

1 Barber, Devon Tyler.
2 Pro se, in proper person.
3 Atlantic County, New Jersey.
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6 **SUPERIOR COURT OF NEW JERSEY**

7 **LAW DIVISION – CIVIL PART, ATLANTIC COUNTY**

DEVON TYLER BARBER,

Plaintiff,

vs.

**JOHN W. TUMELTY, ESQ., DEFENDANT,
(PARTY NO. 2); AND
THE LAW OFFICE OF JOHN W. TUMELTY,
DEFENDANT (PARTY NO. 3).**

Docket No.: **ATL-L-002794-25**

RE:

Indictment No. **22-09-01413-I** (Dkt. ATL-22-002292)
Indictment No. **22-10-01440-I** (Dkt. ATL-22-002313)

Team 102, Assigned Judge:
Hon. Sarah B. Johnson, J.S.C.

**SUPPLEMENTAL MEMORANDUM AND
CERTIFICATION**

**In Further Support of Track 3 Assignment and
Judicial Coordination with NJ DOL Wage Collection
Proceeding**

8 **A. Procedural Posture**

9 Plaintiff **Devon Tyler Barber**, appearing *pro se*, commenced this civil-malpractice and wage-
10 related action on **October 3, 2025**. Since filing, Plaintiff has obtained (i) certified **IRS Wage**
11 **and Income Transcripts (2019–2022)** and (ii) written confirmation that **NJDOL Wage**
12 **Complaint No. 369572**, filed **October 12, 2025**, has been **accepted and transferred to the**
13 **Wage Collection Section** pursuant to **N.J.S.A. 34:11-58(b)-(c)**. The administrative proceeding
14 arises from the same underlying facts alleged here—**non-payment of earned wages and**
15 **employee misclassification by Joe's Painting & Renovations 11 LLC (Hardemon)** in
16 connection with the rehabilitation of the **Aloe Street property** in Galloway Township, New
17 Jersey.

18 In **July 2022**, after repeated demands for payment were ignored, Plaintiff terminated his work
19 with Hardemon and immediately began new employment with **NAC/Nicholas**, as reflected by
20 the **2022 IRS Wage and Income Transcript showing \$432 in reported wages** (Exh. D). That
21 record corroborates that Plaintiff **mitigated his losses promptly** and that the Hardemon
22 engagement ended solely due to non-payment. Within weeks of that departure, Plaintiff was
23 **arrested while operating a newly assigned NAC work truck**. Plaintiff asserts—and will
24 substantiate through discovery, including the timeline declaration and authenticated ESI/photo
25 exhibits (Exh. G)—that the **timing and circumstances of that arrest indicate retaliatory**
26 **intent directly linked to the unresolved wage dispute.**

27 In addition, following the July 2022 dispute and Plaintiff's departure from the Aloe Street
28 property, **Defendant Joseph Hardemon unlawfully removed Plaintiff's personal property**
29 **and animals from the premises without notice or legal process**, resulting in **the death of**
30 **companion pets, destruction of personal effects, and loss of a family silver collection**
31 **belonging to Plaintiff's late grandmother**. These acts occurred outside any landlord–tenant
32 proceeding and constitute **unlawful eviction, conversion, and property damage**, compounding
33 the underlying wage dispute. Plaintiff reserves all rights to pursue recovery of the associated
34 losses and emotional distress damages in this and related proceedings.

35 **A(1). Statement of Facts and Notice Regarding Prosecutorial Omission**

36 Subsequent investigation and public-record verification confirm that the **original complainant**
37 whose allegations prompted Plaintiff's 2022 arrest warrant was **Joseph Hardemon Sr.**, a Tier II
38 **registered sex offender** convicted in Atlantic County under N.J.S.A. 2C:24-4a for sexual

39 conduct with a child under thirteen. (*See New Jersey State Police OffenderWatch Record, Reg.*
40 *No. 2317198, attached in the PCR record and incorporated herein by reference.*) Neither the
41 **Atlantic County Prosecutor's Office** nor prior defense counsel, **John W. Tumelty, Esq.**,
42 performed the due-diligence review or disclosure required by **Rule 3:13-3(b)(1)(A)** and the
43 constitutional obligations set forth in **Brady v. Maryland**, 373 U.S. 83 (1963), **Napue v.**
44 **Illinois**, 360 U.S. 264 (1959), and **State v. A.R.**, 234 N.J. 82 (2018).
45 Had this information been investigated or disclosed, the defense could have demonstrated **bias**,
46 **motive to fabricate, and credibility impairment** of the complainant—material facts that would
47 have substantially changed both plea discussions and trial posture. The omission constitutes
48 **ineffective assistance of counsel** under **Strickland v. Washington**, 466 U.S. 668 (1984), and
49 **State v. Fritz**, 105 N.J. 42 (1987), as well as a **Brady/Napue violation** warranting equitable
50 relief under **State v. Preciose**, 129 N.J. 451 (1992).
51 Plaintiff further notes that his **Petition for Post-Conviction Relief**, filed **May 4, 2025**, remains
52 **unanswered by the State** despite the requirement of **Rule 3:22-9** that an answer be filed within
53 20 days. The State's silence for over five months constitutes **procedural default and denial of**
54 **due process** under **Art. I, ¶¶ 1 & 10 of the N.J. Constitution** and the **Fifth and Fourteenth**
55 **Amendments** to the **U.S. Constitution**. Good cause for filing and equitable tolling were
56 demonstrated through documented homelessness, new evidence, and the State's withholding of
57 material facts.
58 Collectively, these failures—non-disclosure of the complainant's record, lack of adversarial
59 testing by counsel, and prosecutorial inaction—show a **systemic breakdown of due process** that
60 directly intersects with the civil malpractice and wage-related claims now before this Court.

61 **B. Material New Evidence**

62 × **IRS Transcripts (2019–2022) — Exhs. A–D.**

63 The **2019** Form W-2 shows wages of **\$5,686** from “Joe’s Painting and Renovations,” EIN
64 ****9559; **2020** shows **\$232** from the same EIN; **2022** shows **no Hardemon wages** but
65 reflects **\$432** from **NAC/Nicholas** (Exh. D). This pattern corroborates Plaintiff’s
66 departure from Hardemon and transition to NAC in July 2022 because agreed pay was
67 not honored.

68 × **Digital Messages / ESI — Exh. E.**

69 Screenshots of text messages between Plaintiff and **Joseph Hardemon** corroborate both
70 a **lodging agreement** and an **employment relationship** connected to the Aloe Street
71 rehabilitation project. In one exchange dated mid-2022, Hardemon states, “*This house*
72 *bruh is killing us man ... it’s been 3 years ... still not done.*” Plaintiff responded by
73 offering to help and asked:

74 “Can Kelly and I stay there while working on it? And when I mean stay, I mean park the car and
75 maybe live outside.”

76 Hardemon replied, in capital letters:

77 **“YES YOU CAN!!!”**

78 This exchange directly evidences (1) **permission to reside on the property**, (2) an
79 **understanding that Plaintiff would perform labor in exchange for housing and**

80 **compensation, and (3) Hardemon's own acknowledgment of urgency and dependence on**
81 **the completion of the project ("this house is killing us man").**

82 Following this message, Hardemon **invited Plaintiff to live on-site under a work-for-lodging**
83 **and pay agreement**, later stating that "*the crib is yours*" and emphasizing that the job "needed
84 to get done." These statements, paired with contemporaneous communications regarding day-
85 rate or per-job payments and repeated requests for payment, demonstrate **direction and control**
86 **of labor** — the hallmark of an employment relationship under *Hargrove v. Sleepy's LLC*, 220
87 N.J. 289 (2015).

88 Such **electronically stored information (ESI)** constitutes highly probative evidence under **R.**
89 **4:10-2 (scope of discovery includes ESI)** and **R. 4:18-1 (requests for production)**. As
90 reaffirmed in **Endus v. N.J. Transit**, 460 N.J. Super. 517 (App. Div. 2019), ESI of this nature
91 must be preserved and produced in discovery when it documents the factual basis for wage,
92 employment, or contractual claims.

93 × **NJ DOL Wage Collection Proceeding**

94 The **New Jersey Department of Labor and Workforce Development (NJDOL)**
95 formally accepted **Wage Complaint No. 369572** and transferred it to the **Wage**
96 **Collection Section** for adjudication pursuant to **N.J.S.A. 34:11-58(b)-(c)**, part of the
97 **New Jersey Wage Theft Act**. In that forum, the **Commissioner of Labor and**
98 **Workforce Development** is authorized to issue binding determinations, **award unpaid**
99 **wages with interest, impose liquidated damages up to 200 percent of the wages due,**
100 **and assess additional penalties for retaliation or record-keeping violations**. See also

101 **N.J.A.C. 12:56-1.1 et seq.** (administrative enforcement procedures). The Commissioner
102 may certify any award as a **judgment of the Superior Court** and, where warranted,
103 **suspend or revoke the employer's licenses or registrations** for continued non-
104 compliance. The pendency of this DOL action confirms the same factual nucleus
105 underlying this civil matter—**unpaid wages, misclassification, and retaliatory conduct**
106 by Joe's Painting & Renovations 11 LLC.

107 × **Transition & Arrest Timeline — Exh. G.**

108 A sworn timeline plus photo(s) of the **NAC work truck**, with corresponding message
109 timestamps, support the sequence: unpaid wages under Hardemon → departure to
110 NAC/Nicholas in July 2022 → arrest **shortly after** while operating the NAC vehicle.
111 Plaintiff **asserts** the arrest was **retaliatory** and part of a civil wage dispute recast as
112 criminal conduct.

113 **C. Argument**

114 × **Track 3 Is Required for Comprehensive Discovery.**

115 **R. 4:5A-2** provides for Track 3 where substantial discovery, multiple experts, and
116 complex issues are anticipated. Here, discovery will involve **IRS and bank subpoenas,**
117 **ESI forensics and authentication, expert opinions on standard of care and economic**
118 **loss, and integration of NJDOL findings.** Tracks 1–2 are inadequate. See **Tadeusz**
119 **Jatczyszyn v. Marcal Paper Mills, Inc., 418 N.J. Super. 505, 512 (App. Div. 2011);**
120 **Pressler & Verniero, Current N.J. Court Rules**, cmt. 2 on R. 4:5A-2 (Gann 2025).

121 × **Coordination with NJDOL Promotes Judicial Economy and Consistency.**

122 The active Wage Collection case concerns the **same nucleus of fact** (non-payment),

123 misclassification, retaliation). Coordinated scheduling will avoid duplication and
124 inconsistency. Courts may **relax procedures to prevent injustice and coordinate with**
125 **parallel proceedings.** See **State v. Rue, 175 N.J. 1 (2002)** (R. 1:1-2); **In re Petition of**
126 **Adamar of N.J., 222 N.J. 134 (2015)** (recognizing the value of agency records/findings).
127 See also **R. 1:6-2(a)** (motion practice) and **R. 4:10-2; R. 4:18-1** (ESI scope and
128 production).

129 × **Fairness to a Pro Se Litigant Requires Adequate Time and Tools.**

130 Undue restriction on discovery would impair Plaintiff's due-process rights under **N.J.**
131 **Const. art. I, ¶ 1.** Parties must have a **reasonable opportunity to present evidence**
132 before dispositive motions. See **Celotex Corp. v. Catrett, 477 U.S. 317, 322–24 (1986).**
133 The record here spans malpractice issues, ESI, agency findings, and economic damages;
134 Track 3 is the proper vehicle to uphold fairness and accuracy.

135 **D. Prayer for Relief**

136 **WHEREFORE**, having set forth the record of fact, law, and conscience, and having come
137 before this Honorable Court in truth and without counsel, **Plaintiff, Devon Tyler Barber**, prays
138 that equity and justice be done according to the rule of law and the spirit of righteousness.
139 Guided by the principle that "*judgment and mercy meet together, righteousness and peace kiss
each other*" (Psalms 85:10, Geneva 1599), Plaintiff respectfully requests that the Court exercise
140 its inherent power under **Article VI, § 3, ¶ 4 of the New Jersey Constitution** and **Rule 1:1-2** to
141 secure a just determination, prevent manifest injustice, and ensure that the rights of a working
142 man not be lost through deceit, silence, or neglect.

144 **Plaintiff therefore prays that the Court enter an Order granting the following relief:**

- × **Track 3 Reclassification.**

That this matter be reclassified to **Track 3** pursuant to **R. 4:5A-2**, recognizing the complexity of issues involving professional negligence, wage misclassification, and electronic evidence requiring extended discovery.
 - × **Judicial Coordination.**

That the Court acknowledge and, where appropriate, coordinate the record of this civil proceeding with the parallel **New Jersey Department of Labor Wage Collection case (Complaint No. 369572)** to promote consistency and judicial economy.
 - × **Evidentiary Preservation and Subpoena Authorization.**

That the Court, upon Track 3 assignment, authorize issuance of preservation notices and subpoenas under **R. 4:10-2**, **R. 4:18-1**, and **R. 1:9-2** for the collection and safeguarding of relevant electronically stored information (ESI), including Apple iCloud communications and mobile-carrier records associated with Plaintiff's number ending in 312 during **June–August 2022**, to ensure that truth may be established through lawful discovery.
 - × **Equitable Relief and Good-Faith Protection.**

That the Court recognize Plaintiff's diligent pursuit of redress, his good-faith reliance upon Rule 1:1-2, and the necessity of equitable relaxation of procedures where strict form would defeat substantial justice.
 - × **Further Relief as Just and Proper.**

That this Honorable Court grant such other and further relief, legal or equitable, as conscience and law may warrant, that truth be brought to light and right prevail over wrong.

⁸ *He hath showed thee, O man, what is good, and what the Lord requireth of thee: [a]surely to do justly, and to love mercy, and to humble thyself, to walk with thy God.*"

— Micah 6:8 (Geneva Bible, 1599)

171 Respectfully submitted,

172 this **16th day of October, 2025**, in good faith and in reliance upon both law and conscience.

173 **E. Certification (R. 1:4-4(b))**

174 I, **Devon Tyler Barber**, certify as follows:

- 175 × The New Jersey Department of Labor acknowledged my **Wage Complaint No. 369572**
176 on October 12, 2025 and transferred it to the **Wage Collection Section** (Exh. F).
- 177 × IRS Wage & Income Transcripts (2019–2022) confirm: **2019** wages of \$5,686 from Joe's
178 Painting & Renovations (EIN ****9559); **2020** wages of \$232 from the same EIN; and
179 **2022 no Hardemon wages but \$432 from NAC/Nicholas** (Exh. D).
- 180 × Hardemon directed my labor on the Aloe Street job, promised day or job-based pay, and
181 offered lodging; I repeatedly requested payment (Exh. E).
- 182 × After leaving to work for **NAC/Nicholas in July 2022**, I was **arrested shortly**
183 **thereafter** while operating an NAC work truck. I **assert** that the timing and surrounding
184 circumstances indicate **retaliation** relating to the unpaid-wage dispute (Exh. G).
- 185 × Good cause exists for **Track 3 reclassification** to allow expert discovery, ESI forensics,
186 and coordination with NJDOL.

187 I certify under penalty of perjury that the foregoing is true and correct to the best of my

188 knowledge, information, and belief.

189 Dated: **October 16, 2025**

190 *BY: X(+)X, dTB, Devon Tyler of the Barber family, in Good Faith.*

191 **Devon Tyler Barber** (Pro Se)

192 c/o 325 E. Jimmie Leeds Rd., Suite 7-333

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194

SUPERIOR COURT OF NEW JERSEY

195

LAW DIVISION – CIVIL PART, ATLANTIC COUNTY**DEVON TYLER BARBER,**

Plaintiff,

vs.

**JOHN W. TUMELTY, ESQ., DEFENDANT,
(PARTY NO. 2); AND
THE LAW OFFICE OF JOHN W. TUMELTY,
DEFENDANT (PARTY NO. 3).**Docket No.: **ATL-L-002794-25****RE:**Indictment No. **22-09-01413-I** (Dkt. ATL-22-002292)Indictment No. **22-10-01440-I** (Dkt. ATL-22-002313)Team 102, Assigned Judge:
Hon. Sarah B. Johnson, J.S.C.**ORDER GRANTING RECLASSIFICATION TO
TRACK 3 AND RELATED RELIEF**

196

This matter having been opened to the Court by **Plaintiff, Devon Tyler Barber (pro se)**, upon submission of a **Supplemental Memorandum and Certification dated October 16, 2025**, and the Court having considered the application, supporting exhibits, and good cause appearing,

200

IT IS on this 16th day of October, 2025, ORDERED as follows:

201

202 × **Track 3 Assignment.**

203 This matter is **reclassified to Track 3** pursuant to **Rule 4:5A-2**, in light of the complexity
204 of the issues, anticipated expert discovery, and related administrative proceedings.

205

206 × **B. Case-Management Conference.**

207 Within **20 days** of this Order, the parties shall meet and confer and submit an **Amended
208 Case-Management Plan** addressing (1) expert discovery; (2) electronically stored
209 information (ESI) protocols; and (3) coordination with the pending **New Jersey
210 Department of Labor Wage Collection proceeding (Complaint No. 369572)**.

211 × **C. ESI Preservation.**

212 Upon Track 3 reclassification, **Plaintiff is authorized to serve preservation notices** and,
213 thereafter, to seek subpoenas under **R. 4:10-2, R. 4:18-1, and R. 1:9-2** for relevant
214 electronically stored information (ESI), including Apple iCloud communications and
215 mobile-carrier data associated with Plaintiff's number ending in 312 for the period **May**
216 **25, 2022 – July 12, 2022.**

217 × **D. Further Relief.**

219 The Court shall retain jurisdiction and may grant such other and further relief, legal or
220 equitable, as is just and proper to secure a fair and efficient determination of the issues
221 herein.

222 **Hon. Sarah B. Johnson, J.S.C.**

223	SUPERIOR COURT OF NEW JERSEY
224	LAW DIVISION – CIVIL PART, ATLANTIC COUNTY
	DEVON TYLER BARBER, Plaintiff, vs. JOHN W. TUMELTY, ESQ., DEFENDANT, (PARTY NO. 2); AND THE LAW OFFICE OF JOHN W. TUMELTY, DEFENDANT (PARTY NO. 3).
	Docket No.: ATL-L-002794-25 RE: Indictment No. 22-09-01413-I (Dkt. ATL-22-002292) Indictment No. 22-10-01440-I (Dkt. ATL-22-002313)
	Team 102, Assigned Judge: Hon. Sarah B. Johnson, J.S.C.
	CERTIFICATION OF FILING AND SERVICE

225
226 I, **Devon Tyler Barber**, certify as follows:
227 **Filing via JEDS.** On **October 16, 2025**, I submitted through the Judiciary Electronic Document
228 Submission System (JEDS) the document titled **“Supplemental Memorandum and**
229 **Certification in Support of Track 3 Assignment and Coordination with NJ DOL Wage**
230 **Collection Proceeding (Complaint No. 369572)”** together with the **Proposed Form of Order**
231 and **Exhibits A–G** for filing in **Barber v. Tumelty, et al., Docket No. ATL-L-002794-25**
232 (**Team 102**), Law Division, Civil Part, Atlantic County. **Service on Defendants (Electronic**
233 **Mail).** On **October 16, 2025**, I served true copies of the foregoing filing, including the Proposed
234 Order and Exhibits A–G, upon the following defendants, by **electronic mail** addressed as
235 follows: **John W. Tumelty, Esq.** and **The Law Office of John W. Tumelty**, 539 Route US 9
236 South, Marmora, New Jersey 08223 **Service on the Court.** Filing via **JEDS** constitutes delivery
237 to the Court. A copy of the JEDS confirmation will be maintained with my records. I certify that
238 the foregoing statements made by me are true.

239 I am aware that if any statement is willfully false, I am subject to punishment.

240 Dated: **October 16, 2025**
241 s/ *Barber, Devon Tyler, Devon Tyler of the Barber family, in Good Faith.*
242 Pro se, in proper person.
243 Atlantic County, New Jersey.
244 (609) 665-9350 | DTB33@ProtonMail.com