fair Housing Act, the ADA, and the Violence Against Women Act, alleging disability discrimination in housing and fraud on the court that cost her home. She asked the district court and the Tenth Circuit for a guardian ad litem under Rule 17(c)(2) and for ADA accommodations. Both courts denied those requests without a hearing or any competence inquiry. On May 13, 2025, she moved the Tenth Circuit for counsel and a guardian ad litem (ECF Doc. 25). The Clerk denied the guardian request the next day under Local Rule 27.5 without sending the motion to the panel (ECF Doc. 27). The panel later said she “did not request a guardian ad litem” and treated the issue as waived for inadequate briefing.

On March 6, 2026, the Tenth Circuit affirmed dismissal on waiver and mootness, without reaching the merits of the housing, ADA, or fraud-on-the-court claims, and without oral argument. It treated a TRO filed September 16, 2023—after the September 13 FED order but before the September 20 lockdown—as moot because the eviction later occurred. No court applied the Mathews balancing test to the private

interest in housing, the risk of error, or the burden of a limited competence inquiry. That disposition conflicts with this Court's authority in three respects, which are the Questions Presented. First, affirming on briefing defects after refusing Rule 17(c)(2) protection and ADA accommodations denies meaningful access under Lane, Mathews, and Boddie. Second, refusing to reach well-pleaded perjury and fraud-on-the-court claims, or to hold any hearing on them, conflicts with *Hazel-Atlas*. Third, letting Colorado's summary FED statute end the federal case on procedure, without merits review of disability-housing claims, permits a facially neutral state process to shield private discrimination and to isolate a disabled tenant from the community, contrary to *Reitman*, *Inclusive Communities*, *Olmstead*, and 42 U.S.C. §§ 3604 and 3615.

The petition should be granted to restore meaningful access for a disabled litigant and to resolve those conflicts.



STATEMENT OF THE CASE

Perry is a tenant with documented traumatic brain injury and related impairments that, she alleges, render her an unrepresented incompetent person within Rule 17(c)(2). After fleeing domestic violence, she leased at Encore at Blvd One LLC with ERAP and related assistance that the landlord accepted. She later sued under § 1983, the Fair Housing Act, the ADA, VAWA, and the Constitution, and alleged perjury and fraud on the court.

I. Brief Procedural History

State of Colorado

1. The State of Colorado County Court at Denver County of Colorado. in 23C59137 dismissed Encore at Blvd Ones eviction with Prejudice, barring a second eviction against Plaintiff Perry.

2. The State of Colorado County Court at Denver County of Colorado, in 23C62826 proceeded against the former dismissed with prejudice 23C59137, and granted a Writ of Restitution, and a Forcible Entry and Detainer against Plaintiff Perry. On 08/08/2023 the State Colorado County Court granted Perrys motion to Sue in Pauperis.

3. The Colorado Court of Appeals dismissed 2023CA1614 *Encore at Boulevard One LLC. v. Shannon Perry*. Any further review may be made only upon writ of certiorari to the Supreme Court. (See §§ 13-4-102(1)(f) and 13-6-310(4), (C.R.S. 2023 *People v. Meyers*, 43 Colo. App. 63, 598 P.2d 526 (1979))

4. The Colorado Supreme Court denied en banc Case No. 23SC803.

United States Federal District Court of Colorado

1. The United States District Court Case No. 1:23-CV-2188-SBP-GPG-LTB; for the District of Colorado dismissed Petitioner's pro se complaint asserting claims under 42 U.S.C. § 1983 the Fair Housing Act, the Adults Disability act. the Violence Against Women's Act, and Constitutional Claims, along with allegations of perjury and fraud on the court, with no hearings, or appointment of guardian ad litem, or incompetency hearing.

2. The district court denied Petitioner's requests for appointment of a guardian ad litem and reasonable accommodations under the Americans with Disabilities Act. Magistrate Judge Susan Prose issued a Report and Recommendation recommending dismissal on March 9, 2025 (2025 WL 977680). which District Judge Gordon P. Gallagher adopted in full on March 28, 2025 (2025 WL 977704), but held no hearings to form the final judgment.

Tenth Circuit Court of Appeals

1. The United States Court of Appeals for the Tenth Circuit affirmed the dismissal in an unpublished Order and Judgment dated March 6, 2026 (Case No. 25-1128).

2. The Tenth Circuit Clerk of Court outright refused to file Plaintiffs Showing of Good Cause on 04/08/2025 in Case No. 25-1128. (Pacer ECF Doc. 11)

3. The Tenth Circuits Clerk of Court ORDERED denial of appointment of Guardian Ad Litem on date of "05/14/2025", Christopher M. Wolpert, in Case No. 25-1128. (Pacer ECF Doc. 27)

4. The Tenth Circuit Clerk of Court issued no rule or order on Plaintiffs request to strike improper request in appellees brief on 08/14/2025, Christopher M. Wolpert. in case No. 25-1128. (Pacer ECF Doc. 42)

5. The Tenth Circuit Clerk of Court ORDERED granting of Appellant's motion for leave to proceed in forma pauperis on 03/06/2026. (Pacer ECF Doc. 47)

6. Appellant filed an Oral Argument Calendar Notice, requesting oral hearing on 01/26/2026. (Pacer ECF Doc. 44)

7. The Tenth Circuit ORDERED, filed by Judges Matheson, Lucero and Bacharach granting of MOTION for LEAVE TO PROCEED IFP, on 03/06/2026, Final Order to be found in case termination entry (Pacer ECF. Doc 47, 48, 49)

8. The Tenth Circuit Affirmed and terminated on the merits after submissions without oral hearing on 03/06/2026. (Pacer ECF. Doc 48)

9. The Tenth Circuit issued Mandate on 03/30/2026. in Case No. 25-1128. (Pacer ECF Doc. 49)

10. The Tenth Circuit held that Petitioner's claims were largely waived due to inadequate briefing, incomprehensible pleadings in the opening brief, and that the request for a temporary restraining order was moot after Petitioner was forcefully evicted pursuant to Colorado Denver County State Court Order for a FED under the Colorado Forcible Entry and Detainer Act State Law. (App. C.R.S. § 13-40-101 to 13-40-123) (Pacer ECF. Doc 47, 48, 49)

11. The State Courts. The District Court of Colorado, and Tenth Circuit court did not reach the substantive review of Petitioner's claims of perjury, fraud-on-the-court claims: held no oral argument and issued no remand, and didn't allow meaningful access to procedural and substantive access to the court.

II. State-Court Forcible Entry and Detainer Proceedings

Encore filed Denver County Court No. 23C59137 on May 19, 2023; that action was dismissed with prejudice on May 31, 2023. Encore filed a second action, No. 23C62826, on July 28, 2023. The county court granted in forma pauperis status on August 8, issued a writ of restitution on August 28, and entered the FED order on

that the affidavit was used to justify a second eviction after the first FED case had been dismissed with prejudice. No court reached those fraud-on-the-court allegations under Rule 60(b)(3) or 60(d)(3).

IV. Tenth Circuit Appeal

Notice of appeal was filed May 2, 2025, No. 25-1128. The May 13 motion for counsel and a guardian ad litem was denied as to the guardian by the Clerk on May 14 without panel review. On March 6, 2026, Judges Matheson, Lucero, and

September 13, 2023. Physical eviction occurred on September 20, 2023. The Colorado Court of Appeals dismissed No. 2023CA1614 for lack of jurisdiction the same day. The Colorado Supreme Court denied certiorari in No. 23SC803 on April 8, 2024.

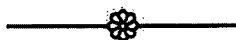
III. Federal District Court Proceedings and Preservation of Federal Claims

Petitioner filed in the District of Colorado on August 25, 2023, No. 1:23-cv-02188. She sought counsel, a guardian ad litem, and ADA and Fair Housing accommodations. Those requests were denied without hearing. On December 1, 2023, Magistrate Judge Prose recommended that the Fair Housing Act claims survive Rooker-Feldman screening. Chief Judge Babcock adopted that recommendation in part on December 15, 2023 (ECF Nos. 62, 65) and referred the case for scheduling and discovery. The case was then reassigned to Judge Gallagher. Discovery-enforcement motions were denied without hearing. On March 9, 2025, Judge Prose recommended dismissal. Judge Gallagher adopted the recommendation in full on March 28, 2025, without a hearing, and entered judgment. Petitioner alleged that an attorney-directed affidavit by J. Brandl falsely denied that she had received government rental assistance, and that the affidavit was used to justify a second eviction after the first FED case had been dismissed with prejudice. No court reached those fraud-on-the-court allegations under Rule 60(b)(3) or 60(d)(3).

IV. Tenth Circuit Appeal

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Bacharach affirmed in an unpublished order, holding the claims largely waived for inadequate briefing and the TRO moot after eviction. In forma pauperis status was granted; a good-faith certification was denied. The mandate issued March 30, 2026. No court conducted a Rule 17(c)(2) competence inquiry.



REASONS FOR GRANTING THE PETITION

I. DIRECT CONFLICT WITH SUPREME COURTS AUTHORITY IN *TENNESSEE V. LANE*, PROPHYLACTIC PROTECTION AND MEANINGFUL ACCESS TO THE COURTS

This case presents a direct and recurring conflict with this Court's controlling authority over precedents set regarding the rights of disabled litigants to meaningful access to the courts under Title II, and Title III of the Americans with Disabilities Act and the Due Process Clause of the Fourteenth Amendment. Review is compelled under Supreme Court Rule 10(c).

In *Tennessee v. Lane*, 541 U.S. 509 (2004), this Court held that Title II of the ADA is a valid prophylactic exercise of Congress's authority under Section 5 of the Fourteenth Amendment precisely to prevent the denial of meaningful access to judicial proceedings for persons with disabilities. The Court emphasized that Congress may impose reasonable affirmative obligations—including individualized inquiries and accommodations—to enforce the fundamental due-process right of access to the courts. *Id.* at 531-34. (citing *Boddie v. Connecticut*, 401 U.S. 371 (1971)). *Lane* expressly recognized that failure to provide such accommodations can have the same practical effect as an outright denial of due process. The Tenth Circuit's decision in

Shannon v. Encore is in direct conflict with the precedent of “meaningful access to the courts”.

Petitioner, a pro se litigant with documented traumatic brain injury, cognitive impairment, and speech deficits, repeatedly requested appointment of a guardian ad litem and other reasonable accommodations under the ADA. The district court never held any hearing—in person or virtually—on those requests, and never conducted the individualized inquiry required by Rule 17(c)(2) and Title II. When petitioner appealed to the 10th circuit court of appeals, the petitioner experienced the same denial without hearing or consideration of GAL request. The 10th circuit court clerk unilaterally denied the guardian-ad-litem request without submitting it to the panel. The 10th Circuit broke from meaningful access to the court, by rewriting a local rule under the 10th Cir. R. 27.5 Clerk Authorized to act. Exact Language that barred a disabled litigant from 14th Amendment Due Process rights and equal protections

“10th Cir. R. 27.5 Clerk Authorized to Act.

(A) Motions. Subject to review by the court, the Clerk is authorized to act for the court on any of the following matters, either Sua sponte or on motion: (8) to withdraw or substitute counsel in a civil case (12) any other motion or matter the court may authorize . . .”

This local rule gave the 10th Circuit clerk of the court an over broad delegated authority to decide (or deny). in *Shannon v. Encore*, preliminary and procedural motions without referring them to the three-judge panel.

The Tenth Circuit’s application of Local Rule 27.5 deprived Petitioner of a meaningful opportunity to be heard in violation of the Due Process Clause. In *Boddie v. Connecticut*, 401 U.S. 371 (1971), due process requires a meaningful opportunity to

be heard when the state (here, the courts) monopolizes the resolution of claims affecting fundamental interests such as housing and civil rights; mechanical procedural barriers that prevent merits review of a disabled pro se litigant's claims violate this guarantee.

Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing test confirms the violation: (1) the private interest is extremely high, as Petitioner's documented TBI, cognitive/speech impairments, and related disabilities directly affected her ability to litigate FHA and § 1983 housing discrimination claims implicating liberty and property interests; (2) the risk of erroneous deprivation was substantial because the clerk's summary denial involved no hearing or individualized ADA/Rule 17 (c)(2) inquiry, leading to later dismissals on "incomprehensible" briefing grounds attributable to unaccommodated disabilities; additional judicial safeguards would have high value in allowing medical evidence and argument; and (3) the government's interest in efficiency is minimal, as judicial review of such motions imposes negligible burden.

The Tenth Circuit then affirmed dismissal on strict waiver and inadequate-briefing grounds without ever reaching the merits of Petitioner's federal claims or the documented perjury. This sequence deprived Petitioner of the "meaningful access" that *Tennessee v. Lane* guarantees. By refusing any inquiry into Petitioner's disability and applying rigid procedural rules that a disabled litigant with TBI could not satisfy, the Tenth Circuit effectively nullified the prophylactic protections this Court upheld in *Lane*. This conflict is especially critical in housing-discrimination cases under the

Fair Housing Act and ADA, where disabled tenants face summary state-court eviction proceedings that demand prompt and effective federal-court review.

II. CIRCUIT SPLIT *HAZEL-ATLAS GLASS CO. v. HARTFORD-EMPIRE CO.*, 322 U.S. 238 (1944)—REGARDING “FRAUD ON THE COURT” RELIEF

This case presents the strongest independent circuit split on the dire request to issue guidance on the proper scope of post-judgment relief for fraud on the court under *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), a recurring federal procedural question that affects every civil-rights case involving alleged perjury. Supreme Court Rule 10(a) and (b).

The Tenth Circuit applied the narrow application of *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944). that circuits are divided over. and never reached the merits of Petitioner’s well-documented perjury and fraud-on-the-court claims. (App.25, App.246 Evidence of Perjury; Complaints for Unlawful Detainer App.310 and App.328), in *Shannon v. Encore* (Case No. 25-1128). For Encore at Blvd One to proceed a second eviction in the State County Court. Jessica Brandl would have to have perjured a document to get the clerk to accept the case after the first eviction was dismissed with prejudice against Plaintiff Perry. (See documented perjury at App.312)

Instead, the Tenth Circuit affirmed the dismissal solely on procedural grounds of inadequate briefing and waiver, without addressing whether Petitioner was entitled to relief under Fed. R. Civ. P. 60(b)(3) for fraud or under the court’s inherent authority pursuant to Fed. R. Civ. P. 60(d)(3) for fraud on the court. This prejudicial error deprived Petitioner of her Fourteenth Amendment right to due process and left a

disabled protected-class litigant without any merits review of her well-documented federal claims.

The circuits are divided between a narrow application (requiring “egregious” fraud that is strictly directed at the court itself) and a broader application (allowing relief for any fraud that undermines the integrity of the judicial process).

“Narrow-application circuits (1st, 2nd, 5th, 7th, 10th, and 11th) generally limit relief to the most extreme cases and treat most perjury or false affidavits as ordinary misconduct under FRCP 60(b)(3), subject to the one-year deadline and equitable bars. *See Aoude v. Mobil Oil Corp.*, 892 F.2d 1115 (1st Cir. 1989); *Marco Destin, Inc. v. Levy*, 111 F.4th 214 (2d Cir. 2024); *Gleason v. Jandrucko*, 860 F.2d 556 (2d Cir. 1988); *Rozier v. Ford Motor Co.*, 573 F.2d 1332 (5th Cir. 1978); *Kenner v. Commissioner*, 387 F.2d 689 (7th Cir. 1968); *Robinson v. Audi Aktiengesellschaft*, 56 F.3d 1259 (10th Cir. 1995); *Weese v. Schukman*, 98 F.3d 542 (10th Cir. 1996); *Zurich N. Am. v. Matrix Serv., Inc.*, 426 F.3d 1281 (10th Cir. 2005); *Travelers Indemnity Co. v. Gore*, 712 F.2d 1364 (11th Cir. 1983).”

“Broad-application circuits (6th and 9th) permit relief whenever fraud undermines the integrity of the judicial process itself, even when it also harms an individual litigant. *See Demjanjuk v. Petrovsky*, 10 F.3d 338 (6th Cir. 1993); *In re Intermagnetics America, Inc.*, 926 F.2d 912 (9th Cir. 1991); *Pumphrey v. K. W. Thompson Tool Co.*, 62 F.3d 1128 (9th Cir. 1995)”

Shannon v. Encore qualified for relief under both FRCP 60(b)(3) and FRCP 60(d)(3). The perjury consists of a State of Colorado government-assisted affidavit

that respondents' attorney directed J. Brandl to sign, falsely stating that Perry had not received government assistance. (*See App.246*)

This conduct (1) prejudiced Petitioner (satisfying 60(b)(3), and (2) was directed at the judicial machinery itself by an officer of the court (satisfying the 6th Circuit's five-element test for 60(d)(3). *See Carter v. Anderson*, 585 F.3d 1007, 1011 (6th Cir. 2009). By refusing to reach the merits of these claims, the Tenth Circuit denied Petitioner her Fourteenth Amendment right to procedural due process and meaningful access to the courts. This case is therefore ideal for the Court to resolve the circuit split and clarify the proper scope of fraud-on-the-court relief when perjury is committed against a disabled protected-class litigant in civil rights cases.

III. DIRECT CONFLICT WITH CIVIL RIGHTS PRECEDENTS FOR STATE ACTION ENABLING PRIVATE DISCRIMINATION OF DISABLED PEOPLE IN HOUSING, AND DISPARATE-IMPACT

In *Reitman v. Mulkey*, 387 U.S. 369 (1967), *Texas Department of Housing v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015), precedents were set by the Supreme Court for state action enabling private discrimination, and disparate-impact liability under the Fair Housing Act.

In *Shannon v. Encore*, the Tenth Circuit allowed Colorado's Forcible Entry and Detainer Act to shield private disability discrimination in housing by treating the state-court FED proceeding as a purely private matter immune from federal review. When the Tenth Circuit affirmed the district court's judgment on procedural grounds, it created a compelling reason for this Court to grant review: whether a facially neutral state summary-eviction statute may operate as state action that enables

private disability discrimination and triggers disparate-impact liability under the Fair Housing Act.

Shannon v. Encore presents a direct conflict with the Supreme Court's authority governing when a facially neutral state procedure constitutes state action that enables or shields private disability discrimination in housing. In *Reitman v. Mulkey*, 387 U.S. 369 (1967), this Court held that a state constitutional provision that effectively authorized private racial discrimination in housing constituted state action violating the Equal Protection Clause. In *Shannon v. Encore*, the 10th Circuit affirmed that state statutory forcible entry and detainer laws authorize private disability discrimination in housing constituting that state statute to violate the Fair Housing Act in general, and specifically section 3604, and 3615.

Similarly, in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015), the Court recognized disparate-impact liability under the Fair Housing Act, holding that facially neutral housing policies can violate the FHA when they have a disproportionately adverse effect on protected classes and are not justified by legitimate interests. The Tenth Circuit's decision in this case conflicts with both precedents. By affirming dismissal on procedural grounds without reaching the merits, the Tenth Circuit allowed Colorado's Forcible Entry and Detainer Act (C.R.S. §§ 13-40-101 to 13-40-123)—a facially neutral summary eviction statute—to operate as a shield for the respondents' alleged disability discrimination in housing. The state-court FED proceeding, combined with the federal courts' refusal to provide any meaningful review or

accommodations, effectively insulated private actors from liability under the Fair Housing Act and ADA, for conduct that had a disparate impact on disabled tenants. The outcome in *Shannon v. Encore* permits the very state-enabled private discrimination that *Reitman* and *Inclusive Communities* prohibit, particularly where, as here, the summary FED process disproportionately burdens tenants with disability. For example, disabled tenants who show the court cognitive impairments, whose limitations cannot comply with compressed timelines and technical requirements without reasonable accommodations, are directly harmed. Colorado State Statutes through the Forcible Entry Detainer Act doesn't mention any Fair Housing accommodations for disabled tenants regarding communications with state case workers, social workers, rental assistance programs, stipulated agreements, or any satisfying Fair Housing sections 3600-3619. What appears to be a facially neutral "forcible entry detainer", evades the purpose set forth in: *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015):

"recognizing disparate impact liability under Fair Housing Act, holding facially neutral housing policies and statutes can violate the Fair Housing Act when they produce a disproportionately adverse effect on protected classes, and not justified by legitimate interest."

The purpose of Colorado's FED Act is to speed evictions. Combined with the Tenth Circuit's affirmance, that state-only scheme can remove disabled tenants from the community without federal Fair Housing review.

IV. DIRECT CONFLICT WITH SUPREME COURT AUTHORITY PROHIBITING UNJUSTIFIED SEGREGATION OF DISABLED TENANTS FROM THE COMMUNITY

In *Olmstead v. L.C.*, 527 U.S. 581 (1999), this Court held that Title II of the Americans with Disabilities Act prohibits the unjustified segregation of persons with disabilities from the community. The Tenth Circuit's decision in *Shannon v. Encore*, by affirming dismissal on procedural grounds without reaching the merits or providing reasonable accommodations, permitted Colorado's Forcible Entry and Detainer Act to cause Petitioner's eviction and forced her into unjustified isolation from the community. This outcome directly conflicts with *Olmstead's* integration mandate under the ADA.



CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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