No. 26-6172

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

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SUPREME COURT, U.S.

IN RE TERRI LOWE (TUCKER) AND WILLIAM JAMES, Petitioners.

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

PETITION FOR A WRIT OF MANDAMUS

Date: October 28, 2026

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Petitioners' Appearing As Joint Pro Se Litigants

QUESTIONS PRESENTED

I. Whether a federal judge who is named as a party-defendant and served in an operative pleading commits per se, irremediable structural error under 28 U.S.C. § 455 and the Due Process Clause by refusing to recuse, presiding over his own defense, and entering an order dismissing himself from the action.

II. Whether a district court acts in total absence of subject-matter jurisdiction when, having expressly acknowledged that a pending appeal divested it of jurisdiction, it nevertheless enters merits summary judgment and a permanent anti-filing injunction under the All-Writs Act without an appellate remand.

III. Whether the Eleventh Circuit departed from the accepted and usual course of judicial proceedings by affirming the dismissal of a superseded complaint, adopting an ex post facto rationale to nullify an operative pleading that the district court never struck, and finding claims "abandoned" where the lower court omitted the preserved record from appellate transmission.

IV. Whether an extraordinary writ of mandamus under 28 U.S.C. § 1651(a) must issue to vacate void, ultra vires orders where lower courts employ an invalid filing injunction and recharacterize mandatory FRAP 35/40 en banc petitions to insulate structural defects from ordinary review.

PARTIES TO THE PROCEEDING

Petitioners:

1. Terri Lowe (formerly Terri Tucker), Petitioner Pro Se, residing in Douglasville, Georgia.

2. William James, Petitioner Pro Se, residing in Harvey, Illinois. Nominal

Respondents:

3. United States Court of Appeals for the Eleventh Circuit.

4. Honorable Thomas W. Thrash, Jr., Senior U.S. District Judge for the Northern District of Georgia. Respondents (Real Parties in Interest):

5. Barbara Hunt, an individual residing in Chicago, Illinois.

6. Tyler Perry, an individual residing in Douglasville, Georgia.

7. The Tyler Perry Company, Inc., a corporation with its principal place of business in Atlanta, Georgia.

8. Tyler Perry Studios, LLC, a limited liability company with its principal place of business in Atlanta, Georgia.

9. Lions Gate Entertainment Inc., a corporation with its principal place of business in Santa Monica, California.

10. Oprah Winfrey, an individual residing in Montecito, California.

11. Oprah Winfrey Network, LLC (OWN), a limited liability company with its principal place of business in West Hollywood, California.

12. Harpo Productions, Inc. / Harpo Studios, a corporation with its principal place of business in West Hollywood, California.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioners Terri Lowe and William James are natural persons and not corporations. No parent corporations or publicly held companies hold any ownership interest in this proceeding.

LIST OF DIRECTLY RELATED PROCEEDINGS

Supreme Court of the United States:

1. In re James, et al. v. Hunt, et al., No. 18-1557 (Certiorari denied Oct. 7, 2019; Rehearing denied Dec. 9, 2019).

2. In re James, et al. v. Hunt, et al., No. 19-390 (Certiorari denied Nov. 18, 2019).

United States Court of Appeals for the Eleventh Circuit:

3. In re William James & Terri Lowe, No. 25-13325-D (Mandamus denied Dec. 18, 2025; Rehearing petition recharacterized Mar. 31, 2026; Demand for en banc circulation denied Aug. 3, 2026).

4. William James, et al. v. Barbara Hunt, et al., No. 18-13553-GG (Affirmed Aug. 12, 2019; Mandate issued Sept. 10, 2019; Recall of mandate denied Oct. 2, 2025).

5. William James, et al. v. Barbara Hunt, et al., No. 17-14866-FF (Affirmed Dec. 20, 2018; Mandate issued Feb. 22, 2019; Recall of mandate denied Oct. 3, 2025).

6. In re William James & Terri Tucker, No. 18-10164-C (Mandamus denied Mar. 26, 2018).

7. William James, et al. v. Barbara Hunt, et al., No. 17-13294-EE (Interlocutory appeal dismissed Sept. 27, 2017). United States District Court for the Northern District of Georgia (Atlanta Division):

8. James, et al. v. Hunt, et al., Case No. 1:17-cv-01181-TWT (Order dismissing Judge Thrash and granting judgment on pleadings Oct. 19, 2017 [Docs. 131, 138]; Summary judgment and filing injunction entered Aug. 10, 2018 [Doc. 168]; Post-

judgment Rule 60 motions denied Aug. 8, 2025 [Doc. 208], Oct. 17, 2025 [Doc. 218], and Nov. 24, 2025 [Doc. 219]).

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DECISIONS BELOW

The August 3, 2026 order of the United States Court of Appeals for the Eleventh Circuit, denying Petitioners' demand for mandatory full-court en banc processing under Fed. R. App. P. 35 (Doc. 36-1), is unreported and appears in the Appendix hereto at Appendix A, App. 1a.

The March 31, 2026 order of the Eleventh Circuit, recharacterizing Petitioners' timely Fed. R. App. P. 35/40 petition as a motion for reconsideration (Doc. 28), is unreported and appears at Appendix A, App. 3a.

The December 18, 2025 order of the Eleventh Circuit, denying Petitioners' second petition for a writ of mandamus (Doc. 18-2), is unreported and appears at Appendix A, App. 5a.

The August 10, 2018 order and permanent filing injunction of the United States District Court for the Northern District of Georgia (Doc. 168) is reported at 2018 WL 10560768 and appears at Appendix B, App. 15a.

The October 19, 2017 order of Chief Judge Thomas W. Thrash, Jr., granting his own counsel's motion to dismiss (Doc. 131), is unreported and appears at Appendix B, App. 25a.

The October 19, 2017 order of the District Court, granting Defendants' Rule 12(c) motion for judgment on the pleadings and directing partial final judgment under Rule 54(b) (Doc. 138), is unreported and appears at Appendix B, App. 27a.

The November 20, 2017 order of the District Court, conceding loss of jurisdiction upon the filing of the Notice of Appeal and restricting future filings (Doc. 154), is unreported and appears at Appendix B, App. 30a.

STATEMENT OF JURISDICTION

Petitioners invoke the jurisdiction of this Court pursuant to the All Writs Act, 28 U.S.C. § 1651(a), and Article III, § 1 of the United States Constitution, which vest this Court with supervisory authority over inferior federal courts. Supervisory mandamus is sought in aid of this Court's appellate jurisdiction under 28 U.S.C. § 1254(1).

The United States Court of Appeals for the Eleventh Circuit entered its final order foreclosing full-court rehearing en banc on August 3, 2026 (Doc. 36-1), and subsequently instructed its Clerk to accept no further filings from Petitioners.

This Petition is timely filed within the 90-day period prescribed by Supreme Court Rule 20.2, running from the Eleventh Circuit's August 3, 2026 disposition.

Because ordinary appellate remedies have been entirely foreclosed by lower-court filing bars and the refusal to circulate mandatory en banc filings, extraordinary relief under Rule 20 and 28 U.S.C. § 1651(a) is the sole available means to obtain review.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Constitutional Provisions:

Article III, Section 1 of the United States Constitution provides in relevant part:

> "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."

The First Amendment to the United States Constitution provides in relevant part:

> "Congress shall make no law . . . 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."

The Fifth Amendment to the United States Constitution provides in relevant part:

> "No person shall . . . be deprived of life, liberty, or property, without due process of law . . . ."

The Fourteenth Amendment to the United States Constitution provides in relevant part:

> "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."

2. Statutory Provisions:

The All Writs Act, 28 U.S.C. § 1651(a), provides:

"(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."

28 U.S.C. § 455 provides in relevant part:

"(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. (b) He shall also disqualify himself in the following circumstances: . . . (5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person: (i) Is a party to the proceeding, or an officer, director, or trustee of a party;"

28 U.S.C. § 1254(1) provides:

"Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;"

28 U.S.C. § 1915(a)(1) is set forth in full in the Appendix hereto at Appendix D.

3. Federal and Local Rules of Procedure:

Federal Rules of Civil Procedure 12(c), 13, 15(a), 54(b), and 60(b)(4), (d)(3) are set forth in full in the Appendix hereto at Appendix D.

Federal Rules of Appellate Procedure 35 (En Banc Determination) and 40 (Petition for Panel Rehearing) are set forth in full in the Appendix hereto at Appendix D.

Eleventh Circuit Rule 26.1-5 (Certificate of Interested Persons and Corporate Disclosure Statement) set forth in full in the Appendix hereto at Appendix D.

Supreme Court Rules 20 (Procedure on a Petition for an Extraordinary Writ) and 39 (Proceedings in Forma Pauperis) are set forth in full in the Appendix hereto at Appendix D.

STATEMENT OF THE CASE

I. The Pleading Phase: Judicial Steering by Name, Default Subversion, Mandatory Disqualification Under 28 U.S.C. § 455, and the Presiding Judge's Self-Dismissal (April 2017 – October 2017)

On April 3, 2017, Petitioners William James and Terri Lowe (then Tucker) commenced this action in the United States District Court for the Northern District of Georgia, asserting civil RICO claims under 18 U.S.C. §§ 1961–1968 against Respondents Barbara Hunt, Tyler Perry, Oprah Winfrey, Lions Gate Entertainment Inc., and affiliated entities (Doc. 1). The action was initially assigned to the Honorable Richard W. Story, Jr.

On April 17, 2017, Judge Story entered an order noting that "Plaintiffs' claims are civil RICO claims with predicate acts related to copyright infringement and counterfeit goods" (Doc. 15 at 2, App. 93a) and reminding Petitioners that they had ninety (90) days under Federal Rule of Civil Procedure 4(m)—through July 2, 2017—to perfect service (Doc. 15 at 2–3, App. 93a).

Petitioners executed service and filed returns: Harpo and Oprah Winfrey Network (OWN) were served April 26, 2017 (Docs. 34, 36; answers due May 17, 2017), and Lions Gate Entertainment was served April 28, 2017 (Doc. 35; answer due May 19, 2017). When these Defendants did not plead or otherwise defend within the 21-day period under Rule 12(a)(1)(A)(i), Petitioners moved for entry of default (Doc. 41 on May 19; Doc. 47 on May 22).

On May 11, 2017, Defendants Tyler Perry, The Tyler Perry Company, Inc., and Tyler Perry Studios, LLC moved to reassign the action to Chief District Judge Thomas W. Thrash, Jr. by name (Doc. 31, App 93a). In that motion, Defendants stated that Petitioners sought "recovery of civil RICO damages, alleging predicate acts of copyright infringement and counterfeit goods," citing Doc. 1 and Doc. 15 (Doc. 31 at ¶ 1), while also invoking local related-case procedures based on prior copyright litigation (Strickland v. Tyler Perry, Case No. 1:15-cv-03400) previously presided over by Judge Thrash (Doc. 31 at ¶¶ 2–5, App. 93a). Judge Story granted reassignment on June 22, 2017 (Doc. 71). Petitioners also contend that, prior to reassignment, they identified an appearance of partiality under 28 U.S.C. § 455, including the appearance of an "Annie Thrash" as a principal cast member in a Tyler Perry television production (Too Close to Home).

After reassignment, Petitioners contend the proceedings departed from ordinary Rule 55 practice. On May 24, 2017, the commercial Defendants filed a motion to quash service and set aside default (Doc. 52). While Doc. 52 remained pending, Defendants filed amended answers on June 1 (Docs. 54–56), an omnibus response on June 15 (Doc. 67), and a Motion for Judgment on the Pleadings on June 27, 2017 (Doc. 74).

Petitioners contend Doc. 74 was procedurally improper under Rule 12(c), which permits judgment on the pleadings only "[a]fter the pleadings are closed." In Footnote 1, Defendants stated they sought no relief as to counterclaims, asserting

those counterclaims were "reserved," and (Doc. 74) asserted Rule 12(b)(6)-type defenses against the original complaint.

On June 29, 2017—three days before the Rule 4(m) period referenced in Doc. 15 elapsed—Chief Judge Thrash entered Order Doc. 76, quashing service and vacating Petitioners' default motions (Docs. 41, 47) on improper-service grounds. Petitioners then amended as of right under Rule 15(a)(1)(B), caused alias summonses to issue (Docs. 75, 77, 80, 94), executed re-service (Docs. 79, 83, 84), and filed the First Amended Complaint on July 5, 2017 (Doc. 85), eight days after (Doc. 74), (Doc. 85, App. 94a, 95a, 100a) added Chief Judge Thrash as a party-defendant and alleged facts concerning conflict of interest and statutory violations under 18 U.S.C. § 1964. Summons issued to Judge Thrash (Doc. 94, App 95a) and service was executed through the United States Marshals and the federal courthouse (Doc. 100, App 95a).

An amended complaint supersedes the original complaint. *Pintando v. Miami-Dade Hous. Agency*, 501 F.3d 1241, 1243 (11th Cir. 2007). Petitioners contend Doc. 85 rendered Doc. 74 moot, and that filing and service of (Doc. 85, App. 94a, 95a, 100a) triggered mandatory disqualification under 28 U.S.C. § 455(b)(5)(i), which requires recusal where the judge "is a party to the proceeding." Petitioners contend Judge Thrash did not recuse and continued to manage the docket.
On July 7 and July 10, 2017, the commercial Defendants filed motions to stay proceedings and discovery (Docs. 87, 89), neither of which answered or otherwise responded to (Doc. 85, App. 94a, 95a, 100a) by Rule 12(b) motion or Rule 12(f)

motion to strike. On July 13, 2017, Judge Thrash granted the stay motions (Doc. 95, App. 77-78a) and denied recusal/reassignment motions under § 455 (Doc. 96). Petitioners renewed reassignment requests (Doc. 97).

On August 31, 2017, Assistant United States Attorney Lori M. Beranek appeared for Defendant Judge Thrash and filed a Rule 12(b) Motion to Dismiss (Doc. 116, App. 42a, 95a). Petitioners filed an opposition challenging jurisdiction and immunity (Doc. 117, App. 95a). The commercial Defendants did not answer Doc. 85. On September 28, 2017—eighty-five days after Doc. 85—Petitioners moved for default judgment (Doc. 119, App. 97a). Defendants' response (Doc. 122) addressed only prior, superseded defaults and did not answer or move to strike Doc. 85. Petitioners renewed their recusal motion on October 6, 2017 (Doc. 120, App. 41a, 101a).

On October 19, 2017, Judge Thrash entered multiple orders (Docs. 124–139), including:

1. Denial of Default Judgment (Doc. 130, App. 44a, 99a): Judge Thrash denied Petitioners' motion for default judgment (Doc. 119, App. 44a) against commercial Defendants who had not answered Doc. 85 for nearly three months.
2. Self-Dismissal (Doc. 131, App. 42-43a, 99a): Judge Thrash granted his counsel's motion to dismiss (Doc. 116) and stated that Doc. 85 was "void and a nullity" because it was filed without leave (Doc. 131 at 1, App. App. 42-43a, 99a). The commercial Defendants had not moved to strike Amended

Complaint Doc. 85 under Rule 12(f). Petitioners contend that, under *Williams v. Pennsylvania*, 579 U.S. 1, 8–9 (2016), and *In re Murchison*, 349 U.S. 133, 136 (1955), a judge ruling on his own motion presents structural due process concerns affecting subsequent orders.

3. Preclusion Rulings on Superseded Pleadings (Doc. 138, App. 26a, 28a, 37-40a): After dismissing himself, Judge Thrash granted Defendants' June 27 motion (Doc. 74, App. 37-40a), which was directed to the original complaint (Doc. 1). Order Doc. 138 dismissed claims under res judicata/collateral estoppel (Doc. 138 at 1–2) and also held Petitioners failed to plead a plausible copyright predicate (Doc. 138 at 3). Petitioners further contend the order extended preclusion to non-parties to prior copyright actions, raising due process concerns under *Taylor v. Sturgell*, 553 U.S. 880 (2008), and certified judgment under Rule 54(b) despite counterclaims being "reserved" in Doc. 74 n.1.
4. Docket Redesignation: Following these orders, the docket redesignated the commercial Defendants as "Counter-Claimants" and Petitioners as "Counter-Defendants," notwithstanding the absence of an answer or active Rule 13 counterclaim joining issue with Doc. 85.

II. The Divestiture Phase: Entry of Merits Summary Judgment and a Lifetime Injunction (Doc. 168) Under Admitted Loss of Jurisdiction (October 2017 – August 2018)

On October 26, 2017, Petitioners filed a Notice of Appeal (Doc. 144), which was transmitted to the United States Court of Appeals for the Eleventh Circuit and docketed as Appeal No. 17-14866. Under *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982), the filing of a notice of appeal is an event of jurisdictional significance that transfers jurisdiction to the court of appeals and divests the district court of control over aspects of the case involved in the appeal.

The District Court expressly acknowledged divestiture. On November 20, 2017, Judge Thrash entered Order Doc. 154 stating: "The Plaintiffs having filed a Notice of Appeal, this Court no longer has jurisdiction." (Doc. 154 at 3, App. 28a, 34-36a). In that order, Judge Thrash also imposed administrative restrictions, directing the Clerk to accept papers but not to docket Petitioners' filings as motions requiring court action unless specifically ordered (Doc. 154 at 3).

On January 24, 2018, the Eleventh Circuit issued a Jurisdictional Question in Appeal No. 17-14866 concerning whether the District Court's Rule 54(b) certification was valid while Defendants' counterclaim for an injunction remained pending. On February 6, 2018, Assistant United States Attorney Lori M. Beranek filed a response on behalf of Defendant–Appellee Chief District Judge Thomas W. Thrash, Jr., asserting that Order Doc. 138 was final under Rule 54(b) while also acknowledging divestiture and stating there was "no objection to remand should the

Court of Appeals rule otherwise" to resolve the pending counterclaim. The Eleventh Circuit did not remand.

Despite the absence of remand, on February 5, 2018, the commercial Defendants filed a motion for summary judgment on their counterclaim (Doc. 157, App. 25-33a), seeking a permanent anti-filing injunction under the All Writs Act. Petitioners contend this posture was procedurally improper because (1) Defendants had not answered or otherwise responded to the operative First Amended Complaint (Doc. 85) by Rule 12(b) motion or Rule 12(f) motion to strike, and (2) Defendants had previously stated in Footnote 1 of Doc. 74 that counterclaims were "reserved," yet sought to adjudicate those claims while the case was on appeal.

Petitioners filed objections asserting lack of jurisdiction under *Griggs* and opposing summary judgment by defaulting parties (Docs. 159, 160). On March 19, 2018, Petitioners filed a renewed request for judgment (Doc. 162, App. 25-33, 100a), again asserting that Defendants' failure to answer Doc. 85 required default consequences, eight (8) months after no opposition to the operative complaint.

On March 19, 2018, Defendants filed a motion for summary judgment (Doc. 157, App. 25-33a). Petitioners contend that, at the time of that filing and throughout the ensuing proceedings, the operative First Amended Complaint (Doc. 85) remained unanswered by the commercial defendants and was never met by any proper motion directed to Doc. 85 seeking to strike or dismiss it—i.e., no Rule 12(b) motion addressed to Doc. 85, no Rule 12(f) motion to strike, and no Rule 12(c) motion after pleadings closed—and no neutral order struck or dismissed (Doc. 85) as

to those defendants. Nevertheless, on August 10, 2018, while Appeal No. 17-14866 remained pending, Judge Thrash entered Order (Doc. 168, App. 25-33a).

The order expressly acknowledged divestiture: "Furthermore, the Plaintiffs have already filed a Notice of Appeal. Thus, this Court no longer has jurisdiction over the Plaintiffs' claims." (Doc. 168 at 4, App. 25-33a) (citing *Taylor v. Sterrett*, 640 F.2d 663). On the same date, the court granted Defendants' summary judgment motion (Doc. 157) and imposed a permanent All Writs Act filing injunction (Doc. 168 at 8–9). Petitioners contend the only order purporting to declare Doc. 85 "void" was Judge Thrash's self-dismissal order granting his counsel's motion (Doc. 116; Doc. 131), not any neutral adjudication striking Doc. 85 as to the commercial defendants.

The injunction barred Petitioners from filing papers in the Northern District of Georgia or instituting lawsuits in any state or federal court nationwide arising from the same nucleus of operative facts without Judge Thrash's written permission. Judgment entered the same day. (Doc. 169). Petitioners later renewed their default-based request for relief based on the continued failure to respond to Doc. 85. (Doc. 162).

Petitioners further contend the injunction order employed pejorative characterizations of Petitioners and their claims, and that such language reflected a breakdown of neutrality. *Offutt v. United States*, 348 U.S. 11, 14 (1954); *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876 (2009).

On August 20, 2018, Petitioners filed a Joint Amended and Consolidated Notice of Appeal (Doc. 170) seeking to incorporate the injunction into the pending appeal.

Petitioners contend the Clerk misrouted and delayed transmission (Docs. 173–175), assigned a placeholder number (00-00000), and the matter proceeded as a separate appeal (No. 18-13553). Motions to consolidate were denied (Doc. 182).

On September 6, 2018, Judge Thrash Denied (Doc. 180, App. 23-24a), Plaintiffs' Request Permission to File an Objection and Opposition to Order [Doc. 171] and Request for Permission to File Motion to Reconsideration [Doc. 172].

On December 20, 2018, the Eleventh Circuit affirmed in Appeal No. 17-14866 (Doc. 74, App. 53-64a). Petitioners contend the panel relied on a rationale that Petitioners "improperly and untimely attempted to amend" under Rule 15(a), and deemed challenges to Judge Thrash's self-dismissal (Doc. 131, App. 42-43a) and Rule 54(b) certification "abandoned," while Petitioners further contend that key filings—including Doc. 85, Doc. 117, and service returns—were omitted from the appellate record, which was available on the transaction list, this validates what was submitted by the District Court on both Appeals 17-14866 and 18-13553.

On August 12, 2019, a separate panel affirmed the summary judgment and injunction in Appeal No. 18-13553 (Doc. 58, App. 65-72a). Petitioners contend the panel concluded the divestiture rule was not violated because the injunction was entered after resolution of Appeal No. 17-14866, notwithstanding that Appeal No. 17-14866 was decided on December 20, 2018. Petitioners further contend the panel then held remaining challenges belonged to the prior appeal, foreclosing substantive review. Petitions for certiorari were denied (Nos. 18-1557 and 19-390).

III. The Post-Judgment Phase: Deploying a Void Injunction to Bar Rule 60 Remedies, Record Tampering, and Recharacterizing Mandatory En Banc Rehearing (2020–2026)

Following the 2019 certiorari denials, Petitioners contend extraordinary personal crises disrupted immediate post-judgment litigation. Between 2020 and 2024, Petitioner Lowe suffered the deaths of her eldest son (Aug. 2021), her mother (Apr. 2023), and other close family members (including Nov. 2024), assumed sole custody of her disabled infant grandson, and suffered severe injuries in an Oct. 2024 pedestrian strike. Petitioners contend these circumstances, compounded by pandemic disruptions, support equitable tolling. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944).

In 2025, after reviewing PACER transmittal receipts, Petitioners contend they discovered the prior appeals were decided on a suppressed record: the District Court Clerk omitted Petitioners' opposition (Doc. 117, App. 96a), the operative First Amended Complaint (Doc. 85), and executed service returns from appellate transmission. Petitioners further contend that on July 12, 2017—the date summons issued to Judge Thrash (Doc. 94, App. 95a)—Doc. 85 was altered on the electronic docket without consent to excise factual averments concerning alleged conflicts.

Petitioners then filed Rule 60(b)(4)–(6) and 60(d)(3) motions (Docs. 196, 197, 199), attaching transmittal receipts and asserting record tampering, ongoing default, and structural voidness. Defendants responded by letter requests seeking enforcement of the 2018 filing bar (Doc. 198). Petitioners contend that,

notwithstanding disqualification issues under 28 U.S.C. § 455, Chief Judge Thrash entered Order Doc. 208 barring the Rule 60 motions by reference to the 2018 injunction. Petitioners cite *Standard Oil Co. of California v. United States*, 429 U.S. 17, 18 (1976), and *Hazel-Atlas* for the proposition that collateral attacks on void judgments and fraud on the court cannot be extinguished by an anti-filing injunction.

Petitioners moved to recall the mandates in Appeal Nos. 17-14866 and 18-13553. Petitioners contend that, in responding, Defendants submitted altered citations attributing the Aug. 10, 2018, injunction to Judge Richard W. Story ("RWS") rather than Chief Judge Thomas W. Thrash, Jr. ("TWT"). The Eleventh Circuit issued summary denials (Oct. 2 & 3, 2025).

On Oct. 1, 2025, Petitioners initiated Mandamus Proceeding No. 25-13325-D. The Circuit Clerk issued a 28-day directive requiring respondents to file Corporate Disclosure Statements and Certificates of Interested Persons under 11th Cir. R. 26.1-5. Petitioners contend respondents—including the commercial entities and Judge Thrash—did not timely comply, and DOJ did not appear. The panel denied mandamus on Dec. 18, 2025 (Doc. 18-2), citing an "adequate alternative remedy" by appeal.

Petitioners filed a joint FRAP 35 en banc and FRAP 40 panel rehearing petition (Doc. 21, App. 84-85a). On Mar. 31, 2026, the panel stated it considered the supplemented record, but recharacterized Doc. 21 as a "motion for reconsideration"

(Doc. 28-2 at 5). Petitioners filed a Motion to Vacate (Doc. 29) and Notice of Mandatory Distribution (Doc. 30), which were denied (Doc. 31-2).

On Aug. 3, 2026, the panel entered Order Doc. 36-2, denying pending motions as moot and directing the Clerk "to take no action on any additional filings by Petitioners in this closed case" without notice. Petitioners contend that, with en banc review intercepted and further filings administratively barred, supervisory mandamus under 28 U.S.C. § 1651(a) is the only remaining avenue to address the asserted void orders and record irregularities.

REASONS FOR GRANTING THE WRIT

I. Mandamus Must Issue Because Participation by a Statutorily Disqualified Judge in His Own Defense Is Per Se Structural Error

A fair trial in a fair tribunal is a basic requirement of due process. *In re Murchison*, 349 U.S. 133, 136 (1955). This Court has long held that disqualification rules guard not only against actual bias, but against the intolerable risk and objective appearance of partiality. *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876 (2009); *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 860 (1988); *Tumey v. Ohio*, 273 U.S. 510, 523 (1927). When a disqualified adjudicator participates, the defect is structural, undermines the integrity of the proceeding, and is not subject to harmless-error review. *Williams v. Pennsylvania*, 579 U.S. 1, 8 (2016); *Arizona v. Fulminante*, 499 U.S. 279, 309–10 (1991).

The record reflects a breakdown of tribunal integrity: the presiding Chief District Judge was named as an adverse party-defendant in an operative pleading

(Doc. 85), summons issued and service was executed (Docs. 94, 100), counsel appeared on his behalf (Doc. 116), and the judge then adjudicated his own defense—declaring the pleading against him a "nullity" (Doc. 131) and dismissing himself.

Petitioners further contend that record-handling defects—including transmission of a truncated and altered record to the court of appeals—deprived Petitioners of a neutral tribunal and meaningful appellate review, in violation of due process and fundamental record-integrity principles.

A. Under 28 U.S.C. § 455(b)(5)(i), Disqualification Is Immediate and Self-Executing When the Presiding Judge Is a Party

Section 455 establishes a mandatory command. While § 455(a) requires disqualification whenever a judge's "impartiality might reasonably be questioned," § 455(b) imposes bright-line, nonwaivable disqualifications. Under § 455(b)(5)(i), a judge "shall also disqualify himself" where he "[i]s a party to the proceeding." 28 U.S.C. § 455(a), (b)(5)(i). The statute admits no balancing of convenience or harmless-error analysis; disqualification is mandatory once the condition exists. *United States v. Patti*, 337 F.3d 1317, 1321 (11th Cir. 2003); see also *Liljeberg*, 486 U.S. at 859–60 & n.8.

Here, Petitioners contend the bright line was crossed on July 5, 2017, when they filed the First Amended Complaint as of right under Rule 15(a)(1)(B) (Doc. 85), naming Chief Judge Thomas W. Thrash, Jr. as a defendant. Summons issued July 12, 2017 (Doc. 94), service was executed (Doc. 100), and Assistant United States Attorney Lori M. Beranek appeared on his behalf (Doc. 116).

At that juncture, Judge Thrash was a party to the proceeding. Petitioners contend § 455(b)(5)(i) required immediate recusal and reassignment, and did not permit the judge to remain on the case to evaluate the merits, plausibility, or motive of claims asserted against himself while his counsel pursued dispositive relief.

Nevertheless, Judge Thrash did not recuse. Over Petitioners' motions for disqualification and reassignment (Docs. 81, 97, 120), Judge Thrash entered orders staying discovery (Doc. 95), denied recusal (Docs. 96, 137), and continued to manage the case while represented by DOJ counsel. Petitioners submit that this dual posture—acting as adjudicator while also a represented defendant—violated § 455 and due process, and constitutes per se structural error. *Williams*, 579 U.S. at 8–9; *Tumey*, 273 U.S. at 523.

B. Declaring the Operative Pleading a "Nullity" to Grant His Own Counsel's Motion to Dismiss Violates Fundamental Due Process No man may be a judge in his own cause.

In re Murchison, 349 U.S. 133, 136 (1955); Caperton v. A.T. Massey Coal Co., 556 U.S. 868, 876 (2009); Tumey v. Ohio, 273 U.S. 510, 523 (1927). This principle is not a technical rule of procedure; it is the cornerstone of constitutional due process. When an adjudicator presides over litigation in which he has a direct, personal, and institutional stake, "the requirement of due process of law forbids" him to sit. Williams v. Pennsylvania, 579 U.S. 1, 8–9 (2016). This structural defect tainted every ruling entered on October 19, 2017. On that date, Chief Judge Thrash sat in

judgment of his own defense. On August 31, 2017, Judge Thrash's personal attorney, Assistant United States Attorney Lori M. Beranek, appeared on his behalf and filed a Motion to Dismiss (Doc. 116). In the supporting memorandum (Doc. 116-1 at 2 n.1), defense counsel argued that Petitioners' First Amended Complaint (Doc. 85) was ineffective because it was filed without leave of court under Rule 15(a).

Petitioners filed a timely, comprehensive opposition brief (Doc. 117), demonstrating that the amendment was filed as a matter of course under Fed. R. Civ. P. 15(a)(1)(B) within 21 days of Defendants' Rule 12 motion, and challenging the court's subject-matter jurisdiction to adjudicate claims against itself.

The commercial co-defendants never filed a motion to strike Doc. 85 under Fed. R. Civ. P. 12(f). They never answered Doc. 85. They never sought an order declaring Doc. 85 void. In Order Doc. 131, Judge Thrash adopted the verbatim theory presented in his attorney's brief: "The pro se Plaintiffs filed an Amended Complaint on July 5, 2017 which purported to name me as a Defendant in an obvious ploy to have me recuse...

The Plaintiffs did not obtain the consent of the Defendants or an Order of the Court. Therefore, the Amended Complaint is void and a nullity... For all of these reasons, the Motion to Dismiss [Doc. 116] is GRANTED." (Doc. 131 at 1).

This entry was an ultra vires exercise of judicial power by a disqualified litigant. Under 28 U.S.C. § 455(b)(5)(i), Judge Thrash was stripped of all jurisdiction to determine whether Doc. 85 was valid, whether it was timely under Rule 15, or whether it stated a claim. A defendant cannot grant his own motion, rule upon the

legal sufficiency of the complaint that names him, and declare the operative pleading a "nullity" so that he may dismiss himself.

Moreover, entertaining and granting Motion Doc. 116 was a conclusive judicial admission that Doc. 85 was the operative pleading on the docket. A federal court cannot adjudicate a dispositive motion directed at a pleading that does not exist. Judge Thrash's passing defensive statement in Doc. 131 that Doc. 85 was a "nullity" was an act of personal self-defense; it was not a valid Article III order striking Doc. 85 as to the adverse commercial co-defendants under Rule 12(f).

Having eliminated the claims against himself, Judge Thrash simultaneously entered Order Doc. 130, denying Petitioners' Motion for Default Judgment (Doc. 119) against the commercial co-defendants who had refused to answer Doc. 85 for eighty-five days. A judge statutorily disqualified under 28 U.S.C. § 455(b)(5)(i) possessed no lawful authority to adjudicate merits defenses, protect non-answering co-defendants from the mandatory entry of default under Rule 55, or alter the substantive rights of the parties. Under *Williams v. Pennsylvania,* an adjudicator who presides over his own cause commits per se structural error that invalidates every subsequent order entered in the proceeding.

Under Federal Rule of Evidence 201 and fundamental principles of procedural fairness, a reviewing court must have access to the genuine, untampered record of the trial court. Armstrong v. Manzo, 380 U.S. 545, 552 (1965); Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). Here, the record integrity failed at its inception: on July 12, 2017—the exact day summons was

issued as to Defendant Judge Thrash (Doc. 94)—the operative First Amended Complaint (Doc. 85) was altered on the electronic docket without Petitioners' knowledge or consent, excising factual averments regarding the conflict of interest and aiding-and-abetting claims. Thereafter, the District Court Clerk withheld and omitted from the certified record transmitted to the Eleventh Circuit in Appeal No. 17-14866 nearly thirty core evidentiary filings: Petitioners' opposition brief (Doc. 117), the operative First Amended Complaint (Doc. 85), and executed proofs of service.

As a direct consequence of this record suppression, the Eleventh Circuit panel was misled into concluding that Petitioners had "abandoned" their opposition to Judge Thrash's motion to dismiss, affirming his self-dismissal in Footnote 1 of its 2018 opinion. By withholding Doc. 117 from the appellate record, the District Court shielded its own structural error from meaningful appellate scrutiny, converting an intentional deprivation of an impartial tribunal into an unreviewable procedural forfeiture.

A judgment rendered by a tribunal lacking structural impartiality is void ab initio. When such a tribunal uses its bench to eliminate the claims against itself, denies default judgment against non-answering co-defendants (Doc. 130), and transmits a sanitized record to insulate its actions from appellate review, the ordinary appellate process is corrupted. Mandamus under 28 U.S.C. § 1651(a) is the sole constitutional remedy available to vacate these ultra vires orders, correct the suppressed record, and restore the rule of law.

REASONS FOR GRANTING THE WRIT

II. THE DISTRICT COURT ACTED IN TOTAL ABSENCE OF SUBJECT-MATTER JURISDICTION UNDER *GRIGGS* BY ENTERING SUMMARY JUDGMENT AND A LIFETIME INJUNCTION DURING A PENDING APPEAL

Under *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982), the filing of a notice of appeal is an event of mandatory jurisdictional significance: it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal. Any merits action taken by a district court while an appeal is actively pending without an appellate remand is ultra vires and void ab initio.

Here, the District Court's violation of *Griggs* was an exercise of non-existent jurisdiction designed to foreclose Petitioners' operative claims and permanently seal the courthouse doors. Compounding this jurisdictional nullity, the District Court entertained and granted a Motion for Summary Judgment (Doc. 157) on a counterclaim when the commercial Defendants had never answered the operative First Amended Complaint (Doc. 85), remained in continuous procedural default, and faced a timely demand for default judgment (Doc. 162).

A. The District Court Expressly Acknowledged Divestiture of Jurisdiction, and Government Counsel Conceded Remand Was Required

Following Petitioners' Notice of Appeal on October 26, 2017 (Doc. 144), Chief Judge Thrash formally acknowledged on the record that his judicial authority was extinguished:

"The Plaintiffs having filed a Notice of Appeal, this Court no longer has jurisdiction." (Doc. 154 at 3).

This total divestiture was reaffirmed before the Eleventh Circuit. In response to the Court of Appeals' Jurisdictional Question regarding whether unresolved counterclaims barred finality under Rule 54(b), Assistant United States Attorney Lori M. Beranek—appearing on personal behalf of Defendant-Appellee Chief Judge Thrash—explicitly conceded that the trial court lacked authority to act without a mandate. Government counsel formally represented that there was "no objection to remand should the Court of Appeals rule otherwise" to resolve the remaining counterclaim. The Eleventh Circuit never remanded the action.

Notwithstanding this absolute jurisdictional bar, the commercial Defendants returned to the divested District Court on February 5, 2018, and filed a Motion for Summary Judgment (Doc. 157) seeking a lifetime permanent filing injunction under the All Writs Act. Procedurally and structurally, a party cannot move for summary judgment under Federal Rule of Civil Procedure 56 where the pleadings are not closed and no answer has ever joined issue with the operative complaint.

Under well-settled federal law, an amended complaint supersedes and replaces the original complaint in its entirety. *Pintando v. Miami-Dade Hous. Agency*, 501 F.3d 1241, 1243 (11th Cir. 2007). The commercial Defendants never answered Doc. 85, never moved to dismiss it under Rule 12(b), never moved to strike it under Rule 12(f), and never established excusable neglect under Rule 55(c).

Having specifically declared in Footnote 1 of Doc. 74 that all counterclaims were "reserved" to manufacture a partial Rule 12(c)/Rule 54(b) dismissal of the superseded complaint (Doc. 138), Defendants could not lawfully litigate those withheld counterclaims while in default.

Because the commercial Defendants never joined issue with Doc. 85, they remained in procedural default, as asserted in Petitioners' renewed Motion for Default Judgment (Doc. 162). Entertaining a summary judgment motion in favor of defaulting parties while simultaneously divested of subject-matter jurisdiction under *Griggs* constitutes a total breakdown of federal procedural regularity and structural due process.

B. An Injunction Entered Ultra Vires During Divestiture Is Void Ab Initio and Cannot Bar Collateral Review

On August 10, 2018, while Appeal No. 17-14866 remained pending, Judge Thrash entered Order Doc. 168. The order again acknowledged divestiture: "Furthermore, the Plaintiffs have already filed a Notice of Appeal. Thus, this Court no longer has jurisdiction over the Plaintiffs' claims." (Doc. 168 at 4) (citing *Taylor v. Sterrett*, 640 F.2d 663). Yet in the same order, the District Court granted Defendants' motion for summary judgment (Doc. 157) and imposed a permanent, nationwide All Writs Act filing injunction. (Doc. 168 at 8–9.) Judgment entered the same day. (Doc. 169.)

Petitioners submit these merits-dispositive actions were taken ultra vires under *Griggs* and are void ab initio. 459 U.S. at 58. Petitioners further contend the

rulings were entered while the operative First Amended Complaint (Doc. 85) remained unanswered by the commercial defendants and was never met by any proper motion directed to Doc. 85 to strike or dismiss it, and while Petitioners continued to seek default-based relief. (Doc. 162.)

The structural defect was compounded by the order's tone and treatment of Petitioners' claims. In Doc. 168, Judge Thrash repeatedly adopted pejorative characterizations of Petitioners and their filings, including describing Petitioners as "delusional." (Doc. 168 at __.) Such language—issued in the same order that both acknowledged divestiture and imposed a lifetime filing bar—underscores the appearance-of-justice concerns that supervisory mandamus exists to protect. *Offutt v. United States*, 348 U.S. 11, 14 (1954) ("justice must satisfy the appearance of justice").

Because the injunction was entered by a divested court acting ultra vires, Petitioners submit it is void and cannot be used downstream to foreclose collateral relief. *Standard Oil Co. of Cal. v. United States*, 429 U.S. 17, 18 (1976); *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 244–46 (1944). Petitioners further contend the District Court later relied on Doc. 168 to bar Rule 60 relief without reaching the merits. (Doc. 208.) Supervisory mandamus is therefore necessary to vacate the void injunction and restore access to ordinary post-judgment remedies.

REASONS FOR GRANTING THE WRIT

III. The Eleventh Circuit Departed from the Usual Course of Judicial Proceedings by Adopting an Ex Post Facto Rationale to Excuse Unanswered Pleadings and Suppressed Records

The integrity of Article III appellate review depends on fidelity to the record and to the rulings actually entered below. Petitioners contend the appellate process breaks down when an appellate court affirms on a rationale not adopted by the district court, credits the defensive advocacy of a presiding judge who was also a party, and deems preserved issues "abandoned" because core opposition filings were omitted from the record on appeal.

A. The Court of Appeals Attributed a Discretionary Rule 15(a) Determination Not Reflected in Any Neutral District-Court Order

In affirming dismissal in Appeal No. 17-14866, the Eleventh Circuit stated that the District Court "did not abuse its discretion" in concluding Petitioners "improperly and untimely attempted to amend" under Rule 15(a). Petitioners contend that characterization is not supported by any neutral district-court order addressing Rule 15(a)(1)(B) as applied to the commercial defendants.

Under Fed. R. Civ. P. 15(a)(1)(B), an amended complaint filed within 21 days after service of a Rule 12 motion is filed as a matter of course. An amended complaint supersedes the original and renders motions directed to the superseded pleading moot. *Pintando v. Miami-Dade Hous. Agency*, 501 F.3d 1241, 1243 (11th Cir. 2007). Petitioners contend the commercial defendants did not move to strike

the First Amended Complaint (Doc. 85) under Rule 12(f), did not answer it, and did not obtain any order striking it as to them. Petitioners further contend the docket reflects no neutral adjudication striking Doc. 85 as the operative pleading as to the commercial defendants.

Instead, the Eleventh Circuit relied on Chief Judge Thrash's self-dismissal order (Doc. 131), which declared Doc. 85 "void and a nullity" in the course of granting the motion to dismiss filed on his behalf (Doc. 116). Petitioners contend that statement was made by a disqualified party adjudicating his own defense, and did not constitute a valid merits adjudication of Doc. 85 as to the commercial co-defendants.

Petitioners submit that treating Judge Thrash as a party-appellee represented by personal counsel in Appeal No. 17-14866, while simultaneously elevating his self-dismissal order into a binding Rule 15 ruling that extinguished the operative complaint as to other defendants, reflects a departure from the usual course of judicial proceedings and a structural due process defect. *In re Murchison*, 349 U.S. 133, 136 (1955); *Williams v. Pennsylvania*, 579 U.S. 1, 8 (2016).

B. Finding Claims "Abandoned" While Key Records Were Suppressed from Appellate Transmission Violated Due Process

In Footnote 1 of its 2018 opinion in Appeal No. 17-14866, the Eleventh Circuit stated that Petitioners "abandoned" their opposition to Judge Thrash's motion to dismiss (Doc. 116) and their challenge to the Rule 54(b) judgment.

Petitioners contend that conclusion resulted from an appellate record that omitted core filings, depriving Petitioners of meaningful review in violation of due process.

Petitioners did not abandon these issues. On September 15, 2017, Petitioners filed a comprehensive opposition brief (Doc. 117) responding to Doc. 116, disputing immunity defenses, and defending the validity of the First Amended Complaint (Doc. 85). Petitioners contend that, when the District Court Clerk transmitted the record on appeal, numerous critical entries were omitted, including Doc. 117, the operative First Amended Complaint (Doc. 85), and executed proofs of service (Docs. 79, 83, 84, 100).

Petitioners further contend those omissions obscured the service and default posture central to their Rule 55 arguments. After the case was reassigned by name (Doc. 31; Doc. 71), Judge Thrash entered Order Doc. 76 vacating Petitioners' default motions (Docs. 41, 47) based on asserted service defects, without requiring the showing Petitioners contend Rule 55(c) demands. Petitioners then caused alias summonses to issue (Docs. 75, 77, 80, 94), executed service (including as to Judge Thrash under Doc. 100), and filed returns on the docket.

Petitioners also contend that on July 12, 2017—the date summons issued as to Judge Thrash (Doc. 94)—the electronic docket reflects that Doc. 85 was modified without Petitioners' knowledge or consent to remove factual averments concerning an alleged conflict. Petitioners submit that, rather than recusing under 28 U.S.C. § 455, Judge Thrash entered multiple orders on October 19, 2017 (Docs. 124–139), including dismissing himself (Doc. 131), denying default judgment against non-

answering defendants (Doc. 130), granting judgment on the pleadings on a superseded complaint (Doc. 138), and relabeling defendants as "Counter-Claimants" without any answer to Doc. 85.

Petitioners submit that withholding Doc. 117, Doc. 85, and executed service returns from the certified appellate record created the appearance that Petitioners had not opposed Doc. 116, enabling the Eleventh Circuit to characterize the issues as "abandoned." Deciding an appeal on a materially incomplete record deprives litigants of a meaningful opportunity to be heard and meaningful review. *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965); *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950).

Finally, Petitioners note that in Mandamus No. 25-13325-D, the panel stated on March 31, 2026 that it was considering the supplemented record (Doc. 28-2 at 5). Petitioners contend this confirms that prior appellate rulings proceeded on a truncated record. Yet the panel declined to remedy the breakdown, recharacterized Petitioners' FRAP 35/40 petition to avoid full-court distribution, and later directed the Clerk to take no action on additional filings without notice (Doc. 36-2).

Petitioners submit that, because ordinary avenues have been foreclosed while void orders and record irregularities remain uncorrected, supervisory mandamus under 28 U.S.C. § 1651(a) must issue.

IV. Petitioners Satisfy All Requirements for an Extraordinary Writ Under the All Writs Act, 28 U.S.C. § 1651(a)

The All Writs Act authorizes this Court to "issue all writs necessary or appropriate in aid of [its] respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). The writ's traditional office is "to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so." *Roche v. Evaporated Milk Ass'n*, 319 U.S. 21, 26 (1943); *In re Smith*, 926 F.2d 1027, 1030 (11th Cir. 1991).

Under *Cheney v. U.S. Dist. Court for D.C.*, 542 U.S. 367, 380–81 (2004), mandamus requires: (1) no other adequate means to obtain the relief; (2) a clear and indisputable right to issuance of the writ; and (3) that issuance is appropriate under the circumstances. Petitioners satisfy each condition.

A. Injunction Enforcement and Administrative Interception of En Banc Review Foreclose Any Other Adequate Remedy

Mandamus is appropriate when ordinary avenues of review have been blocked, compromised, or rendered illusory by inferior-court action. *Mallard v. U.S. Dist. Court*, 490 U.S. 296, 309 (1989); *Ex parte United States*, 287 U.S. 241, 248 (1932). Petitioners submit that is the posture here.

After Petitioners uncovered PACER transmittal receipts in 2025 showing suppression and alteration of the trial record, they filed motions under Fed. R. Civ. P. 60(b)(4)–(6) and 60(d)(3) (Docs. 196, 197, 199). Petitioners contend an anti-filing injunction cannot bar collateral attacks asserting voidness or fraud on the court.

Standard Oil Co. of Cal. v. United States, 429 U.S. 17, 18 (1976); *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 244–46 (1944). Nevertheless, Petitioners contend Chief Judge Thrash did not recuse and invoked the 2018 filing injunction (Doc. 168) to deny Rule 60 relief without reaching the merits (Doc. 208).

In the Court of Appeals, Petitioners' motions to recall the mandates in Appeal Nos. 17-14866 and 18-13553 were denied by summary orders, notwithstanding Petitioners' showing that Doc. 117 and executed proofs of service were not transmitted. Petitioners then initiated original Mandamus Proceeding No. 25-13325-D. Although the Clerk issued a directive requiring respondents to file Corporate Disclosure Statements and Certificates of Interested Persons under 11th Cir. R. 26.1-5, Petitioners contend respondents did not timely comply and DOJ did not appear for Judge Thrash. The panel nevertheless denied mandamus on December 18, 2025 (Doc. 18-2), reasoning that an "adequate alternative remedy" by appeal existed.

Petitioners then filed a rehearing petition expressly under FRAP 35 and 40 (Doc. 21). FRAP 35(f) provides that a petition for rehearing en banc "must be circulated to all active judges." Petitioners contend that on March 31, 2026, the panel recharacterized Doc. 21 as a "motion for reconsideration" (Doc. 28-2 at 5), thereby preventing mandatory circulation. Petitioners' Motion to Vacate (Doc. 29) and Notice of Mandatory Distribution (Doc. 30) were denied (Doc. 31-2).

The foreclosure culminated on August 3, 2026, when the panel entered Order Doc. 36-2 denying pending motions as moot and directing the Clerk "to take no

action on any additional filings by Petitioners in this closed case," and to provide "no notice when no action is taken." Petitioners submit that, with Rule 60 relief barred by injunction enforcement, mandate-recall motions summarily denied, and en banc circulation administratively intercepted, no adequate alternative remedy remains. Supervisory mandamus under 28 U.S.C. § 1651(a) is therefore necessary to secure Article III review.

B. The Right to Vacatur of Ultra Vires, Void Orders Is Clear and Indisputable

A party possesses a clear and indisputable right to have void, ultra vires orders vacated and removed from legal effect. When an inferior court acts either without lawful jurisdiction to proceed or under conditions of unconstitutional structural bias, its resulting orders are legal nullities from the moment of entry. *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982); *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 860 (1988). Because the defects here are jurisdictional and structural, Petitioners' entitlement to vacatur is "clear and indisputable" within the meaning of *Cheney*. 542 U.S. at 381. Petitioners' entitlement to mandamus relief rests on four structural pillars established by binding precedent:

1. **Mandatory Statutory Disqualification.** Under 28 U.S.C. § 455(b)(5)(i), Chief Judge Thrash's authority to adjudicate Civil Action No. 1:17-cv-01181 terminated by operation of law the instant he was named and served as an adverse party-defendant in the operative First Amended Complaint (Doc. 85). Under *Williams v. Pennsylvania*, 579 U.S. 1, 8–9 (2016), and *In re*

Murchison, 349 U.S. 133, 136 (1955), an adjudicator who presides over his own cause, grants his personal counsel's motion to dismiss (Doc. 131), and declares the complaint against him a "nullity" commits per se structural error that invalidates the resulting orders.

2. **Divestiture Under *Griggs* and Ultra Vires Post-Appeal Orders.** The District Court's own orders confirm that Petitioners' Notice of Appeal (Doc. 144) divested the court of jurisdiction to proceed over aspects of the case involved in the appeal. (Doc. 154, App. B at 34; Doc. 168, App. B at 25.) Under *Griggs*, 459 U.S. at 58, the District Court lacked authority—absent remand—to entertain merits dispositive proceedings (Doc. 157) and to impose a nationwide, permanent filing injunction (Doc. 168) during the pendency of Appeal No. 17-14866. Entering Doc. 168 under those conditions was ultra vires and rendered the injunction void ab initio. Under *Standard Oil Co. of Cal. v. United States*, 429 U.S. 17, 18 (1976), and *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 244–46 (1944), an invalid injunction cannot bar collateral attacks under Rule 60(b) or Rule 60(d)(3) seeking relief from void judgments or fraud on the court, including relief necessary to correct a suppressed trial record.

3. **Mandatory Default Under Rule 55.** The commercial Defendants never answered, moved to dismiss under Rule 12(b), or moved to strike under Rule 12(f) the operative First Amended Complaint (Doc. 85). Under *Nishimatsu Constr. Co. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975), and

Fed. R. Civ. P. 55, Petitioners possessed a clear legal entitlement to entry of default (Docs. 119, 162), which the court lacked authority to circumvent absent a motion to set aside and a showing under Rule 55(c).

4. **Constitutional Limits on Non-Party Preclusion.** Under *Taylor v. Sturgell*, 553 U.S. 880 (2008), the Due Process Clause of the Fifth Amendment strictly limits claim preclusion against nonparties. Extending res judicata in Order Doc. 138 to Defendant Oprah Winfrey—a stranger to the prior copyright litigation (Doc. 211-1 at 25–47)—while collapsing an unadjudicated civil RICO pleading into superseded Title 17 claims through a procedurally incomplete Rule 12(c) posture that reserved counterclaims, exceeded constitutional limits on adjudicative power.

C. Supervisory Mandamus Is Necessary to Vindicate the Public Trust and Article III Tribunal Integrity

Supervisory mandamus is an established mechanism to protect the integrity and public legitimacy of the federal courts where proceedings reflect persistent departures from governing rules. *Offutt v. United States*, 348 U.S. 11, 14 (1954) ("justice must satisfy the appearance of justice"); *Will v. United States*, 389 U.S. 90, 95 (1967); *Schlagenhauf v. Holder*, 379 U.S. 104, 110 (1964). Petitioners submit that this case presents precisely the kind of systemic breakdown warranting supervisory intervention.

Petitioners contend the record reflects cumulative structural defects: a Chief District Judge named as a defendant remained on the case and adjudicated matters

affecting his own defense; entered orders dismissing himself; entered merits-dispositive rulings while Petitioners contend the operative pleading remained unanswered; imposed a permanent filing injunction during the pendency of an appeal; and transmitted an incomplete and altered record to the court of appeals. Petitioners further contend that, after discovering record-suppression evidence, the District Court invoked the filing injunction to bar Rule 60 relief without reaching the merits.

Petitioners also contend the appellate proceedings compounded the breakdown. In Mandamus No. 25-13325-D, respondents did not timely file mandatory corporate disclosure statements and Certificates of Interested Persons under 11th Cir. R. 26.1-5; the panel nevertheless denied relief. Petitioners further contend the panel recharacterized a petition expressly filed under FRAP 35 and 40 to avoid mandatory en banc circulation (Doc. 28-2), and later directed the Clerk to take no action on additional filings without notice (Doc. 36-2).

If permitted to stand, Petitioners submit these actions would erode the enforceability of statutory disqualification under 28 U.S.C. § 455, blur the jurisdictional boundary recognized in *Griggs*, and undermine the mandatory operation of the Federal Rules of Appellate Procedure. In these circumstances, Petitioners submit supervisory mandamus under 28 U.S.C. § 1651(a) is appropriate to restore regular judicial process, vacate ultra vires orders, and ensure review proceeds on a complete and accurate record.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that this Court exercise its supervisory authority under 28 U.S.C. § 1651(a) and issue an extraordinary writ of mandamus directed to the United States Court of Appeals for the Eleventh Circuit and the United States District Court for the Northern District of Georgia, ordering the following relief:

1. **VACATE** as void all orders entered by Chief District Judge Thomas W. Thrash, Jr. after reassignment, including: the June 29, 2017 order quashing service and vacating defaults within the Rule 4(m) period (Doc. 76); the self-dismissal order (Doc. 131); the partial final judgment order (Doc. 138); the permanent filing injunction entered while Petitioners contend the District Court lacked jurisdiction to proceed under *Griggs* (Doc. 168); the clerk's judgment (Doc. 169); and subsequent post-judgment orders denying or barring Rule 60 relief (Docs. 208, 218, 219).
2. **DISSOLVE AND EXPUNGE** the nationwide permanent anti-filing injunction entered in Order Doc. 168.
3. **VACATE** the Eleventh Circuit orders in Mandamus Proceeding No. 25-13325-D dated December 18, 2025 (Doc. 18-2), March 31, 2026 (Doc. 28-2), and August 3, 2026 (Doc. 36-2), including the recharacterization of Petitioners' FRAP 35/40 petition and the directive to take no action on additional filings without notice.

4. **DIRECT DISQUALIFICATION AND REASSIGNMENT.** Order the mandatory disqualification of Senior District Judge Thomas W. Thrash, Jr. under 28 U.S.C. § 455(b)(5)(i), and direct that Civil Action No. 1:17-cv-01181 be reassigned to a neutral, unconflicted district judge outside the Northern District of Georgia.

5. **DIRECT RESTORATION AND TRANSMISSION OF THE COMPLETE RECORD.** Direct the District Court to restore and transmit a complete and accurate record, including the First Amended Complaint (Doc. 85), Petitioners' opposition brief (Doc. 117), and executed proofs of service (Docs. 34–37, 79, 83, 84, 100), so that further proceedings may occur on an untampered record and in conformity with the Federal Rules of Civil Procedure, including Rules 12, 15, and 55.

Dated: October 28, 2026,

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