

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

DENNIS MICHAEL PHILIPSON,
Plaintiff,

v.

THE HONORABLE SHERYL H. LIPMAN,
Chief United States District Judge,
Western District of Tennessee,
Defendant.

Case No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

JURISDICTION AND VENUE

1. This is a civil action seeking declaratory relief for violations of the U.S. Constitution and federal law by a federal judicial officer. The Court has subject matter jurisdiction under 28 U.S.C. § 1331, as the claims arise under the Constitution (First and Fifth Amendments) and federal statutes including the Americans with Disabilities Act (“ADA”). Declaratory relief is authorized by the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202.
2. Venue is proper in the Western District of Tennessee pursuant to 28 U.S.C. § 1331(b). The events giving rise to the claims occurred in this District, during proceedings in Case No. 2:23-cv-02186-SHL-cgc in the U.S. District Court for the Western District of Tennessee. Defendant Sheryl H. Lipman serves in this District as a U.S. District Judge and conducted the relevant proceedings here.
3. Assignment to a different judge is requested for this action. In light of the facts alleged, Plaintiff seeks assignment of this case (and any further proceedings related to the underlying matter) to a judge other than Defendant, to ensure impartial adjudication and to avoid any appearance of bias or conflict. This request is made pursuant to the Court’s inherent authority and 28 U.S.C. § 455, given that the relief sought involves review of Defendant’s own conduct.

PARTIES

4. Plaintiff: Plaintiff Dennis Michael Philipson is a natural person and was the defendant in the underlying civil case Mid-America Apartment Communities, Inc. v. Philipson, No. 2:23-cv-02186-SHL-cgc (W.D. Tenn.). He resides in Virginia. At all relevant times, Plaintiff proceeded pro se in the underlying case. Plaintiff is a former employee of Mid-America Apartment Communities, Inc. (“MAA”) and was involuntarily involved in the proceedings presided over by Defendant. Plaintiff has a medical condition that requires regular medication and accommodation, as described below, making him a “qualified individual with a disability” under the ADA.
5. Defendant: Defendant Sheryl H. Lipman is the Chief United States District Judge for the Western District of Tennessee, Western Division. She was assigned to and presided over Case No. 2:23-cv-02186-SHL-cgc. She is sued in her official capacity for prospective declaratory and injunctive relief. At all times relevant, Defendant acted under color of federal law in the course of the judicial proceedings and related actions described. Defendant’s chambers staff, including her law clerks and other assistants, acted in concert with her and at her direction in the events at issue.

FACTUAL BACKGROUND

6. Plaintiff re-alleges and incorporates by reference all facts in the paragraphs below. This case arises from a pattern of non-judicial acts and constitutional violations committed by Defendant during and after the proceedings in Case No. 2:23-cv-02186-SHL-cgc. Although Defendant presided over that case as a judge, the specific conduct challenged here was outside the scope of normal judicial decision-making, involved extrajudicial activities by Defendant and her staff, or was taken in the clear absence of lawful authority. As such, these acts are not protected by absolute judicial immunity. Plaintiff seeks declaratory relief to address these violations and to restore the integrity of the judicial process going forward.

WHISTLEBLOWER CONTEXT AND JUDICIAL FACILITATION OF RETALIATION

7. Plaintiff alleges that, prior to the filing of the Underlying Case, he engaged in protected whistleblower activity regarding MAA’s suspected misconduct, including submissions to federal regulatory authorities (SEC, DOJ, IRS). These disclosures constituted protected speech and petitioning activity under the First Amendment.
8. Plaintiff alleges that the Underlying Case was utilized not for legitimate trademark adjudication, but as a vehicle to (a) unmask Plaintiff through expedited discovery, and (b) extract documents Plaintiff had provided to regulators. Plaintiff contends

that Defendant Lipman facilitated this improper purpose by authorizing “expedited discovery” and subsequently failing to police—or knowingly ratifying—the alteration of subpoenas (as detailed below) to capture private whistleblower communications outside the scope of the Court’s initial authorization.

9. Plaintiff alleges that Defendant permitted the litigation to "evolve" from a narrow “John Doe” inquiry into a broad inquisitorial proceeding targeting Plaintiff’s protected reporting. By entering protective orders and injunctions that effectively “gagged” Plaintiff from using discovered materials to support his federal reporting, Defendant’s orders operated to chill rights protected by federal whistleblower regimes, including Sarbanes-Oxley (18 U.S.C. § 1514A) and Dodd-Frank (15 U.S.C. § 78u-6(h)(1)).
10. Plaintiff alleges that regarding the “investigative report” MAA claimed existed, Defendant violated due process by accepting MAA’s ex parte characterizations that Plaintiff’s reports were “false” or “fake” without requiring the production of the underlying report or affording Plaintiff a meaningful adversarial opportunity to rebut those characterizations. This refusal to require transparency turned the Court into an unwitting (or, given the conflict of interest, willing) instrument of retaliation.
11. Plaintiff alleges that Defendant’s specific procedural rulings—including the refusal to address the altered subpoenas, the imposition of filing restrictions, and the eventual entry of default without a trial on the merits—were not merely erroneous legal rulings, but systemic violations of the First and Fifth Amendments. These actions actively assisted in suppressing the “public concern” speech embodied in Plaintiff’s whistleblower reports, contrary to the public policy favoring exposure of corporate misconduct.

ALTERED SUBPOENAS AND USE OF OFF-RECORD EVIDENCE

12. The underlying case commenced on April 3, 2023, when MAA filed a complaint against unknown “John Doe” defendants (John Does #1–2) for various claims including Lanham Act and related state-law claims. During this early “John Doe” stage, Defendant authorized MAA to conduct expedited discovery to uncover the identity of the unknown defendants. Specifically, MAA obtained a Rule 45 subpoena directed at Plaintiff (then a non-party) in April 2023, before Plaintiff was named in the lawsuit. At that time, the court record still listed the defendants only as John Does #1 and #2.

13. Plaintiff alleges that the subpoenas issued during this early phase were altered after court authorization, expanding their scope beyond what Defendant had approved. In particular, additional targets and email addresses (including Plaintiff's personal Gmail address) were added to at least one subpoena without further court permission. These alterations went beyond the limited discovery the Court had ostensibly permitted at the ex parte request of MAA. By expanding a subpoena's reach in this manner, MAA's counsel (with the knowledge or complicity of chambers staff) gathered private information unrelated to the narrow purpose of identifying "John Doe." Such unauthorized modifications violated Federal Rule 45 and Plaintiff's right to fair process, as they were effectively ultra vires actions not sanctioned by any judicial order.
14. The materials obtained via these improperly broadened subpoenas were never filed on the docket or disclosed to Plaintiff during the litigation. Off-record evidence was thereby gathered outside the normal discovery process. Nevertheless, upon information and belief, Defendant and her chambers utilized these off-record materials to Plaintiff's detriment. Key decisions – including the entry of default judgment against Plaintiff, the scope of a permanent injunction, and findings supporting contempt sanctions – appear to have been influenced by information gleaned from subpoena returns that were never subjected to adversarial testing or made part of the court record. Use of secret evidence in this manner violated Plaintiff's Fifth Amendment right to due process, which guarantees notice and an opportunity to rebut evidence used by the court to impose liability or punishment.
15. By allowing or failing to prevent such off-record evidence gathering, Defendant stepped outside the role of an impartial adjudicator. The altering of court-approved subpoenas and subsequent reliance on undisclosed material were administrative and investigative acts, not judicial acts. These actions subverted the judicial process and denied Plaintiff a fair trial. They form part of the "fraud on the court" and procedural misconduct that Plaintiff seeks to address through this complaint.
16. Plaintiff further alleges that this subpoena practice and the resulting discovery were used not merely to identify a "John Doe," but to locate, extract, and weaponize whistleblower-related communications and evidence, including materials Plaintiff had provided to federal authorities or intended to provide under protected reporting regimes.

**PROTECTIVE ORDERS, INJUNCTIONS, TRIAL CANCELLATION, AND SERVICE
IRREGULARITIES USED TO SILENCE AND CONTROL THE RECORD**

18. Plaintiff alleges that MAA sought a broad protective order early in the case, and Plaintiff opposed it on multiple grounds including that it would impair whistleblower rights, impede his ability to pursue retaliation claims, and restrict the ability to provide information and testimony relating to securities, accounting, tax, and antitrust concerns covered by federal whistleblower protections.
19. Plaintiff alleges that, despite his opposition and refusal to stipulate to the proposed “agreement,” the Court entered and enforced a protective order regime against him, including confidentiality and use restrictions that functioned as a gag and impeded protected reporting and litigation activity.
20. Plaintiff further alleges that the Court entered other injunction-type restraints in the Underlying Case that operated to silence Plaintiff and restrict his ability to communicate about the case, communicate with relevant persons, and preserve and present evidence.
21. Plaintiff alleges that the Court canceled or bypassed a merits trial and proceeded to default and damages determinations without the evidentiary adjudication required for a fair resolution of disputed facts, including facts tied to altered subpoenas, whistleblower-related discovery, and motive.
22. Plaintiff alleges that around the relevant period, the docket reflected certified mail or similar service as “sent,” but no receipt or proof of delivery was docketed, and Plaintiff did not receive actual notice consistent with due process. Plaintiff alleges these service irregularities were used to accelerate default, suppress his defenses, and later justify coercive enforcement.
23. Plaintiff alleges that the combination of protective order enforcement, injunctive restraints, trial cancellation/default procedures, and service irregularities operated as a coordinated mechanism to manufacture a result, suppress whistleblower-protected activity, and foreclose record transparency.

LAW CLERK’S CONFLICT OF INTEREST AND FAILURE TO RECUSE

24. After Plaintiff was named as the defendant in the case (via an Amended Complaint on June 13, 2023), the litigation intensified. During the course of proceedings, Plaintiff discovered a structural conflict of interest involving Defendant’s chambers. In particular, one of Defendant’s law clerks, Mr. Michael Kapellas, had previously been employed by the law firm representing MAA (Bass, Berry & Sims PLC). This fact was verified by the law clerk’s professional history and was known to Defendant. Plaintiff grew concerned that Mr. Kapellas – who had an association with the

opposing party's counsel – was substantially involved in drafting the Court's orders and influencing decisions in MAA's favor.

25. On or about June 13, 2024, Plaintiff raised this issue formally. He submitted affidavits and a written notice to the Court detailing the potential conflict of interest and requesting Defendant's recusal pursuant to 28 U.S.C. §§ 455 and 144. Plaintiff's submission noted that under the American Bar Association Model Rules of Professional Conduct, and their Tennessee equivalents, judicial staff should avoid participation in matters where a prior affiliation could create an appearance of bias. Given Mr. Kapellas's prior employment with MAA's law firm, Plaintiff urged that the integrity of the proceedings required an impartial judge and staff with no such ties. Plaintiff filed a sworn affidavit under 28 U.S.C. § 144 attesting to his belief that he could not obtain a fair hearing due to the bias introduced by this conflict.
26. In response, Defendant failed to recuse herself or take any remedial action. Instead, on June 21, 2024, she issued a written order denying that any conflict or bias existed (ECF No. 103). Defendant's order acknowledged that her law clerk had worked for Bass, Berry & Sims PLC (MAA's counsel) but concluded that this did not warrant recusal. Citing 28 U.S.C. § 455, which mandates disqualification whenever a judge's impartiality "might reasonably be questioned," Defendant nevertheless held that "there are not grounds to do so" and that a reasonable person would not question her impartiality under these circumstances. She summarily denied Plaintiff's recusal request, effectively brushing aside the concerns raised under §§ 455 and 144.
27. Plaintiff alleges that this refusal to recuse was a violation of federal law and his due process rights. By statute, once a party files a timely and sufficient affidavit of personal bias under 28 U.S.C. § 144, the judge against whom it is filed must cease further involvement and the matter should be transferred to another judge for evaluation. Here, Plaintiff presented a detailed affidavit and evidence of a "structural bias" – the presence of a court employee with loyalties (past or present) to Plaintiff's litigation adversary. Rather than refer the question to a neutral judge as required, Defendant kept the matter in her own courtroom and ruled on her own impartiality. This action contravened § 144 and § 455, depriving Plaintiff of the statutory safeguard of an impartial forum. It also violated Plaintiff's Fifth Amendment right to a tribunal free from reasonable suspicion of bias. A litigant's right to an impartial judge is a fundamental component of due process, and Defendant's failure to recuse under these circumstances infringed that right.

28. Moreover, Plaintiff asserts that subsequent events confirmed his fears: multiple adverse rulings issued by Defendant bore indicia of Mr. Kapellas's involvement and bias. The tone and content of certain orders closely mirrored arguments and style characteristic of MAA's counsel, leading Plaintiff to believe the conflicted clerk was substantially authoring the Court's decisions. The appearance of partiality was thus amplified rather than dispelled. By insisting on presiding despite the conflict, Defendant not only violated recusal standards but also acted outside the color of her judicial authority, tainting all further proceedings with an intolerable risk of bias.

DENIAL OF IMPARTIAL ADJUDICATION OF RULE 60(b) MOTION

29. In early 2024, Defendant entered a default judgment and permanent injunction against Plaintiff, finding him liable to MAA. (A Default Judgment was entered after Plaintiff, believing the process was irreparably biased, did not further respond; additionally, Defendant found Plaintiff in contempt for failing to comply with certain pre-judgment orders.) Final judgment was entered in the case in or around spring 2024. Plaintiff's attempts to obtain relief in the Sixth Circuit were unsuccessful, as the appellate court initially affirmed the judgment (though Plaintiff contends the appellate review was itself hampered by the incomplete record and the bias below).

30. In 2025, Plaintiff sought to reopen or set aside the judgment by filing a Motion for Relief from Judgment under Federal Rule of Civil Procedure 60(b). On May 19, 2025, Plaintiff filed a Rule 60(b)(6) and 60(d)(3) motion (ECF No. 186 in the case) asserting that the judgment was obtained through fraud, misconduct, and other extraordinary circumstances. Critically, this motion placed at issue the conduct of Defendant and her staff. Plaintiff argued that the bias, conflict of interest, and off-record evidence described above amounted to fraud on the court (Rule 60(d)(3)) and warranted vacatur of the judgment in the interest of justice (Rule 60(b)(6)). Because the motion challenged actions in which Defendant herself was implicated, Plaintiff formally requested that the Rule 60 motion be assigned to a different judge for independent adjudication. In his filing, Plaintiff invoked 28 U.S.C. §§ 455 and 144 again, asking that the motion be referred away from Defendant (he attached a supporting affidavit, ECF No. 186-2).

31. Defendant refused to allow any other judge to review the Rule 60(b) motion. Instead, she kept the motion on her own docket and proceeded to rule on it herself – effectively judging her own case. On June 25, 2025, Defendant issued an order denying Plaintiff's request for recusal or referral of the motion and simultaneously denying the Rule 60(b) relief on the merits (ECF No. 201). In that order, Defendant again pronounced that there was no basis for her disqualification under 28 U.S.C. §§

144 or 455, thus shielding her conduct from any independent scrutiny. By dismissing the allegations of fraud and bias out of hand, she ensured that no other judicial officer would review the serious charges raised by Plaintiff.

32. Defendant's refusal to permit impartial adjudication of the Rule 60(b) motion compounded the due process violations. A Rule 60(b) motion, especially one alleging fraud on the court, implicates the integrity of the judicial process and often warrants careful consideration by a judge who is not touched by the alleged misconduct. Here, Defendant had an evident personal stake in the outcome – the motion accused her and her staff of wrongdoing. Fundamental fairness (as well as common practice) dictates that such a motion be heard by a neutral judge. Instead, by unilaterally denying relief, Defendant acted as a judge in her own cause, contravening one of the oldest tenets of natural justice. Plaintiff was thus denied any meaningful opportunity to have his allegations heard and the judgment reviewed by an impartial tribunal. This act of retaining the case was administrative and self-interested, rather than a legitimate judicial function, stripping Plaintiff of his right to a neutral decision-maker.
33. The consequence of Defendant's actions is that the tainted judgment and orders remain in place without ever having received an independent evaluation. By "locking the courthouse doors" to Plaintiff's Rule 60(b) motion, Defendant not only violated Plaintiff's due process rights but stepped outside her proper adjudicative role. These actions were non-judicial in nature, as they served only to insulate Defendant from accountability rather than to fairly adjudicate a dispute between parties.

**COERCIVE CONTEMPT INCARCERATION AND EXTRAJUDICIAL SETTLEMENT PRESSURE
(NO EXECUTED AGREEMENT; ASSENT RESCINDED AFTER RELEASE)**

34. Following the entry of judgment, MAA undertook efforts to enforce the judgment and injunction. When Plaintiff did not fully comply with post-judgment orders (for example, orders to answer discovery in aid of execution, to cease certain online activities, or to pay amounts ordered), Defendant escalated to contempt proceedings. By mid-2025, Defendant issued a civil contempt order and a warrant was authorized for Plaintiff's arrest. Plaintiff was taken into custody by U.S. Marshals in July 2025 on Defendant's order, with the goal of coercing his compliance with the court's outstanding directives. Plaintiff was detained at the William G. Truesdale Detention Center (Alexandria City Jail) in Alexandria, Virginia, as he was apprehended in that jurisdiction.

35. While Plaintiff was incarcerated on civil contempt, extraordinary events occurred outside the courtroom and off the record. Defendant's chambers staff – acting in coordination with MAA's counsel – engaged in direct communications with Plaintiff's family to broker a deal for Plaintiff's release. In particular, on or about July 27, 2025, MAA's counsel and a member of Defendant's chambers had a joint phone call with Plaintiff's wife (who was in Virginia). During this call, they pressured Plaintiff's wife to agree to certain conditions in exchange for Plaintiff's freedom. They informed her that if specific terms were met – including a proposed payment of \$5,000 to MAA and the signing of a broad non-disparagement or "no-harassment" agreement – Defendant would arrange for Plaintiff to be released from jail. This communication was made outside any formal court proceeding, essentially amounting to an extrajudicial settlement negotiation orchestrated by the judge's staff under the threat of continued incarceration.
36. Plaintiff's wife, desperate to secure his release and alarmed by the conditions of his confinement, felt compelled to acquiesce. The coercive message was clear: Plaintiff would remain jailed indefinitely unless his family paid money and he surrendered certain rights (namely, his right to speak or publish information about MAA or the court, via the proposed non-disparagement clause). This demand had no lawful basis in any prior court order; it was effectively ransom set by chambers staff and opposing counsel. Plaintiff's wife contemporaneously recorded portions of these communications, capturing the nature of the pressure applied.
37. Shortly after the call, on July 28, 2025, MAA filed a "Notice of Settlement Terms" (ECF No. 219) reflecting some of the conditions conveyed in the call. That same day, Defendant issued an order directing Plaintiff's immediate release from custody (ECF No. 220). The release order explicitly noted that the parties had informed the Court of a conditional settlement and outlined conditions for release and compliance.
38. Plaintiff did not execute or sign any settlement agreement. Plaintiff alleges that while he was jailed and under duress, he (and/or his wife acting on his behalf) communicated a provisional assent in principle to secure release, based on assurances that release would follow once "agreement" was communicated. Plaintiff alleges that after he was released and able to review the written draft and the circumstances of coercion, he promptly rescinded and refused to execute the proposed agreement. Plaintiff alleges that any suggestion that a final, binding settlement was consummated is inaccurate because no written agreement was executed and any assent was withdrawn after release.

39. The above conduct was wholly outside the legitimate role of a judge or her staff. A judge may properly impose contempt sanctions through formal proceedings, but may not privately negotiate the terms of release or settlement with one party's counsel, let alone condition release on payment and silence. The involvement of Defendant's chambers in these coercive dealings was an extrajudicial act that overstepped judicial authority. It leveraged Plaintiff's liberty to extract concessions unrelated to the court's contempt finding (for example, requiring a gag-style settlement regime not imposed by judicial finding after hearing). Such actions violate due process; Plaintiff was effectively coerced into a settlement-in-principle under duress of imprisonment, without counsel, and outside open court.
40. Plaintiff contends that this sequence of events infringed on his constitutional rights. His Fifth Amendment rights were violated because he was deprived of liberty (through continued confinement) until he agreed to terms that were neither reviewed by a neutral magistrate nor part of any adjudicative process. The First Amendment was likewise implicated (as discussed further below) by the demand for a proposed non-disparagement commitment extracted as the price of liberty. These acts were investigatory or administrative – essentially acting as a jailer and mediator – rather than judicial. No immunity can attach to such unauthorized behavior. Plaintiff highlights that at the time of these events, Defendant had no pending motion or case justifying these communications; the proper forum for any settlement was a public proceeding with Plaintiff's participation, not a clandestine call between chambers and a litigant's spouse.
41. In summary, Defendant, through her staff, used the threat of indefinite incarceration to achieve what should be impermissible: a private settlement effort on terms favorable to MAA and protective of Defendant's and MAA's interests. This was a profound abuse of power that shocks the conscience and falls outside any normal adjudicative function of a judge.

FILING RESTRICTIONS AND DOCKET CENSORSHIP

42. Once released, Plaintiff sought to bring to light the improper conduct that had transpired. He attempted to file on the court's docket evidence of the coercive communications and other materials (including the audio recording of the chambers-counsel call) in order to support further motions or to alert the judiciary to possible misconduct. Rather than allow the record to be corrected or supplemented with this information, Defendant moved aggressively to censor Plaintiff's filings and restrain his access to the Court.

43. On October 17, 2025, Defendant entered an order (ECF No. 310) denying Plaintiff leave to file his audio and video evidence on the public docket. In that order, Defendant imposed sweeping filing restrictions on Plaintiff. She announced, in substance, that going forward Plaintiff could not file documents unless they were in support of or in opposition to a motion already pending, and that to file any motion he must first obtain the Court's permission.
44. A few days later, when Plaintiff nonetheless tried to file certain notices and evidence (presumably relating to the coercion and other grievances), Defendant enforced her new restrictions. On October 22, 2025, she issued an "Order Directing Clerk to Not File Submissions on the Docket" (ECF No. 312). Defendant expressly instructed the Clerk of Court to refuse any further filings from Plaintiff that did not meet her narrow criteria. The Clerk thereafter returned or discarded Plaintiff's attempted filings (including, on information and belief, the audio recording file and a written narrative of the extrajudicial settlement coercion).
45. The combined effect of ECF 310 and ECF 312 (hereinafter the "filing injunctions") was to place Plaintiff under a de facto filing ban in his own case. He was barred from placing into the record crucial evidence and first-hand accounts of misconduct. Additionally, one of these orders specifically denied him leave to file native audio/video evidence – an unusual restriction which appears tailored to suppress the recorded proof of the chambers-counsel phone call. These orders also warned that any future filings would require prior court permission, chilling Plaintiff's exercise of his rights.
46. Plaintiff alleges that these filing restrictions are unconstitutional prior restraints on his First Amendment right to petition the government (access the courts) and to free speech. Litigants have a right to inform the court of relevant facts and to seek relief; by arbitrarily muzzling Plaintiff, Defendant prevented him from engaging in protected petitioning activity. The content-based nature of the censorship (targeting his attempt to expose wrongdoing by the court and opposing counsel) is particularly egregious. Moreover, the orders were entered without any notice or opportunity for Plaintiff to be heard in opposition.
47. The docket censorship extended to the point that even Plaintiff's appeals or post-judgment motions became difficult to pursue, since he could not freely file supporting documents. Defendant's orders (ECF 310 and 312) are an unlawful restraint on court access. They violate the First Amendment (right to petition and speak about judicial proceedings) as well as Plaintiff's Fifth Amendment right to due process, as they deprive him of a forum to fully air his claims. Plaintiff seeks a

declaratory judgment that these filing injunction orders are null and void, as further detailed below.

48. Importantly, imposing such filing restrictions is not a normal judicial act in the context at hand. While courts have inherent power to manage filings, the use of that power here – to preclude a party from filing evidence of alleged judicial misconduct – is a gross abuse. It served Defendant’s personal interests and was taken in clear absence of the impartiality required of a judge. As such, issuing and enforcing these censorship orders were non-judicial acts or, at minimum, acts taken in the absence of jurisdiction (since no valid judicial purpose was served). They therefore do not enjoy immunity and are properly subject to review in this proceeding.

ADA VIOLATIONS AND INHUMANE JAIL CONDITIONS

49. During Plaintiff’s civil contempt incarceration (July 22–28, 2025) at the Alexandria detention facility, he was subjected to inhumane conditions and denied basic accommodations, in violation of his rights under the Constitution and the Americans with Disabilities Act. Plaintiff has a medical condition that requires daily medication and certain accommodations (for instance, access to clean drinking water and the ability to write or communicate to the outside world). These needs were not met while he was jailed pursuant to Defendant’s order.

50. Plaintiff was denied access to his prescription medications for the duration of his custody, causing him physical pain and mental distress. Despite jail intake being made aware of his conditions, no proper medical care was provided. Additionally, Plaintiff was held in a cell without regular access to potable water and basic sanitation, leading to dehydration and illness. He requested writing materials to draft legal pleadings or at least to communicate with the court or counsel, but jail staff (acting under the auspices of a federal contempt hold) refused, leaving him effectively unable to petition the court or prepare a defense while confined.

51. These conditions were exacerbated by Defendant’s failure to put in place any safeguards for a contemnor with a disability or health issues. Notably, prior to his incarceration, Plaintiff had informed the Court of his health concerns. Plaintiff requested disability accommodations and guidance on how to obtain them, due to the difficulty he had in physically traveling to Tennessee and participating under standard procedures. Defendant did not meaningfully act on those requests and later made no provision for Plaintiff’s medical or disability needs when ordering incarceration.

52. The denial of medication and basic humane treatment violates the Fifth Amendment's due process clause (applicable to federal actors). As a civil contemnor (essentially a pre-trial detainee), Plaintiff was entitled to conditions of confinement that were not punitive or grossly deficient. Yet he was treated with deliberate indifference to his serious medical needs and well-being, conduct that would violate even the Eighth Amendment standard for convicted prisoners. The fact that Plaintiff's jailers withheld the tools he needed to access the courts (pen, paper, or communication) and that Defendant's own filing injunction prevented him from alerting the court to these hardships, compounds the due process injury.
53. Furthermore, Plaintiff asserts that these actions violated Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act. Title II of the ADA mandates that public entities (including local jails and, by extension, the judicial officers who utilize them) not discriminate against qualified individuals with disabilities or exclude them from participation in services due to disability. By incarcerating Plaintiff without ensuring he had access to his necessary medication and accommodations, Defendant effectively placed Plaintiff in a situation where he was denied the benefits of the detention facility's medical services because of his disability (or at least with deliberate indifference to it). Moreover, by failing to act on accommodation requests, Defendant failed to carry out the reasonable steps required to accommodate a litigant's disability in the judicial process.
54. The conditions of Plaintiff's confinement, though occurring in Alexandria, were a direct result of Defendant's order and oversight. She had the authority and obligation to ensure that a civil contempt sanction did not become a form of cruel punishment. Her failure to inquire into or mitigate the effects of incarceration on Plaintiff's health and rights makes her responsible for the resulting ADA and constitutional violations. These omissions are non-judicial in nature to the extent that providing humane treatment and accommodation is an administrative duty, not a discretionary judicial decision. In any event, no immunity would shield a judge for knowingly allowing or causing discriminatory, unlawful conditions. Plaintiff was effectively held under intolerable conditions without due process, in a manner that shocks the conscience and violates contemporary standards of decency.
55. In sum, the factual pattern described above demonstrates a course of conduct by Defendant that veered far outside the bounds of her judicial role. Defendant and her agents engaged in or enabled: (a) extra-record investigative acts (altering subpoenas, gathering secret evidence), (b) self-interested adjudication (refusing recusal and independent review of her conduct), (c) coercive extra-judicial dealings

(using imprisonment to force settlement terms), (d) censorship of court filings to cover up misconduct, (e) use of protective orders and injunctive mechanisms to silence and suppress protected reporting, and (f) disregard for Plaintiff's basic rights and needs while under color of judicial custody. Each category of conduct was either a non-judicial act or taken in the complete absence of legitimate jurisdiction, meaning Defendant cannot invoke absolute judicial immunity to avoid accountability. Plaintiff now sets forth specific causes of action arising from these facts, to obtain declaratory relief and ensure that such abuses are recognized and remedied.

CAUSES OF ACTION

Plaintiff realleges and incorporates by reference all the above paragraphs as though fully set forth under each count below. For each claim, Plaintiff emphasizes that Defendant's actions were undertaken under color of federal law and outside her lawful judicial capacity, rendering her unprotected by judicial immunity.

COUNT I – FIFTH AMENDMENT (DENIAL OF IMPARTIAL TRIBUNAL AND VIOLATION OF RECUSAL STATUTES)

56. Impartial Judge Free of Conflict: The Fifth Amendment's Due Process Clause guarantees every litigant the right to a fair proceeding before an impartial tribunal. Plaintiff was denied this right by Defendant's refusal to recuse herself despite a clear conflict of interest involving her judicial chambers. Defendant's law clerk had a prior professional affiliation with the law firm representing Plaintiff's adversary, creating at minimum an appearance of bias that "might reasonably be questioned" under 28 U.S.C. § 455(a). In addition, Plaintiff timely filed a detailed affidavit asserting personal bias under 28 U.S.C. § 144, which by law should have resulted in a transfer of the matter to another judge for determination. Defendant disregarded these legal mandates and continued to preside over the case in violation of §§ 144 and 455.

57. Violation of 28 U.S.C. §§ 455 and 144: Defendant's failure to recuse, and her decision to rule on her own alleged bias, violated federal recusal statutes designed to protect litigants' due process rights. Section 455 imposed a duty on Defendant to disqualify herself once her impartiality could be reasonably questioned. Plaintiff's evidence regarding law clerk Kapellas's connection to Bass, Berry & Sims was sufficient to trigger disqualification – a fact underscored by the unusual circumstance of a court staff member potentially influencing a case involving his former employer. By insisting "there are not grounds" for recusal and denying

Plaintiff's request, Defendant violated the plain text and spirit of § 455. Likewise, under § 144, once Plaintiff filed his affidavit of bias, Defendant had no authority to proceed to judge the merits of her own bias – the statute required cessation of her involvement except to permit another judge to evaluate the affidavit. Her refusal to follow this procedure nullified Plaintiff's statutory right and is an independent breach of law.

58. Due Process Violation – Structural Bias: Defendant's actions resulted in structural bias infecting the entire case. A law clerk who had loyalty (or the appearance thereof) to one side's law firm presents a structural conflict that ordinary appellate review cannot cure. By keeping such a clerk involved in the case (drafting orders, advising the judge) and by herself remaining at the helm despite the conflict, Defendant denied Plaintiff a neutral decision-maker. The Supreme Court has long held that even the appearance of bias or possible temptation for bias offends due process. Here, the risk of bias was not speculative – Plaintiff experienced a pattern of one-sided rulings and language in orders that suggested extrajudicial influence. This violates the Fifth Amendment. A litigant should not have to labor under the reasonable belief that the cards are stacked against him due to undisclosed relationships behind the bench.
59. Judicial Immunity Does Not Apply: In undertaking to judge a matter where she was disqualified by law, Defendant acted without jurisdiction and outside her judicial capacity. When a statute (like § 144) explicitly forbids a judge from proceeding further, any continuation is ultra vires. Thus, Defendant cannot claim her recusal decisions (or lack thereof) were normal judicial acts – they were forbidden acts. The law is clear that a judge is not immune for actions taken in the complete absence of all jurisdiction. By violating § 144, Defendant relinquished jurisdiction over the case, rendering subsequent orders void or voidable. Plaintiff seeks a declaratory judgment to that effect: that Defendant's failure to recuse violated his due process rights and federal law, and that any orders entered by Defendant in Case No. 2:23-cv-02186 after the point of disqualification are null and void. This includes, but is not limited to, the default judgment, the permanent injunction, and any contempt orders that flowed from the tainted proceedings.
60. Relief Sought (Count I): Plaintiff requests that this Court (a) declare that Defendant's refusal to recuse and failure to refer Plaintiff's bias motion to another judge violated Plaintiff's Fifth Amendment right to an impartial tribunal, as well as 28 U.S.C. §§ 144 and 455; (b) declare that, as a result, Defendant's continued exercise of jurisdiction in the underlying case was improper, and her orders entered in violation of these

statutes are void or should be vacated; and (c) issue appropriate injunctive relief or mandates to ensure that any further proceedings related to Plaintiff's dispute with MAA be handled by an unbiased judge in compliance with recusal requirements.

COUNT II – FIFTH AMENDMENT (DUE PROCESS – ABUSE OF POWER, EXTRAJUDICIAL CONDUCT, AND FRAUD ON THE COURT)

61. Fundamental Unfairness and Fraud on the Court: Defendant's cumulative actions described above – including the alteration of subpoenas, use of secret evidence, coercive settlement tactics, protective-order and injunctive silencing mechanisms, and self-interested retention of a Rule 60 motion – amount to a grave abuse of judicial power that violated Plaintiff's Fifth Amendment right to due process of law. Individually and collectively, these acts deprived Plaintiff of the basic fairness and integrity that the judicial process is supposed to afford. The concept of "fraud on the court" encompasses egregious misconduct by a party or by the court that defiles the court's impartiality and ability to adjudicate justly. Here, Defendant's conduct, in concert with MAA's counsel, perpetrated a fraud on the court itself and on the administration of justice, to Plaintiff's extreme prejudice.
62. Altered Subpoenas & Secret Evidence (Due Process Violation): As alleged, subpoenas were improperly broadened after being approved, and evidence was obtained off the record. Plaintiff had no chance to contest or even see this material, yet it influenced judicial outcomes. The ex parte procurement and consideration of evidence violates due process, which requires adversarial proceedings and transparency. By basing decisions (like default judgment or scope of injunction) on information outside the court file, Defendant denied Plaintiff notice of what was being held against him and an opportunity to rebut it. This is fundamentally unfair and unconstitutional. It is also misconduct by the court: a judge permitting a one-sided communication or evidence submission is engaging in an impermissible ex parte act. Such conduct voids any resulting order. Plaintiff's right to be heard – audi alteram partem – was trampled by these clandestine evidentiary uses.
63. Coercive Incarceration and Settlement (Due Process Violation): Defendant's role in using civil contempt not for coercing compliance with a specific court order, but to coerce a global settlement under duress, is an extraordinary abuse of process. Civil contempt is intended to compel a recalcitrant party to do something within their power (e.g., pay a fine, turn over documents) for the benefit of the litigation at hand –

it is not a tool to extract unrelated concessions or enforce a private agreement. By holding Plaintiff in jail until he (through his family) agreed in principle under duress to proposed payment and proposed non-disparagement terms, Defendant acted outside any lawful judicial purpose. This conduct violated substantive due process by imposing a deprivation of liberty for an improper objective. It shocks the conscience that a judge would, in essence, force a litigant to settle a case and waive rights under threat of indefinite imprisonment.

64. Additionally, the manner in which the “deal” was done lacked procedural due process: no hearing, no counsel, no opportunity for Plaintiff to be present or speak on his own behalf. It was all done behind closed doors. This is the antithesis of due process. Plaintiff’s jailing was effectively extended (or its end conditioned) without any formal court proceeding or findings. In constitutional terms, Defendant, acting through her staff and in concert with MAA, deprived Plaintiff of liberty and property without due process of law. The demand for \$5,000 and the proposed gag/non-disparagement provisions implicated property and First Amendment interests – none of which were afforded constitutional safeguards, and none of which culminated in an executed agreement because Plaintiff rescinded after release.
65. Pattern of Bias and Self-Dealing: The above actions, combined with Defendant’s refusal to allow independent review (Count I) and her censorship of filings (next Count), exhibit a pattern of self-dealing. Defendant consistently acted to protect her own interests (avoiding recusal, covering up misconduct, silencing criticism) at the expense of Plaintiff’s rights. This pattern demonstrates a deep-seated favoritism or antagonism that makes fair judgment impossible – another due process violation in its own right.
66. Non-Judicial Nature of Conduct: Virtually all the misconduct in this Count was extrajudicial. Altering subpoenas and gathering evidence in secret is more akin to an investigative or prosecutorial action than a judicial one. Covertly negotiating a settlement is a private mediation/advocacy role, not a judicial function – particularly when done by staff without the presence of both parties. Using contempt to achieve ends outside the four corners of court orders is a perversion of the contempt power. And directing a spouse to pay money or sign an agreement is wholly outside a judge’s authority. These acts were not undertaken in any courtroom setting or as part of adjudicating motions; they were undertaken in hallways, phone calls, and in the recesses of chambers, in the clear absence of judicial jurisdiction or procedural framework. Therefore, Defendant cannot claim immunity or that she was simply

performing her duties – she abandoned the neutral arbiter role and became an interested actor.

67. Injury to Plaintiff: As a direct result of Defendant's due process violations and abuses of power, Plaintiff suffered severe injuries. He was subjected to an overly broad permanent injunction and contempt findings without a fair chance to defend, lost liberty (incarceration) unjustly, suffered physical and medical harms from conditions of confinement, and was subjected to coercive settlement demands and threats designed to silence him and suppress protected reporting. The integrity of the legal process in his case was destroyed, leaving him with a judgment and orders of questionable legitimacy that continue to affect his life. These are concrete harms flowing from Defendant's unconstitutional acts.

68. Relief Sought (Count II): Plaintiff requests that this Court declare that Defendant's actions described in Count II violated the Fifth Amendment. Specifically, Plaintiff seeks a declaration that: (a) Defendant's alteration or allowance of altered subpoenas and reliance on off-record evidence constituted a denial of due process; (b) Defendant's actions in jailing Plaintiff and orchestrating an extrajudicial settlement effort under threat violated due process and were beyond her lawful authority; and (c) as a result, any attempt to treat the proposed gag/non-disparagement settlement regime as binding is unenforceable and void because it was never executed and any assent was rescinded after release. Plaintiff further seeks an order rescinding or enjoining enforcement of any gag-style restraints asserted through coercion and any contempt or sanction that was improperly obtained. Plaintiff also prays for any other relief necessary to restore him to the position he would have been in had due process been observed – including potential vacatur of the default judgment and a reopening of the case before a new judge, should the Court deem it appropriate under its declaratory powers or Rule 60(d)(3) (independent action to set aside for fraud on the court).

COUNT III – FIRST AMENDMENT (RIGHT OF ACCESS TO COURTS AND FREEDOM OF SPEECH)

69. Court Access – Right to Petition: The First Amendment protects the right “to petition the Government for a redress of grievances,” which encompasses a citizen's right of access to the courts. Plaintiff's ability to petition the judiciary was unjustifiably curtailed by Defendant's issuance of filing bans and prior restraints (Orders ECF 310 and 312). After his release from contempt custody, Plaintiff had legitimate grievances to present to the court – including evidence of unethical conduct and motions for relief. By flatly prohibiting Plaintiff from filing anything not tied to an

existing motion, and by instructing the Clerk to refuse docketing of Plaintiff's submissions, Defendant erected a barrier between Plaintiff and the court. This filing injunction prevented Plaintiff from exercising his First Amendment right to seek redress and to participate meaningfully in ongoing proceedings.

70. Content-Based Prior Restraint: The nature of Defendant's restriction was content-based and retaliatory. It specifically targeted the content of Plaintiff's intended filings – notably, audio/video evidence and written accounts alleging misconduct by court personnel and opposing counsel. Defendant denied leave to file these materials solely because of their content (sensitive information implicating the court), not because of any neutral rule (such as page limits or format). This is a classic prior restraint, presumptively unconstitutional under the First Amendment. The effect was to silence Plaintiff's criticisms and evidence before they could even be heard – an egregious form of censorship by a government official.
71. Retaliation for Protected Speech and Protected Reporting: Defendant's actions can be seen as retaliation. Plaintiff attempted to expose wrongdoing (speech on a matter of public concern – judicial integrity and whistleblower retaliation) and in response, Defendant punished that speech by forbidding it from entering the record. Retaliating against an individual for attempting to speak about or report official misconduct violates the First Amendment. A reasonable inference is that Defendant imposed the filing ban not for any legitimate case-management reason, but to stifle Plaintiff's protected petitioning and whistleblowing of what happened during his contempt incarceration and during the subpoena/record irregularities. Even if Defendant disagreed with Plaintiff's accusations, the remedy was not to censor him, but to allow the truth to come out through normal judicial process.
72. Proposed Non-Disparagement Provisions – Prior Restraint on Speech: The proposed non-disparagement provisions that Defendant's staff and MAA's counsel demanded as a condition of Plaintiff's release, and any later effort to treat Plaintiff as bound to such a gag regime, constitute an unconstitutional prior restraint. Plaintiff agreed in principle only under extreme duress while jailed and then rescinded after release and refused to execute the written agreement. The demand itself, tied to liberty, was state action under color of law and was intended to silence speech about MAA, its counsel, and court personnel. It violates the First Amendment because it suppresses criticism and truthful speech to shield those in power from accountability.
73. Chilling Effect on Court Access: Defendant's filing restrictions and the lingering threat of sanction have a severe chilling effect on Plaintiff's willingness to engage

with the legal system. Even after the underlying case ostensibly ended, Plaintiff is effectively muzzled from filing motions, preserving the record, or speaking out, for fear that doing so might be deemed a violation of Defendant's orders. This kind of intimidation outlasts the immediate case and deters Plaintiff (and similarly situated litigants) from exercising their rights.

74. No Immunity for Censorship: Imposing administrative bans on filings and extrajudicial gags is not a normal judicial act when done for self-serving reasons. It is administrative (directing the Clerk's operations) and more akin to an executive decision about information control than an adjudicative act about a case's merits. Therefore, Defendant's actions in this realm are not protected by judicial immunity for purposes of prospective declaratory and injunctive relief.

75. Relief Sought (Count III): Plaintiff requests that this Court: (a) declare that Defendant's Orders ECF 310 and 312, which restrict Plaintiff's filings and direct the Clerk not to accept Plaintiff's submissions, violate the First Amendment and are null and void; (b) issue an injunction, if necessary, directing the Clerk of the Western District of Tennessee to allow Plaintiff to file documents in Case No. 2:23-cv-02186 or any related matter without needing prior judicial approval (aside from normal procedural requirements), thereby restoring Plaintiff's court access; (c) declare that any attempt to enforce a proposed non-disparagement or gag settlement extracted during Plaintiff's incarceration is void and unconstitutional because it was never executed and any assent was rescinded; and (d) declare that Plaintiff has the right to publicly disseminate recordings and other evidence of extrajudicial communications and retaliation, as such speech is on a matter of public concern and is protected by the First Amendment.

COUNT IV – AMERICANS WITH DISABILITIES ACT (TITLE II) AND FIFTH AMENDMENT (DUE PROCESS) – DISABILITY DISCRIMINATION AND UNSAFE CONDITIONS OF CONFINEMENT

76. ADA Title II Violation: Plaintiff is a qualified individual with a disability (he requires ongoing medical treatment and accommodations for a chronic health condition). Title II of the ADA provides that no qualified individual with a disability shall, by reason of that 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. In this context, the "services, programs, or activities" include the judicial process (court proceedings) and the detention/correctional services when a person is held in custody. Defendant, as a judicial officer, and through the actions of her agents (the U.S. Marshals Service and

the Alexandria detention facility acting at her behest), failed to accommodate Plaintiff's disability and effectively denied him the benefit of safe and accessible participation in the legal process.

77. Denial of Accommodation in Court Proceedings: Prior to his incarceration, Plaintiff explicitly requested accommodations from the Court, noting difficulties related to his health/disability in participating under normal conditions (such as traveling to Tennessee for hearings or enduring confinement without medication). Defendant took no action on this request and instead treated it as withdrawn or otherwise failed to address it. This failure to even address an accommodation request violated the ADA's requirement for public entities to reasonably accommodate known disabilities. It also violated due process, as it deprived Plaintiff of a meaningful opportunity to be heard on equal footing.
78. Inhumane Jail Conditions – Due Process: When Defendant ordered Plaintiff's civil contempt incarceration, she effectively subjected a person with known medical needs to the general population of a jail without ensuring necessary care. During Plaintiff's custody from July 22 to 28, 2025, he was denied his essential medications, lacked adequate potable water, and was deprived of basic tools to communicate and petition the court. These conditions constituted punitive treatment rather than a coercive sanction, crossing the line into a violation of the Fifth Amendment's guarantee that federal civil detainees not be subjected to punishment or deliberate indifference to serious medical needs.
79. Exclusion from Court Access While in Jail: By denying Plaintiff writing materials and effective means of communication while in jail, Defendant (through the jailers) denied him access to the courts during that period, compounding the ADA violation. Plaintiff effectively could not request relief or inform the court of his plight, worsening the deprivation.
80. Rehabilitation Act Claim (in the alternative/addition): To the extent the ADA may not directly apply to the federal judiciary, the Rehabilitation Act of 1973 (29 U.S.C. § 794) applies to federally funded programs and prohibits disability-based discrimination. By failing to provide reasonable accommodations and by subjecting Plaintiff to conditions that aggravated his disability, Defendant violated Rehabilitation Act requirements as well.
81. Harm and Ongoing Risk: Plaintiff suffered physical and emotional injury as a result of these ADA and due process violations. He endured unnecessary pain, fear, and humiliation during the detention. The experience has had lasting impact on his

health. There remains an ongoing concern: should Plaintiff be subject to further proceedings, without declaratory relief he could again face incarceration without assurance of accommodation.

82. Relief Sought (Count IV): Plaintiff requests that the Court: (a) declare that Defendant's actions and omissions violated Title II of the ADA and the Fifth Amendment's due process clause, by failing to accommodate Plaintiff's disability and by subjecting him to punitive, health-endangering conditions of confinement; (b) declare that any use of civil contempt in the underlying case that disregards a contemnor's disability is unlawful, and that Defendant's specific contempt order and process as applied to Plaintiff were unconstitutional; (c) issue appropriate injunctive relief to prevent similar occurrences – including prohibiting incarceration absent an accommodation determination and meaningful due process protections; and (d) order appropriate corrective relief regarding any findings or orders that were products of unlawful confinement and coercion.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court grant the following relief:

A. Declaratory Judgment: Issue a declaratory judgment pursuant to 28 U.S.C. § 2201 that the acts and orders of Defendant described herein were unconstitutional, unlawful, and beyond the scope of her judicial authority, including declarations that:

1. Defendant violated Plaintiff's Fifth Amendment due process rights and 28 U.S.C. §§ 144 & 455 by failing to recuse herself or transfer proceedings after a conflict of interest and bias affidavit were brought to light, rendering her subsequent orders in the case void or voidable;
2. Defendant's denial of an impartial adjudicator for Plaintiff's Rule 60(b) motion was improper and unconstitutional, and that any judgment or order left intact due to that refusal should be re-examined by a neutral judge (the Court may declare the judgment and injunction in Case No. 2:23-cv-02186-SHL-cgc null and void, or subject to vacatur, due to fraud on the court);
3. The alteration of subpoenas and consideration of off-docket evidence violated Plaintiff's due process rights, and any court actions tainted by such evidence (including the default judgment, contempt findings, and injunction) are invalid;
4. The coercive settlement effort and the conditions and terms demanded during Plaintiff's civil contempt incarceration – including a proposed \$5,000 payment and proposed non-disparagement terms communicated through extrajudicial channels

- were unlawful and unconstitutional; Plaintiff did not execute any settlement agreement; any assent was rescinded after release; and any attempt to treat such proposed terms as binding is null, void, and unenforceable;
- 5. Defendant's orders ECF 310 and ECF 312 (the filing injunctions) are unconstitutional restraints on Plaintiff's First Amendment rights and right of access to the courts, and are declared null and void. Plaintiff shall be permitted to file documents and evidence in the underlying case (or any related case) without seeking leave, subject only to the normal rules of court applicable to any litigant;
- 6. Defendant's actions in ignoring Plaintiff's disability and subjecting him to incarceration without accommodations violated the ADA and due process. It shall be declared that any future enforcement or contempt actions against Plaintiff must comply with disability rights laws and provide reasonable accommodations for his medical needs, and that Plaintiff cannot be jailed again for civil contempt without a thorough consideration of his health and due process rights.

B. Injunctive Relief: Enter an injunction or other appropriate orders to effectuate the above declarations and to prevent further irreparable harm to Plaintiff, including but not limited to:

- 1. Reassignment to Another Judge: Ordering that any and all further proceedings involving Plaintiff and the underlying dispute (including any proceedings to enforce or modify the judgment or injunction in Case No. 2:23-cv-02186, or to address relief from that judgment) be assigned to a different Article III judge, preferably from outside the Western District of Tennessee if needed to ensure impartiality. This includes directing the Clerk of the Western District of Tennessee to reassign the case to a new judge for all post-judgment and enforcement matters. The assigned judge should have no current or prior association with any party or counsel involved, and no involvement in the matters complained of herein.
- 2. Vacating Filing Restrictions: Permanently enjoining Defendant and the Clerk of Court from enforcing the filing restrictions in ECF 310 and 312. The Clerk shall be directed to accept and docket any filings tendered by Plaintiff in the underlying case (or related to it), and Defendant (or any judge presiding) shall not refuse filings solely on the basis that Plaintiff did not seek leave. If there is a legitimate reason to limit a particular filing, it must be addressed by a duly assigned impartial judge on a case-by-case basis, not by a blanket ban.
- 3. Removal of Gag Orders: Enjoining Defendant, her staff, and any parties acting in concert with her (including MAA and its attorneys) from attempting to enforce any

gag or non-disparagement settlement regime demanded during Plaintiff's incarceration. Plaintiff shall be free to speak, write, and publish information regarding the litigation and his experiences, including publishing the audio recording of the July 27, 2025 call, without fear of contempt or other punishment. Any order or judgment that contained a non-disparagement or anti-contact directive should be revisited by a new judge to ensure it is narrowly tailored and not an overbroad gag on speech.

4. Accommodations in Future Proceedings: Requiring that if Plaintiff is ever subject to court-ordered custody or confinement in this matter, his medical needs and disabilities must be accommodated. This includes access to prescribed medications, potable water, and communication means. Specifically, an injunction should prohibit jailing Plaintiff for civil contempt without a prior hearing where Plaintiff's health and ability to comply are assessed, and without making written findings that such incarceration will not pose a serious risk to his health or violate his rights. Alternatively, provide that any civil contempt enforcement must be through less restrictive means if Plaintiff's health would be jeopardized by incarceration.
5. Monitoring and Reporting: The Court may consider ordering that any future contempt or enforcement actions in this dispute be monitored by a magistrate judge or an appointed neutral to ensure compliance with constitutional mandates. Additionally, Defendant (if still involved in any capacity) and MAA's counsel should be required to report any direct communications with third parties related to Plaintiff's compliance (such as family) to all parties and on the record, to prevent furtive extrajudicial dealings.

C. Vacatur or Reopening if Warranted: While the primary relief sought is declaratory, Plaintiff prays that, if the Court finds it necessary to grant complete relief, it use its equitable powers (including those preserved by Fed. R. Civ. P. 60(d)) to void or set aside the judgment, injunction, or contempt orders from Case No. 2:23-cv-02186 that were products of Defendant's unconstitutional conduct. This would restore the parties to the status quo ante, allowing the underlying dispute to be adjudicated afresh by an unbiased judge, with all evidence on the record and with proper respect for Plaintiff's rights. (Plaintiff recognizes that the Court may prefer to limit itself to declaratory relief and leave actual vacatur to the reassigned judge; this request is made in the alternative, should it be within this Court's authority and interest of justice to do so directly.)

D. Any Further Relief: Grant such other and further relief as the Court deems just, equitable, and proper, including but not limited to any necessary and appropriate relief to

ensure that Plaintiff is free from retaliation by Defendant or others for bringing this action, and that the declaratory judgment is effectuated.

Respectfully submitted,

Dated: December 30, 2025



/s/ Dennis Philipson