

<div>OHANA GROWTH PARTNERS, LLC</div> <div><i>Plaintiff,</i></div> <div>VS.</div> <div>RYAN DILLON-CAPPS</div> <div><i>Defendant.</i></div>	<div>IN THE</div> <div>CIRCUIT COURT</div> <div>FOR</div> <div>BALTIMORE COUNTY</div> <div>CASE NO: C-03-CV-24-002264</div>
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MEMORANDUM OF LAW IN SUPPORT OF MANDATORY HEARING OF

ADJUDICATED FACTS

COMES NOW, Ryan Dillon-Capps (“Dillon-Capps” or “Defendant”), and submits this **Memorandum of Law in Support of Mandatory hearing of Adjudicated Facts** to establish that Plaintiff, Ohana Growth Partners, LLC (“Ohana” or “Plaintiff”), in concert with its counsel, Miles and Stockbridge, PC (“M&S” or “Counsel”), has violated multiple federal and state protections, including the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), and whistleblower protections, while engaging in retaliatory and discriminatory conduct.

1 Further, this Memorandum demonstrates that Plaintiff and Counsel have willfully misused judicial processes to pursue baseless litigation, relying on perjurious statements, abusive tactics, and unclean hands to subvert equitable relief. Defendant therefore respectfully requests a mandatory hearing for full adjudication of these established violations and sanctions against Plaintiff and Counsel, as required to uphold judicial integrity and ensure reciprocal justice.

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## I INTRODUCTION

2        This **Memorandum of Law in Support of a Mandatory Hearing of Adjudicated Facts** is submitted by Ryan Dillon-Capps (“Dillon-Capps” or “Defendant”) to demonstrate that Ohana Growth Partners, LLC (“Ohana” or “Plaintiff”), with the aid of its counsel, Miles and Stockbridge, PC (“M&S” or “Counsel”), has pursued litigation with unclean hands, seeking relief to which it is legally barred. Defendant contends that Plaintiff’s actions have violated Dillon-Capps’s federally protected rights under the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), and whistleblower statutes, and constitute a series of unethical and abusive litigation practices designed to harass, intimidate, and prevent accountability.

3        At the heart of this memorandum are core equitable defenses, beginning with **unclean hands** and extending to **perjury, abuse of process, malicious prosecution, and frivolous and vexing litigation**. Plaintiff’s and Counsel’s conduct, including knowingly false and perjurious statements, intentional abuse of judicial processes, and manipulative tactics that undermine judicial integrity, collectively establish grounds for these defenses. These actions amount to **fraud upon the court, witness tampering, and obstruction of evidence**. Additionally, Plaintiff’s reliance on inconsistent statements and representations in prior dealings induces harmful reliance, rendering Plaintiff further estopped from obtaining relief.

4        This document also addresses the serious consequences of Plaintiff’s and Counsel’s actions, which have inflicted significant personal and professional harm upon Dillon-Capps, including unknown business impacts, loss of professional opportunities, and personal health

effects requiring medical and legal evaluation. Furthermore, procedural limitations, including missing parties necessary to adjudicate the full scope of harm, pending motions, jurisdictional limitations due to federal and multi-state elements, and unresolved requirements for Dillon-Capps's medical prognosis and EEOC protections, underscore the necessity of a mandatory hearing.

5       The **Request for Emergency Administrative Review**, filed on October 30, 2024, under envelope 18609911, and the **Request for Mandatory Judicial Notice Hearing on Material Facts**, filed on November 1, 2024, under envelope 18649236, alongside the **Motion for Directed Verdict** and **Notice of Line Filing for Directed Verdict**, together establish the need for a hearing. This Memorandum supports the Adjudication of Facts and the six pre-hearing motions, answer, and seven counterclaims, as listed with other supporting filings in the Notice of Line Filing for Directed Verdict.

6       Additionally, this Memorandum will join a reply to the Plaintiff's opposition to a previous motion for sanctions, as the Plaintiff has persisted in efforts to evade accountability through abuse of process. Plaintiff and Counsel's continued lack of remorse and repeated attempts to evade accountability further emphasize the severity of their actions and the necessity of adopting the **PREVENT framework**. Over 300 pages of law, criteria, case law, and applications relevant to Defendant's current and future litigation thoroughly answer Plaintiff and Counsel's attempts to mislead the court. These detailed legal arguments reinforce the necessity for sanctions, equitable relief, and a hearing to adjudicate Plaintiff's conduct in a manner consistent with judicial integrity, public policy, and Dillon-Capps's legal rights.

## II PURPOSE AND STRUCTURE OF PREVENT FRAMEWORK

7     **The PREVENT framework** serves as a comprehensive solution addressing both the immediate and long-term impacts of Plaintiff's conduct. Rooted in equitable principles and judicial standards, each element of the framework is designed to redress harm, enforce accountability, and prevent future abuse of the legal system. The following outlines each element of PREVENT, its legal basis, and the corresponding motion for relief:

**P – Protect:** Motion to Disqualify Miles & Stockbridge for Ethical Violations and Misconduct

**Legal Basis:** Equitable principles of unclean hands, conflict of interest, and duty to uphold judicial integrity.

**Objective:** Disqualification is warranted to protect the judicial process from further misuse by counsel alleged to have engaged in unethical conduct, risking further harm to both Defendant and the court's integrity.

**R – Restore:** Motion to Vacate the Temporary Restraining Order (TRO)

**Legal Basis:** Maryland's equitable doctrine of unjust enrichment and principles of fraud upon the court.

**Objective:** Restoration of the status quo through vacatur of the TRO, an order improperly obtained through perjury and misrepresentation, will prevent the Plaintiff from benefiting from its misconduct.

**E – Enforce:** Motion to Impose Sanctions Not Sanction Fraudulent Lawsuits

**Legal Basis:** Maryland Rule 1-341 and doctrines of deterrence in sanctioning abuse.

**Objective:** Enforce judicial standards by imposing sanctions on Plaintiff and Counsel to deter future misuse of the legal process, ensuring accountability and protecting Defendant's rights.

**V – Verify:** Motion of Referral for Criminal and Ethical Investigation

**Legal Basis:** Duty to report criminal and ethical violations under Maryland professional conduct standards.

**Objective:** Verify and hold Plaintiff and Counsel accountable through a referral for investigation, ensuring adherence to ethical and legal standards.

**E – Ensure:** Motion for Injunction to Prevent Future Abuse of Court Process

**Legal Basis:** Equitable doctrines of injunctions and necessity for judicial oversight.

**Objective:** Ensure future protection by requiring judicial approval for any future litigation by Plaintiff, thus deterring vexatious and retaliatory litigation.



**N – Neutralize:** Motion for a Better Maryland with Reciprocal Relief

**Legal Basis:** Principles of equitable relief, reciprocal penalties, and public policy in deterrence.

**Objective:** Neutralize harm inflicted by Plaintiff’s bad-faith litigation through reciprocal financial penalties, aligning consequences with the severity of Plaintiff’s actions.

**T – Terminate:** Motion to Dismiss with Prejudice for a June 13th Worth of Reasons

**Legal Basis:** Equitable doctrine of unclean hands, abuse of process, and malicious prosecution.

**Objective:** Terminate Plaintiff’s claims permanently, preventing re-litigation of the same claims that are rooted in misconduct and abuse.

8 **Collectively, the PREVENT framework** provides a comprehensive approach to addressing Plaintiff’s misconduct, safeguarding judicial integrity, and ensuring that similar abuses do not recur.

### III FACTUAL BACKGROUND

#### 9 **Background of Dillon-Capps’s Employment, Health Conditions, and Request for Protected Leave**

On January 4, 2024, Dillon-Capps notified Ohana of the need for intermittent FMLA leave due to PTSD and related health conditions, providing all required documentation and receiving formal approval several months before, Dillon-Capps exercised these rights in compliance with company policies, notifying Richard Hartman, Justin Drummond, and Glenn Norris as required. Dillon-Capps’s PTSD required reasonable accommodations under the ADA, which Ohana acknowledged previously when providing work from home accommodations. Disregarding ADA accommodations on June 13, 2024 for the day of leave.

#### 10 **Retaliation and Interference with Protected Rights on June 13, 2024**

On June 13, 2024, Dillon-Capps informed Ohana’s leadership, including Human Resources Vice President Richard Hartman and President Justin Drummond, of the need to take FMLA leave for

the day due to escalating PTSD symptoms. Despite this notice, Hartman issued an ultimatum via email, demanding that Dillon-Capps return to work immediately and complete demands by 3:00 p.m. under threat of disciplinary action. The demand, issued mere hours after Dillon-Capps's protected leave request, constitutes a direct violation of Dillon-Capps's FMLA and ADA rights.

#### **11 Escalation Despite Good-Faith Efforts to Comply with Company Requests**

At noon on June 13, Dillon-Capps responded to Hartman's coercive demand by sending a cease-and-desist letter asserting his FMLA rights and requesting that his leave be respected.

Additionally, at 2:05 p.m., Dillon-Capps escalated his concerns to Ohana's ownership, highlighting the retaliatory nature of Hartman's actions in relation to previous whistleblower complaints. Fifteen minutes later, in what appeared to be further retaliation, Hartman placed another employee, Darren Koritzka, on leave due without cause. At approximately 9:00 p.m., Dillon-Capps was formally suspended without pay, after a multi-hour conversation with Drummond and Victor Brick who made no mention of adverse employment action.

#### **12 Fraudulent Litigation Initiated Under False Pretenses**

On June 14, 2024, Ohana, represented by Miles & Stockbridge, PC, filed a lawsuit against Dillon-Capps, falsely asserting that he had "seized" control of Ohana's Microsoft 365 account. Ohana's affidavits, signed by Hartman and Drummond, alleged that Dillon-Capps restricted administrative access to company systems and prevented the organization from regaining control. However, evidence shows that Drummond had entered a written accord with Dillon-Capps on June 7, which would have enabled him to access company systems at any time and provide access to others. Drummond's failure to satisfy the accord on June 10, 11, or 13, despite multiple opportunities, underscores the pretextual nature of the lawsuit. Ohana's actions thus

constitute perjury and bad-faith litigation, as its counsel knew and stated under oath of their knowledge of the FMAL violation.

### 13 **Court Admissions and Continued Litigation Misconduct**

During a hearing on June 26, 2024, Ohana's counsel, Robert Brennen, admitted that Ohana's demand for Dillon-Capps to work during protected leave was a clear violation of his FMLA rights. Despite this admission, Ohana proceeded with the lawsuit, misrepresenting Dillon-Capps's actions to the court and engaging in sustained procedural misconduct. Ohana's continued filings included contradictory affidavits and misrepresentation of all material facts, intending to mislead the court and avoid legal accountability.

### 14 **Tactics to Evade Judicial Scrutiny and Accountability**

In the following months, Ohana and M&S employed procedural tactics designed to evade court scrutiny and accountability. On October 25, 2024, Ohana filed a Notice of Voluntary Dismissal, circumventing an upcoming evidentiary hearing where Plaintiff would have been compelled to substantiate its claims. This filing exemplifies an abuse of process, as it seeks to escape consequences for submitting fraudulent claims and perjured affidavits.

### 15 **Harm and Ongoing Damages Suffered by Dillon-Capps**

Ohana's actions have inflicted severe personal, financial, and professional harm on Dillon-Capps, as documented in the **Affidavit of Harm, Affidavit of Financial Urgency, Amended Affidavit of Plaintiff's Abusive Use of the Judicial System, and Motion for Pro Se Representation of LLC**. Dillon-Capps has suffered physical and mental health deterioration due to PTSD exacerbation, manifesting in severe memory issues and malignant catatonia, which is life-threatening. The financial impact has forced Dillon-Capps into economic hardship,

threatening his personal security, business interests, and the well-being of family dependents. Reputational harm, exacerbated by Dillon-Capps's inability to engage in his professional field due to legal entanglements, has resulted in lost opportunities and potential investors for his business, **MXT3, LLC**.

#### 16 **Necessity for Judicial Intervention and Equitable Relief**

The ongoing misconduct, perjury, and abuse of process by Plaintiff and Counsel demand immediate judicial intervention. Given the extensive harm Dillon-Capps has endured, these actions call for reciprocal relief to address personal, professional, and financial damages, alongside measures to protect Dillon-Capps from future abuse and to deter similar actions in Maryland's legal system.

### IV LEGAL ARGUMENT AND KEY SANCTIONABLE CONDUCT

17 This Motion establishes that Plaintiff Ohana and its counsel, Miles & Stockbridge, have engaged in a sustained pattern of malicious and bad-faith litigation, violating Dillon-Capps's FMLA and ADA rights, obstructing due process, and causing irreparable harm. In support of the seven counterclaims and motions outlined in the PREVENT framework, this section sets forth the legal basis for the equitable relief and reciprocal relief, penalties, and sanctions necessary to protect Dillon-Capps, deter future misconduct, and uphold the integrity of the Maryland judicial system.

### CORE LEGAL ARGUMENTS FOR SANCTIONABLE CONDUCT

## 1 Equitable Defense – Unclean Hands

18 **Legal Standard and Purpose:** The doctrine of unclean hands, and other Equitable Defenses, bars a plaintiff from seeking relief when they have engaged in unethical or fraudulent conduct in relation to the matter at hand.

19 Supporting Case Law:

*Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co.*, 324 U.S. 806 (1945): Established that courts may deny relief to parties acting in bad faith.

*Manown v. Adams*, 328 Md. 463, 615 A.2d 611 (1992): Maryland’s highest court emphasized that unclean hands protect judicial integrity and require the court to bar claims tainted by deceit.

20 **Application to Dillon-Capps’s Case:** Plaintiff and Counsel’s submission of knowingly false affidavits, abuse of voluntary dismissal to evade accountability, and perjury on key issues regarding Dillon-Capps’s employment and leave rights create a compelling basis for applying unclean hands to bar Plaintiff’s claims in their entirety.

## 2 Perjury and Fraud Upon the Court

21 **Legal Standard and Purpose:** Maryland criminalizes perjury as any knowingly false or misleading statement made under oath in a judicial proceeding (Md. Code Ann., Crim. Law § 9-101).

22 Supporting Case Law:

1. *Shifflett v. State*, 245 Md. 169, 225 A.2d 440 (1967): Perjury encompasses both falsehoods and omissions intended to mislead.

2. *Attorney Grievance Commission v. Agbaje*, 438 Md. 695, 93 A.3d 262 (2014):

Deliberate deceit and misrepresentations by counsel are serious ethical violations warranting sanctions.

23 **Application to Dillon-Capps's Case:** The affidavits from Hartman and Drummond contain materially false statements that directly misrepresent Dillon-Capps's compliance with company access protocols, standards, and contractual obligations creating a basis for sanctions for perjury and fraud upon the court.

3 **Bad Faith Litigation – Including Abuse of Process, Frivolous and Vexing Litigation, Malicious Prosecution, and Obstruction of Evidence**

24 **Legal Standard and Purpose:** Maryland Rule 1-341 provides courts with authority to impose sanctions for litigation conducted in bad faith, without substantial justification, or for an improper purpose.

25 **Supporting Case Law:**

*Inlet Assocs. v. Assateague House Condo. Ass'n*, 313 Md. 413, 545 A.2d 1296 (1988):

Sanctions warranted for bad faith or lack of substantial justification in litigation.

*Majority Props., Inc. v. Town of Hancock*, 333 Md. 3, 633 A.2d 392 (1993): Maryland courts may impose sanctions for frivolous or vexatious litigation.

26 **Application to Dillon-Capps's Case:**

1. **Abuse of Process:** Plaintiff's actions demonstrate misuse of judicial mechanisms to harass Dillon-Capps and evade scrutiny, particularly through the filing of the Notice of Voluntary Dismissal, and show cause seeking incarceration.

2. **Frivolous Litigation:** The lawsuit against Dillon-Capps lacked any valid basis, relying on perjured affidavits and fabricated claims, warranting sanctions.

3. **Malicious Prosecution:** The litigation was filed in retaliation for Dillon-Capps's whistleblowing activities, confirming malicious intent.

4. **Obstruction of Evidence:** M&S obstructed Dillon-Capps's access to critical evidence of the June 26<sup>th</sup> Hearing, preventing a fair defense and obstructing due process.

#### 4 Estoppel – Induced Harm and Reliance

27 **Legal Standard and Purpose:** Estoppel bars a party from making inconsistent claims when another has reasonably relied on their prior representations.

28 **Supporting Case Law:**

*Knapp v. Smethurst*, 139 Md. App. 676, 779 A.2d 970 (2001): Estoppel prevents parties from changing their stance after inducing reliance to another's detriment.

*Pavel Enterprises, Inc. v. A.S. Johnson Co.*, 342 Md. 143, 674 A.2d 521 (1996):

Promissory estoppel binds a party to promises relied upon in good faith.

29 **Application to Dillon-Capps's Case:** Plaintiff's contradictory assertions and repeated misrepresentations justify estoppel, barring them from further claims and supporting reciprocal equitable relief to Dillon-Capps.

#### 5 Witness Tampering

30 **Legal Standard and Purpose:** Witness tampering involves attempts to influence witness testimony improperly, especially through coercion or manipulation.

31 **Supporting Case Law:**

*Attorney Grievance Commission v. Hodes*, 441 Md. 136, 105 A.3d 533 (2014): Maryland courts impose sanctions for ethical violations including witness manipulation.



32 **Application to Dillon-Capps's Case:** Randall Romes and Daniel Levett's affidavits appear to reflect manipulation, selectively omitting or altering material facts leading them to make incorrect affirmations and influencing their statements. Such conduct by Plaintiff and Counsel supports further scrutiny under oath.

### CONCLUSION

33 The Plaintiff's consistent engagement in bad-faith litigation tactics, perjury, procedural abuses, and obstruction of due process establishes a compelling need for sanctions, equitable relief, and dismissal with prejudice. The court is urged to apply the PREVENT framework as a comprehensive remedy to address Dillon-Capps's immediate harm, deter future abuses, and uphold the integrity of Maryland's judicial system.

## V PREVENT FRAMEWORK

### A Protect – Disqualification for Ethical Violations and Misconduct

#### 1 Foundations for Disqualification

34 **Legal Standard:** Disqualification is an equitable remedy aimed at protecting the judicial process and ensuring fair representation by removing attorneys who engage in unethical behavior.

35 **Purpose:** Disqualification preserves judicial integrity by removing counsel who have breached ethical duties, avoiding undue influence or procedural advantage.

## 2 Judicial Standards and Purpose

36 **Judicial Standards:** Maryland Rule 19-301.7 (Conflict of Interest) and Rule 19-303.3 (Candor Toward the Tribunal) establish that attorneys must avoid conflicts and uphold honesty before the court.

### 37 **Case Law:**

*Attorney Grievance Commission v. Hodes*, 441 Md. 136 (2014): Maryland courts have discretion to disqualify counsel for ethical violations that harm the fairness of proceedings.

*Attorney Grievance Commission v. Agbaje*, 438 Md. 695 (2014): Repeated deceit warrants severe disciplinary action, including disqualification.

## 3 Criteria for Imposing Disqualification for Misconduct

38 **Conflict of Interest:** Evidence of conflicting interests or divided loyalty.

39 **Lack of Candor and Ethical Violations:** Instances of dishonesty, bad faith, or actions detrimental to the client, the opposing party, or the court.

40 **Intent to Mislead or Obstruct:** Counsel's actions designed to gain unfair advantage or obstruct the court's function.

## 4 Maryland Case Law

41 *Attorney Grievance Commission v. Mixer*, 441 Md. 416 (2015): Established that deceitful behavior and procedural abuses warrant disqualification, with sanctions extended to prevent further abuse.

42 *Manown v. Adams*, 328 Md. 463 (1992): Confirmed that courts may disqualify counsel when ethical violations impair judicial integrity and the fair administration of justice.

5      Cross-Argument Case Law

43      *Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co.*, 324 U.S. 806 (1945): Affirmed courts' authority to deny relief when counsel's conduct is inequitable, supporting the remedy of disqualification.

44      *Shaffer v. Farm Fresh, Inc.*, 966 F.2d 142 (4th Cir. 1992): Recognized that unethical behavior by counsel justifies disqualification to preserve fairness.

6      Application to Dillon-Capps's Case

45      **Ethical Breaches by Miles & Stockbridge:** M&S engaged in conflicts of interest, misrepresented facts in filings, and obstructed evidence, violating Maryland Rules of Professional Conduct 19-301.7, 19-303.1, and 19-303.3.

46      **Pattern of Misconduct:** Counsel repeatedly filed affidavits and motions containing knowingly false statements and withheld evidence. Disqualification is necessary to prevent continued harm to Dillon-Capps, protect judicial integrity, and ensure accountability.

7      Conclusion

47      Disqualification is warranted to protect Dillon-Capps from further procedural abuses and ensure the court's proceedings are not tainted by ethical violations or conflicts of interest from Plaintiff's counsel.

B      Restore – Motion to Vacate the TRO

1      Foundations for Vacatur of TRO

48      **Legal Standard:** A TRO obtained through deceptive or fraudulent means violates principles of fairness and should be vacated to restore the status quo.

49 **Purpose:** Vacating the TRO reverses unjust restrictions imposed without due cause,  
particularly where there was perjury or abuse of process in obtaining it.

## 2 Judicial Standards and Purpose for Vacatur

50 **Judicial Standards:** Courts have broad discretion to vacate orders that were improperly  
obtained, particularly where evidence of fraud, perjury, or lack of material basis is established.

### 51 **Case Law:**

*Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co.*, 324 U.S. 806  
(1945): Highlighted the courts' authority to vacate orders founded on bad faith or  
fraudulent conduct.

*Schaffer v. Farm Fresh, Inc.*, 966 F.2d 142 (4th Cir. 1992): Confirmed that courts may  
vacate rulings to prevent perpetuation of fraud or unfair advantage.

## 3 Criteria for Vacating a TRO

52 **Fraud or Misrepresentation:** The TRO was granted based on inaccurate or perjured  
statements.

53 **Absence of Substantive Grounds:** Lack of factual or legal basis for the TRO due to  
reliance on baseless claims.

54 **Procedural Irregularities:** Failure to provide necessary notice or meet criteria for TRO  
issuance.

## 4 Maryland Case Law

55 *Attorney Grievance Commission v. Vanderlinde*, 364 Md. 376 (2001): Established that  
fraudulent conduct justifies vacatur and strict penalties to deter abuse of court orders.

56 *Hammond v. Marketing Management, Inc.*, 445 Md. 310 (2015): Recognized the court's inherent authority to vacate TROs issued without proper evidentiary support or obtained through bad faith.

## 5 Cross-Argument Case Law

57 *United States v. Beggerly*, 524 U.S. 38 (1998): Stated that equitable relief, including vacatur, is appropriate to prevent the perpetuation of injustice from misleading filings.

58 *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944): Supported vacatur for judgments based on fraudulent misrepresentation.

## 6 Application to Dillon-Capps's Case

59 **Evidence of Fraudulent Basis:** The TRO against Dillon-Capps was granted based on affidavits that, as demonstrated, contained knowingly false statements. These perjurious affidavits misled the court into issuing an unwarranted order, imposing restrictions without just cause.

60 **No Substantive Basis:** Given the admissions by Plaintiff's counsel on June 26, 2024, confirming FMLA violations, and conflicting statements within the affidavits, the TRO lacks a legitimate legal or factual basis. Vacatur is necessary to remedy the improper imposition of restrictions on Dillon-Capps.

## 7 Conclusion

61 Vacating the TRO is essential to restore Dillon-Capps's rights, as the order was improperly granted and rooted in deceit. This action realigns the case with principles of justice, nullifying the restrictions imposed through Plaintiff's procedural abuses.

## C Enforce – Motion to Impose Sanctions

### 1 Foundations for Imposing Sanctions

62 **Legal Standard:** Sanctions serve to deter misuse of the judicial system, especially when parties engage in bad faith litigation, perjury, or abuse of process. Maryland Rule 1-341 authorizes courts to impose sanctions to discourage vexatious and frivolous conduct, ensuring accountability and preserving judicial integrity.

63 **Purpose:** Imposing sanctions holds litigants and their counsel accountable for misconduct, deterring future violations and enforcing judicial standards to prevent misuse of court processes.

### 2 Judicial Standards and Purpose for Imposing Sanctions

64 **Judicial Standards:** Courts have inherent authority to impose sanctions on parties or counsel engaging in deceptive practices, bad faith litigation, or obstructive conduct.

### 65 **Case Law:**

*Attorney Grievance Commission v. Mixer*, 441 Md. 416 (2015): Established that courts have broad authority to sanction attorneys for misuse of the court system and misleading behavior.

*Majority Props., Inc. v. Town of Hancock*, 333 Md. 3 (1993): Confirmed that sanctions are warranted for frivolous claims and abuses of process, underscoring judicial discretion in enforcing accountability.

### 3 Criteria for Imposing Sanctions

66 **Bad Faith Litigation:** Plaintiff's conduct includes repeated filings of baseless claims and procedural abuse without substantive merit.

67     **Misrepresentation and Perjury:** False statements in affidavits and motions intended to deceive the court and influence rulings.

68     **Pattern of Obstruction:** Engaging in delay tactics, filing misleading documents, and attempting to evade accountability through voluntary dismissals.

4     [Maryland Case Law](#)

69     *Inlet Assocs. v. Assateague House Condo. Ass’n*, 313 Md. 413 (1988): Held that sanctions are warranted in cases of bad faith or lack of substantial justification.

70     *Klupt v. Krongard*, 126 Md. App. 179 (1999): Established that parties engaging in deliberate misrepresentation and obstruction are subject to sanctions to deter abusive litigation practices.

5     [Cross-Argument Case Law](#)

71     *Roadway Express, Inc. v. Piper*, 447 U.S. 752 (1980): The U.S. Supreme Court recognized the inherent authority of courts to impose sanctions to prevent abuse of the judicial process.

72     *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991): Reaffirmed the principle that courts have broad discretion to sanction litigants and counsel who engage in bad-faith or vexatious litigation.

6     [Application to Dillon-Capps’s Case](#)

73     **Pattern of Misconduct by Plaintiff and Counsel:** Ohana and M&S filed affidavits containing false statements, obstructed evidence, and repeatedly engaged in actions with no legal merit, all aimed at harassing Dillon-Capps.

74     **Demonstrated Bad Faith:** Counsel admitted to FMLA violations in court, and Plaintiff used procedural mechanisms like the TRO and Notice of Voluntary Dismissal to avoid



accountability. Sanctions are critical to deter further abuse and compensate Dillon-Capps for the harm caused by Plaintiff's misconduct.

## 7 Conclusion

75 Imposing sanctions is necessary to enforce judicial standards, deter Plaintiff and Counsel's continued abuse, and restore judicial integrity. Sanctions will prevent future misuse of the court system and uphold principles of fairness and accountability.

## D Verify – Motion for Referral for Criminal and Ethical Investigation

### 1 Foundations for Referral for Investigation

76 **Legal Standard:** Courts have the authority to refer matters to external regulatory bodies for investigation where unethical or potentially criminal conduct is alleged. Referrals support judicial integrity by ensuring that behavior violating professional or ethical standards is addressed by appropriate oversight agencies.

77 **Purpose:** A referral for investigation reinforces accountability, allowing independent authorities to evaluate Plaintiff's and Counsel's conduct, including perjury, witness tampering, obstruction of evidence, and other ethical violations.

### 2 Judicial Standards and Purpose for Referral

78 **Judicial Standards:** Maryland courts recognize that maintaining judicial integrity involves addressing potential ethical and criminal violations through referrals. Judicial referrals uphold the court's role in safeguarding the legal profession's ethical standards and ensuring justice is served.

79 **Case Law:**

*Attorney Grievance Commission v. Vanderlinde*, 364 Md. 376 (2001): Established that unethical conduct warrants investigation and, where appropriate, disciplinary measures.

*Attorney Grievance Commission v. Mixter*, 441 Md. 416 (2015): Supported referral for investigation in cases of persistent misconduct, where unethical actions undermine judicial integrity.

### 3 Criteria for Referral for Criminal and Ethical Investigation

80 **Probable Cause of Unethical or Criminal Conduct:** Evidence indicating serious misconduct, including perjury, obstruction, and abuse of court processes.

81 **Intentional Misrepresentation:** False statements intended to deceive the court and manipulate judicial outcomes.

82 **Obstruction and Witness Tampering:** Plaintiff and Counsel's conduct raises credible concerns about obstruction of justice and influencing witness statements.

### 4 Maryland Case Law

83 *Attorney Grievance Commission v. Mixter*, 441 Md. 416 (2015): Maryland courts assert that credible allegations of misconduct warrant investigation by regulatory bodies, especially where the conduct could impact the fairness of judicial proceedings.

84 *Attorney Grievance Commission v. Rand*, 411 Md. 83 (2009): Reinforced the necessity of external review in cases where an attorney's actions demonstrate intentional dishonesty or misrepresentation in legal proceedings.

## 5 Cross-Argument Case Law

85 *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991): U.S. Supreme Court acknowledged that courts may refer matters to authorities for criminal or ethical investigation where litigant or attorney misconduct undermines judicial processes.

86 *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787 (1987): Established that courts have authority to address misconduct that undermines the administration of justice, including referring cases for criminal investigation where warranted.

## 6 Application to Dillon-Capps's Case

87 **Evidentiary Basis for Referral:** The affidavits, motions, and other court submissions from Plaintiff and Counsel reveal patterns of perjury, witness tampering, and obstruction. The filing of affidavits with false statements, manipulation of evidence, and evasion of accountability through procedural tactics provide ample grounds for referral to regulatory and criminal bodies.

88 **Specific Incidents Warranting Investigation:** Plaintiff's reliance on false affidavits, repeated misrepresentations, and Counsel's failure to address Dillon-Capps's challenges to their ethics underscore the need for formal investigation. A referral will enable independent authorities to review these practices and uphold the integrity of judicial processes.

## 7 Conclusion

89 A referral for criminal and ethical investigation is essential to verify Plaintiff and Counsel's accountability, reinforcing legal standards and maintaining the integrity of the court. This referral serves as an independent check, ensuring that violations of legal and ethical standards are thoroughly addressed.

## E Ensure – Motion for Injunction to Prevent Future Abuse of Court Process

## 1 Foundations for Injunctive Relief

90 **Legal Standard:** Injunctive relief serves as an equitable remedy to prevent ongoing or future harm, particularly where parties have demonstrated a pattern of bad-faith litigation, harassment, or procedural abuse. Under Maryland law, courts can issue an injunction to prohibit further harmful actions that threaten judicial integrity or cause irreparable harm to litigants.

91 **Purpose:** An injunction aims to ensure that Plaintiff is prevented from pursuing further abusive litigation without prior court approval, addressing both ongoing and potential future harm.

## 2 Judicial Standards and Purpose for Issuing an Injunction

92 **Judicial Standards:** Courts may grant injunctive relief when a party's conduct suggests likely future abuse or continued harm if not restricted. Maryland courts support issuing injunctions when procedural abuses disrupt judicial proceedings, with the objective of ensuring fairness and judicial economy.

### 93 **Case Law:**

*State Comm'n on Human Relations v. Amecom Div., Litton Systems, Inc.*, 278 Md. 120 (1976): Affirmed that injunctive relief is appropriate when there is a continuing threat of harm or abuse that courts have a duty to prevent.

*J.L. Matthews, Inc. v. Maryland-Nat'l Capital Park & Planning Comm'n*, 368 Md. 71 (2002): Maryland's highest court affirmed that injunctions serve as preventative measures to safeguard against improper actions that interfere with lawful proceedings.

3      Criteria for Granting an Injunction Against Further Abuse

94      **Likelihood of Continued Abuse:** Evidence of repeated procedural abuses or baseless filings by Plaintiff indicating likely future misconduct if left unchecked.

95      **Irreparable Harm and Judicial Integrity:** Plaintiff's actions threaten Dillon-Capps's rights and undermine judicial integrity, warranting an injunction to preserve court resources and prevent continued harm.

96      **Lack of Adequate Remedy at Law:** Monetary damages alone cannot adequately prevent the recurrence of abuse or address the systemic impact of Plaintiff's actions.

4      Maryland Case Law

97      *State Comm'n on Human Relations v. Amecom Div., Litton Systems, Inc.*, 278 Md. 120 (1976): Maryland courts recognize injunctions as essential to preventing ongoing harm and abuse when legal remedies are insufficient.

98      *El Bey v. Moorish Science Temple of America, Inc.*, 362 Md. 339 (2001): An injunction was upheld where repeated filings by the plaintiff disrupted judicial resources, illustrating the court's authority to protect against vexatious litigation.

5      Cross-Argument Case Law

99      *Clinton v. Jones*, 520 U.S. 681 (1997): Established that injunctions may be necessary to prevent continued abusive litigation practices that harm an individual's rights or the judicial process.

100      *Matter of Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984): Courts may enjoin parties from filing further lawsuits without prior approval if their litigation history demonstrates a pattern of abusive filings.

## 6 Application to Dillon-Capps's Case

101 **Pattern of Abusive Filings by Plaintiff:** Plaintiff has engaged in baseless litigation, delay tactics, and repetitive filings aimed solely at harassment. These actions indicate a high likelihood of continued abuse, justifying the need for an injunction to prevent future misconduct.

102 **Harm to Judicial Resources and Dillon-Capps:** Plaintiff's continued misuse of the court system depletes judicial resources, prolongs harm to Dillon-Capps, and perpetuates emotional and financial strain. Injunctive relief is essential to safeguard judicial integrity and prevent future harm.

## 7 Conclusion

103 An injunction is necessary to ensure that Plaintiff and Counsel do not continue abusing the judicial system through baseless filings or further misconduct. This injunction will uphold the integrity of judicial processes, protect Dillon-Capps from ongoing harm, and deter future misuse of court resources.

## F Neutralize – Motion for a Better Maryland with Reciprocal Relief

### 1 Foundations for Reciprocal Financial Relief

104 **Legal Standard:** Maryland law supports the imposition of equitable relief to counteract harm inflicted by bad-faith litigation, including reciprocal penalties to neutralize the financial impact on harmed parties. This relief aims to place the burden of harm back onto those responsible for its creation, upholding fairness and deterring similar misconduct in the future.

105 **Purpose:** The reciprocal relief requested here serves to balance the extensive harm inflicted on Dillon-Capps through financial restitution and penalties assessed against each individual involved in the misconduct.

## 2 Judicial Standards and Purpose for Reciprocal Relief

106 **Judicial Standards:** Reciprocal financial relief is warranted when a party's intentional misconduct results in significant financial, reputational, and personal harm to another. Maryland courts may order reciprocal relief to restore balance and deter malicious conduct, addressing harm proportionately to the severity and pervasiveness of the abuse.

### 107 **Case Law:**

*Inlet Assocs. v. Assateague House Condo. Ass'n*, 313 Md. 413, 545 A.2d 1296 (1988):

Maryland courts require accountability and deterrence where misconduct in litigation causes substantial harm, authorizing sanctions and reciprocal relief.

*Majority Props., Inc. v. Town of Hancock*, 333 Md. 3, 633 A.2d 392 (1993): Recognized that reciprocal financial penalties may be imposed to address unjust enrichment from litigation abuse.

## 3 Criteria for Reciprocal Financial Relief

108 **Equitable Balance of Harm:** Relief seeks to counteract the financial and personal toll inflicted upon Dillon-Capps due to Plaintiff's bad-faith litigation, assessed on a per-individual basis.

109 **Intent to Deter Future Misconduct:** The financial burden placed on Plaintiff and its representatives reflects the intent to deter similar misconduct in future cases.

110 **Reciprocal Liability for Individual Participants:** Reciprocal relief should be applied individually to each agent involved, creating personal accountability for contributions to the cumulative harm inflicted.



#### 4 Maryland Case Law

111 *Inlet Assocs. v. Assateague House Condo. Ass'n*, 313 Md. 413 (1988): The court imposed reciprocal relief where defendants' litigation tactics created substantial harm, underscoring the principle that misconduct should carry financial consequences.

112 *Kramer v. Emche*, 64 Md. App. 27, 494 A.2d 225 (1985): Affirmed that financial penalties may be assessed individually to deter collective misconduct and prevent recurrence of abuse.

#### 5 Cross-Argument Case Law

113 *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991): U.S. Supreme Court upheld sanctions to recoup financial harm caused by bad-faith litigation, underscoring the necessity of penalties that mirror the impact of the misconduct.

114 *Roadway Express, Inc. v. Piper*, 447 U.S. 752 (1980): Recognized that financial sanctions may be required to offset the harm and deter litigants who manipulate the judicial system to inflict financial damage on opposing parties.

#### 6 Application to Dillon-Capps's Case

115 **Basis for Reciprocal Relief:** Plaintiff's bad-faith litigation has imposed severe financial strain, reputational harm, and personal hardship on Dillon-Capps, justifying a per-individual financial penalty to balance the harm caused. Each responsible party should be held liable in a reciprocal manner, creating individual financial accountability for their respective roles in the misconduct.

116 **Scope of Relief:** The cumulative financial relief includes reciprocal penalties against all fourteen individuals involved, ensuring that each participant is held accountable for their contributions to Dillon-Capps's harm.

## 7 Conclusion

117 Reciprocal financial relief is essential to neutralize the financial impact of Plaintiff's and Counsel's sustained litigation abuse. This relief establishes individual responsibility, deters future misconduct, and restores the equitable balance compromised by Plaintiff's bad-faith actions.

## G Terminate – Motion to Dismiss with Prejudice for a June 13th Worth of Reasons

### 1 Foundations for Permanent Dismissal with Prejudice

118 **Legal Standard:** A motion to dismiss with prejudice permanently closes the case and prevents refiling, typically granted when the plaintiff's claims are found to be baseless, malicious, or filed with intent to harass. Maryland law provides for dismissal with prejudice to prevent further abuse of the legal system and to protect defendants from ongoing or repeat litigation rooted in bad faith.

119 **Purpose:** Dismissal with prejudice serves to finalize Dillon-Capps's protection from further harassment by permanently ending the plaintiff's baseless claims, reflecting the doctrines of unclean hands, estoppel, and abuse of process to prevent relitigation.

### 2 Judicial Standards and Purpose for Dismissal with Prejudice

120 **Judicial Standards:** Courts may dismiss with prejudice if claims lack legal or factual foundation, are used to harass, or are barred by equitable doctrines like unclean hands or

estoppel. Maryland courts emphasize that dismissal with prejudice is warranted where litigation is used as a tool for retaliation, devoid of legitimate grounds.

121 **Case Law:**

*DeLeon v. Slear*, 328 Md. 569, 616 A.2d 380 (1992): Maryland's highest court confirmed that courts may dismiss cases with prejudice when litigants abuse legal processes for improper purposes.

*Standard Fire Ins. Co. v. Berrett*, 395 Md. 439, 910 A.2d 1072 (2006): Established that dismissal with prejudice is an appropriate remedy where one party's conduct demonstrates an intent to misuse the judicial process.

3 Criteria for Imposing Dismissal with Prejudice

122 **Frivolous or Baseless Claims:** Plaintiff's claims lack legal merit and are contradicted by factual evidence, showing no substantive grounds for pursuing litigation.

123 **Intent to Harass or Retaliate:** Evidence supports that the litigation was initiated and maintained with intent to retaliate against Dillon-Capps for protected actions, not to resolve legitimate disputes.

124 **Failure to Act in Good Faith:** Plaintiff's conduct in initiating, maintaining, and attempting to dismiss the case demonstrates bad faith and procedural abuse, violating equitable standards.

4 Maryland Case Law

125 *DeLeon v. Slear*, 328 Md. 569 (1992): Maryland courts affirm that dismissal with prejudice is justified where litigants act in bad faith or use litigation as a means of harassment.

126 *Christian v. Maternal-Fetal Medicine Assocs. of Md., LLC*, 459 Md. 1, 183 A.3d 762 (2018): Courts are empowered to dismiss with prejudice to protect defendants from baseless litigation and maintain judicial integrity.

## 5 Cross-Argument Case Law

127 *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991): Reinforced that dismissal with prejudice is an appropriate sanction for parties who abuse judicial proceedings, ensuring defendants are not subject to prolonged harassment.

128 *Curtis v. Citibank, N.A.*, 226 F.3d 133 (2d Cir. 2000): Courts may permanently dismiss claims that are found to be harassing, retaliatory, or lacking in merit, particularly when they reflect a pattern of procedural abuse.

## 6 Application to Dillon-Capps's Case

129 **Grounds for Dismissal with Prejudice:** Plaintiff's lawsuit, rooted in perjured affidavits, misrepresentations, and malicious intent, constitutes a clear abuse of legal process and lacks merit. The dismissal would serve to protect Dillon-Capps from further harm and prevent Plaintiff from re-litigating baseless claims.

130 **Finality of Protection:** The relief sought is permanent, ensuring Plaintiff and Counsel cannot continue to exploit legal processes to intimidate or harass Dillon-Capps, thus upholding fairness and judicial economy.

## 7 Conclusion

131 Dismissal with prejudice is essential to conclude this litigation and protect Dillon-Capps from continued harm. It reflects both the doctrines of unclean hands and abuse of process,

ensuring that the Plaintiff cannot reinitiate the claims and that Dillon-Capps receives finality from the ongoing misconduct.

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## VI STATUTES

### A FAMILY AND MEDICAL LEAVE ACT (FMLA) VIOLATIONS

#### 1 Legal Standard and Prima Facie Elements

132 The Family and Medical Leave Act (FMLA), 29 U.S.C. § 2615, guarantees eligible employees up to 12 weeks of unpaid, job-protected leave for serious health conditions, and it expressly prohibits both interference with FMLA rights and retaliation against employees who exercise those rights. The relevant provisions here are:

**Interference with FMLA Rights** (29 U.S.C. § 2615(a)(1)): Employers are prohibited from interfering with, restraining, or denying the exercise or attempt to exercise any FMLA rights.

**Retaliation for Exercising FMLA Rights** (29 U.S.C. § 2615(a)(2)): Employers may not retaliate against employees who use or seek to use FMLA leave by taking adverse employment actions that would dissuade a reasonable employee from exercising their rights.

#### 2 Prima Facie Elements of FMLA Interference

133 To establish a prima facie case of interference under the FMLA, a plaintiff must demonstrate:

**Eligibility for FMLA Leave:** The employee was eligible under FMLA standards.

**Entitlement to FMLA Leave:** The employee had a qualifying reason for FMLA leave.

**Employer Knowledge:** The employee provided appropriate notice of the need for leave.

**Denial or Disruption of FMLA Rights:** The employer denied, obstructed, or otherwise interfered with the employee's rights under FMLA.

#### 3 Retaliation Defined

134 Under the FMLA, **retaliation** refers to any adverse employment action taken by an employer against an employee for exercising or attempting to exercise their FMLA rights.

Retaliation can include actions such as termination, suspension, demotion, or any other measure that would deter a reasonable employee from asserting their rights under the FMLA. The FMLA's anti-retaliation provisions, codified at 29 U.S.C. § 2615(a)(2), protect employees from punitive responses by employers who might otherwise seek to discourage the use of FMLA leave.

135 To establish a retaliation, claim under the FMLA, the following elements must be proven:

**Exercise of FMLA Rights:** The employee engaged in a protected activity by taking or requesting FMLA leave.

**Adverse Employment Action:** The employer took a materially adverse action against the employee that would dissuade a reasonable worker from exercising FMLA rights.

**Causal Connection:** A causal relationship exists between the employee's protected activity and the adverse employment action.

#### 4 Supporting Case Law

136 **Hoge v. Honda of Am. Mfg., Inc.**, 384 F.3d 238 (6th Cir. 2004) (Judge Boggs): In *Hoge*, the court held that "interference with an employee's FMLA rights occurs when an employer's actions discourage or obstruct the employee's legitimate use of leave." Ohana's demand that Dillon-Capps report to work during approved FMLA leave constitutes such interference, as it pressured them to abandon their leave.

137 **Burlington N. & Santa Fe Ry. Co. v. White**, 548 U.S. 53 (2006) (Justice Breyer): The *Burlington* decision established that retaliation includes any action that would deter a reasonable employee from exercising their rights. Ohana's disciplinary threats and suspension of Dillon-Capps would dissuade a reasonable person from using FMLA leave, thereby constituting retaliation.

## 5 Application to Dillon-Capps' Case

### I. FMLA INTERFERENCE

138 **Eligibility and Entitlement to FMLA Leave:** Dillon-Capps initially requested intermittent FMLA leave on January 4, 2024, for a qualifying serious health condition—PTSD—which required both leave and periodic accommodations. Their healthcare provider completed the necessary FMLA certification forms and provided an additional letter to support Dillon-Capps's need for intermittent leave. Ohana subsequently approved Dillon-Capps's FMLA request, affirming their eligibility and entitlement to FMLA leave. Statements by Ohana and its counsel, as well as HR documentation, confirm Dillon-Capps's authorized right to take intermittent FMLA leave as needed.

139 **Employer Knowledge and Notice Provided:** On the morning of June 13, 2024, Dillon-Capps provided notice to Ohana that they would be using FMLA leave that day due to health concerns related to PTSD. This notice was issued approximately two hours before Richard Hartman, Vice-President of Human Resources, sent an email demanding Dillon-Capps's return to work immediately and complete demands by 3:00 p.m. Hartman's email conveyed a coercive threat: comply with the demand or face disciplinary action. This demand occurred after Dillon-Capps had invoked their legally protected right to FMLA leave, effectively disrupting and denying Dillon-Capps's entitlement to the leave for which they had already provided notice.

140 **Denial or Disruption of FMLA Rights:** Hartman's threat and disciplinary action constitute clear interference with Dillon-Capps's FMLA rights. By demanding that Dillon-Capps return to work despite an approved and properly noticed FMLA leave, Ohana attempted to obstruct Dillon-Capps's exercise of FMLA rights. This demand pressured Dillon-Capps to forgo

their leave to avoid adverse action, creating a hostile and coercive environment that directly contravenes the protections provided under the FMLA.

## II. FMLA RETALIATION

141 **Exercise of FMLA Rights:** Dillon-Capps exercised their protected FMLA rights on June 13, 2024, by notifying Ohana of their need to take intermittent leave for health reasons.

142 **Adverse Employment Action:** Following this notice, Ohana subjected Dillon-Capps to adverse actions, including the coercive demand to return to work under threat of discipline and a subsequent suspension without pay. These actions constitute significant adverse employment measures, each of which would deter a reasonable employee from using FMLA leave in the future.

143 **Causal Connection:** The temporal proximity between Dillon-Capps's exercise of FMLA rights and Ohana's adverse actions demonstrates a direct causal link. The coercive demand was issued just two hours after Dillon-Capps provided notice of their need for leave, and the suspension followed shortly thereafter. Ohana's rapid disciplinary response strongly indicates that these actions were retaliatory, motivated by Dillon-Capps's decision to exercise their FMLA rights.

## 6 Conclusion

144 Ohana's actions on June 13, 2024, fulfill the prima facie elements of both FMLA interference and retaliation. Dillon-Capps was entitled to FMLA leave, properly notified their employer, and yet faced coercive demands and suspension in response. Admissions by Richard Hartman in his June 14 affidavit and statements by counsel during the June 26 hearing further affirm Ohana's knowledge of the unlawful nature of these demands. The actions taken against



Dillon-Capps violated both the spirit and letter of the FMLA, constituting clear interference with and retaliation for their lawful exercise of FMLA rights.

## B AMERICANS WITH DISABILITIES ACT (ADA) VIOLATIONS

### 1 Legal Standard and Prima Facie Elements

145 The Americans with Disabilities Act (ADA), under 42 U.S.C. § 12112, prohibits employers from discriminating against qualified individuals with disabilities. This includes a requirement to provide reasonable accommodations to employees with disabilities unless doing so would impose an undue hardship on the employer. The ADA also prohibits retaliation against employees for asserting their rights under the Act.

### 2 Prima Facie Elements of ADA Failure to Accommodate

146 To establish a prima facie case for failure to accommodate under the ADA, a plaintiff must demonstrate:

**Qualified Individual with a Disability:** The employee has a recognized disability that substantially limits one or more major life activities, and they are otherwise qualified to perform the essential functions of their job with or without accommodations.

**Employer Knowledge:** The employer was aware of the employee's disability and need for accommodation.

**Reasonable Accommodation Request:** The employee requested a reasonable accommodation that would enable them to manage their disability.

**Denial of Accommodation:** The employer failed to provide, or engage in the interactive process to determine, a reasonable accommodation, thereby denying the employee their rights under the ADA.

### 3 Prima Facie Elements of ADA Retaliation

147 To establish a prima facie case of ADA retaliation, a plaintiff must show:

**Protected Activity:** The employee engaged in a protected activity, such as requesting or using an accommodation.

**Adverse Employment Action:** The employer took adverse action against the employee.

**Causal Connection:** A causal link exists between the protected activity and the adverse action.

### 4 Supporting Case Law

148 **EEOC v. Ford Motor Co.**, 782 F.3d 753 (6th Cir. 2015) (Judge Gibbons): This case affirmed that reasonable accommodations, such as leave or flexibility in work requirements, must be honored if they do not impose undue hardship on the employer. Ohana's refusal to honor Dillon-Capps's intermittent leave—without claiming undue hardship—constitutes a clear ADA violation.

149 **Taylor v. Phoenixville Sch. Dist.**, 184 F.3d 296 (3d Cir. 1999) (Judge Cowen): In *Taylor*, the court held that an employer must engage in the interactive process to determine a reasonable accommodation and cannot disregard approved accommodations. Ohana's failure to respect Dillon-Capps's pre-approved leave as an accommodation, followed by retaliatory actions, demonstrates a failure to adhere to ADA standards.

### 5 Application in Dillon-Capps' Case

#### I. ADA FAILURE TO ACCOMMODATE

150 **Qualified Individual with a Disability:** Dillon-Capps is a qualified individual with a disability under the ADA due to their diagnosed PTSD, a condition that substantially limits major life activities related to mental health. This condition was documented by Dillon-Capps's healthcare provider, who completed the necessary ADA documentation in January 2024,

certifying Dillon-Capps's need for both leave and periodic accommodations to manage their disability.

151 **Employer Knowledge and Accommodation Approval:** Ohana was fully aware of Dillon-Capps's PTSD and their need for intermittent leave as an accommodation. On January 4, 2024, Dillon-Capps requested intermittent leave as a reasonable accommodation for their PTSD, which was substantiated by healthcare provider documentation. Ohana reviewed and approved this request, confirming Dillon-Capps's entitlement to intermittent leave whenever their condition required it. Statements by Ohana and its counsel, as well as documented approvals, confirm the employer's knowledge of and consent to Dillon-Capps's right to use this leave as an accommodation under the ADA.

152 **Denial of Accommodation on June 13, 2024:** Despite this prior approval, on June 13, 2024, Ohana directly violated Dillon-Capps's ADA rights by demanding that they report to work that day, despite Dillon-Capps's notice two hours earlier that they were exercising their right to intermittent leave due to health needs. Richard Hartman's demand, coupled with a threat of disciplinary action if Dillon-Capps did not comply, constituted an outright denial of the previously approved accommodation. Instead of respecting Dillon-Capps's lawful right to take leave for their disability, Ohana issued a coercive ultimatum, disrupting Dillon-Capps's use of their leave and contravening ADA-mandated accommodations.

## II. ADA RETALIATION

153 **Protected Activity:** Dillon-Capps engaged in protected activity under the ADA by notifying Ohana of their need to use intermittent leave on June 13, 2024, due to their PTSD. This

notice was provided to Ohana in compliance with the ADA, as part of Dillon-Capps's approved accommodation.

154 **Adverse Employment Action:** Following Dillon-Capps's exercise of their right to use leave, Ohana took adverse actions, including issuing a coercive demand that they return to work and subsequently suspending them without pay. These actions constituted a significant adverse employment action that would deter a reasonable employee from using ADA-protected accommodations in the future.

155 **Causal Connection:** The temporal proximity between Dillon-Capps's use of their leave and Ohana's adverse actions on the same day demonstrates a direct retaliatory response. Ohana's disciplinary threats and suspension immediately followed Dillon-Capps's notification of their leave, evidencing a causal link between the assertion of ADA rights and Ohana's retaliation.

## 6 Conclusion

156 Ohana's actions on June 13, 2024, meet the legal requirements for both failure to accommodate and retaliation under the ADA. Dillon-Capps's PTSD qualifies as a disability, Ohana was fully aware of the need for intermittent leave, and Ohana unlawfully interfered with Dillon-Capps's use of this accommodation by imposing a coercive demand and issuing a suspension. These actions constitute an outright denial of ADA rights and a retaliatory response to Dillon-Capps's lawful exercise of those rights, in violation of the ADA.

## C Whistleblower Violations

### 1 Legal Standard and Prima Facie Elements

157 The Sarbanes-Oxley Act (SOX) (18 U.S.C. § 1514A) and Maryland state law provide robust protections for employees who report fraud or misconduct within their organizations.

Maryland's whistleblower protections are encapsulated in the Maryland Whistleblower Law (Md. Code Ann., Lab. & Empl. § 5-305), which prohibits employers from retaliating against employees who report violations of laws, regulations, or unethical practices. Both SOX and Maryland law protect employees who, in good faith, report misconduct internally or externally to relevant authorities.

## 2 Prima Facie Elements of Whistleblower Retaliation under Maryland Law

158 Under Maryland law, a prima facie case of whistleblower retaliation requires:

1. **Protected Disclosure:** The employee made a disclosure of information that the employee reasonably believed evidenced a violation of law or misconduct.
2. **Employer Knowledge:** The employer was aware of the disclosure.
3. **Adverse Employment Action:** The employer took an adverse employment action against the employee.
4. **Causal Connection:** There exists a causal link between the employee's protected disclosure and the employer's adverse action.

## 3 Prima Facie Elements of Whistleblower Retaliation under SOX

159 To establish a prima facie case for whistleblower retaliation under SOX, a plaintiff must show:

1. **Protected Activity:** The employee engaged in a protected activity by making a disclosure that they reasonably believed evidenced fraud, violations of federal law, or other forms of corporate misconduct.
2. **Employer Knowledge:** The employer knew of the employee's disclosure.
3. **Adverse Employment Action:** The employer took a materially adverse action against the employee.
4. **Causal Connection:** There is a causal relationship between the protected activity and the adverse action taken by the employer.

## 4 Supporting Case Law

160 **Lawson v. FMR LLC**, 571 U.S. 429 (2014) (Justice Ginsburg): This case confirmed that SOX protects employees from retaliation for reporting corporate wrongdoing, including fraud or

violations of law. Ohana's suspension of Dillon-Capps after their whistleblower disclosure is precisely the kind of retaliatory conduct prohibited by SOX.

161 **Klopfenstein v. PCC Flow Techs. Holdings, Inc.**, 2004-SOX-11 (Judge Sutton):

*Klopfenstein* established that retaliation under SOX can be demonstrated by adverse action immediately following a protected disclosure. The temporal proximity of Ohana's retaliatory actions to Dillon-Capps's whistleblower disclosures underscores the retaliation claim.

162 **Adams v. Manown**, 328 Md. 463, 615 A.2d 611 (1992) (Judge Eldridge): In *Adams*, the

Maryland Court of Appeals emphasized that Maryland's whistleblower laws protect employees from retaliation for good-faith reporting of workplace misconduct or legal violations. Ohana's retaliatory suspension, immediately following Dillon-Capps's report of misconduct, violates Maryland's whistleblower protections under Md. Code Ann., Lab. & Empl. § 5-305.

163 **Hicks v. Gilbert**, 135 Md. App. 394, 762 A.2d 986 (2000) (Judge Eyler): Maryland courts recognize temporal proximity as a key indicator of causation in whistleblower cases. Here, the close timing between Dillon-Capps's protected disclosure and Ohana's adverse action supports a finding of retaliatory intent.

## 5 Application in Dillon-Capps' Case

### I. PROTECTED DISCLOSURE AND EMPLOYER KNOWLEDGE

164 On June 13, 2024, at 2:05 p.m., Dillon-Capps sent an email and a series of text messages to Ohana's President, Justin Drummond, and other executives, detailing concerns regarding internal misconduct and potential fraud within Ohana. These disclosures highlighted Dillon-Capps's observations of corporate mismanagement, fraud, and harassment—all protected

disclosures under both SOX and Maryland's whistleblower statutes, as they were intended to expose potential violations of law and unethical conduct within the company.

165 Maryland's whistleblower protections specifically shield employees from adverse actions following disclosures of suspected legal violations or corporate misconduct. Dillon-Capps's disclosures, made directly to company leadership, qualify as protected activities under Md. Code Ann., Lab. & Empl. § 5-305 and SOX. Ohana, through its senior executives, received these reports and thus had knowledge of Dillon-Capps's whistleblower activities.

## II. ADVERSE EMPLOYMENT ACTION AND CAUSAL CONNECTION

166 Immediately following these disclosures, Ohana responded with adverse employment actions against Dillon-Capps. Specifically, after the 2:05 p.m. email and text disclosures, Ohana suspended Dillon-Capps without pay. This adverse action constitutes a material, punitive measure that would deter a reasonable employee from engaging in whistleblower activities in the future.

167 The causal link between Dillon-Capps's whistleblower disclosures and the suspension is evident from the timing of the actions. Ohana's immediate disciplinary response—within hours of Dillon-Capps's disclosure—demonstrates clear retaliatory intent. Maryland courts have consistently found temporal proximity between protected disclosures and adverse actions to be sufficient evidence of causation in whistleblower claims. This timeline and the retaliatory suspension substantiate the causal connection required for a prima facie case under both SOX and Maryland law.

## 6 Conclusion

168 Dillon-Capps's June 13, 2024 disclosures, including the 2:05 p.m. email and text messages, qualify as protected whistleblower activities under both SOX and Maryland's whistleblower protections. Ohana's immediate suspension of Dillon-Capps without pay constitutes a clear act of retaliation, in direct violation of these protections. The timeline and circumstances around the retaliatory action make a compelling case for judicial relief and penalties against Ohana for its violation of Dillon-Capps's statutory rights under both federal and state whistleblower laws.

## D Retaliation

### 1 Legal Standard and Prima Facie Elements

169 Federal statutes, including the Family and Medical Leave Act (FMLA), Americans with Disabilities Act (ADA), and whistleblower laws under both the Sarbanes-Oxley Act (SOX) and Maryland state law, collectively prohibit employers from retaliating against employees who exercise protected rights. Retaliation occurs when an employer takes adverse action against an employee in response to the employee's lawful engagement in activities protected by these statutes. Each statute provides specific protections, but the elements of a retaliation claim under these laws are similar.

### 2 Prima Facie Elements of Retaliation

170 To establish a prima facie case of retaliation, the following elements must be proven:

1. **Protected Activity:** The employee engaged in a protected activity, such as taking FMLA leave, requesting an ADA accommodation, or making a whistleblower disclosure.
2. **Employer Knowledge:** The employer was aware of the employee's engagement in the protected activity.



3. **Adverse Employment Action:** The employer took a materially adverse action against the employee that would dissuade a reasonable person from engaging in the protected activity.

4. **Causal Connection:** There is a causal link between the employee's protected activity and the employer's adverse action.

### 3 Supporting Case Law

171 **Harris v. Forklift Systems, Inc.**, 510 U.S. 17 (1993) (Justice O'Connor): The Supreme Court in *Harris* established that any adverse action by an employer that would deter a reasonable person from exercising their rights constitutes retaliation. Ohana's suspension of Dillon-Capps immediately following their use of FMLA leave, ADA accommodations, and whistleblower activities constitutes an adverse action that would deter a reasonable employee from engaging in similar protected activities.

172 **Robinson v. Shell Oil Co.**, 519 U.S. 337 (1997) (Justice Thomas): The Court in *Robinson* held that retaliation includes any discriminatory or punitive action that would dissuade an employee from pursuing protected activities. Ohana's swift suspension of Dillon-Capps and the subsequent financial impact and harm to their reputation serve as retaliatory measures intended to discourage Dillon-Capps and others from asserting protected rights.

### 4 Application in Dillon-Capps' Case

#### I. PROTECTED ACTIVITIES AND EMPLOYER KNOWLEDGE

173 Dillon-Capps engaged in multiple protected activities, including:

1. **Exercising FMLA Rights:** Dillon-Capps requested and used intermittent FMLA leave on June 13, 2024, due to health issues related to PTSD.
2. **Requesting and Using an ADA Accommodation:** Dillon-Capps requested and received intermittent leave as an ADA accommodation, which was reasserted on June 13, 2024, due to their ongoing need for support related to PTSD.
3. **Engaging in Whistleblower Activity:** Dillon-Capps reported internal misconduct, fraud, and harassment in their 2:05 p.m. email and text messages to Ohana's

President, Justin Drummond, and other executives, disclosing protected information under SOX and Maryland's whistleblower protections.

174 Ohana, including its senior management and legal representatives, had knowledge of all these protected activities. The FMLA and ADA accommodations were documented in early 2024, and Dillon-Capps's whistleblower disclosures were directly addressed to Ohana's leadership. Ohana's executives and HR department were therefore fully aware of Dillon-Capps's engagement in protected activities.

## II. ADVERSE EMPLOYMENT ACTION

175 Following Dillon-Capps's exercise of these protected rights, Ohana took immediate adverse actions against them, most notably by suspending them without pay on June 13, 2024. The suspension followed directly after Dillon-Capps's use of FMLA leave, request for ADA accommodation, and whistleblower disclosures, and it constituted a significant adverse action that would deter a reasonable employee from engaging in similar protected activities in the future. A suspension without pay has substantial financial and reputational impacts, meeting the definition of an adverse action under FMLA, ADA, and whistleblower laws.

## III. CAUSAL CONNECTION

176 The causal connection between Dillon-Capps's protected activities and Ohana's adverse actions is established through the timing and context of the suspension. Within hours of Dillon-Capps's whistleblower disclosures and reassertion of their FMLA and ADA rights, Ohana suspended them without pay. This close temporal proximity, along with admissions by Ohana's counsel that Dillon-Capps's FMLA rights had been violated, demonstrates a clear retaliatory motive, satisfying the causation element required for a retaliation claim.

## 5 Conclusion

177 Dillon-Capps's suspension by Ohana on June 13, 2024, following their exercise of FMLA, ADA, and whistleblower rights, meets all elements for a prima facie case of retaliation. Ohana's suspension without pay immediately after these protected activities demonstrates retaliatory intent, which violates federal protections under the FMLA, ADA, SOX, and Maryland's whistleblower laws. The combination of Dillon-Capps's protected activities, Ohana's knowledge, and the immediate adverse response further supports the conclusion that Ohana's actions were retaliatory, meriting judicial intervention and remedies for Dillon-Capps's statutory rights under federal and state laws.

## E Perjury

### 1 Legal Standard and Prima Facie Elements of Perjury in Maryland

178 Under Maryland law, perjury is defined as the act of knowingly making a false statement under oath with the intent to mislead or deceive, particularly when the statement is material to the proceeding. Codified in **Md. Code Ann., Crim. Law § 9-101**, perjury encompasses not only directly false statements but also statements intended to create a misleading impression, even if technically accurate. Maryland's legal standard focuses on the intent behind the statement: to distort the court's understanding of the facts, undermine judicial integrity, and obstruct justice.

179 The primary elements for establishing perjury in Maryland include:

180 **Misleading or False Statement:** The defendant must have made a statement under oath that is either directly false or intentionally crafted to mislead the court by omitting critical context.

181 **Materiality:** The misleading or false statement must be material, meaning it has the potential to affect the outcome of the case or influence the court’s understanding of the facts.

182 **Intent to Mislead:** The statement must be made with the intent to deceive or mislead the court or relevant parties involved, affecting the administration of justice.

183 Maryland’s focus on intent and materiality underscores the state’s commitment to maintaining the integrity of judicial proceedings and preventing efforts to misrepresent the facts through perjury.

## 2 Prima Facie Elements of Perjury

184 For a charge of perjury to be substantiated under Maryland law, the following prima facie elements must be demonstrated:

185 **Statement Made Under Oath:** The defendant must have made a statement while under oath, affirming to provide truthful information in court proceedings, depositions, or affidavits.

186 **Knowledge of the Statement’s Misleading Nature:** The defendant must have known that the statement was misleading or false, including instances where a “technically truthful” statement was given with the intent to mislead by omission or selective presentation of facts.

187 **Materiality of the Misleading or False Statement:** The misleading or false statement must be material to the proceedings, meaning that it could reasonably influence the court’s decision-making or perception of the case.

188 **Intent to Mislead or Deceive:** Maryland law requires that the misleading or false statement was made with the intent to deceive or mislead the court, specifically crafted to distort the court’s understanding of facts in a way that could influence the outcome.

189 These elements emphasize that perjury includes not only outright lies but also carefully framed statements designed to mislead. Maryland courts require clear evidence that the defendant deliberately intended to mislead through material misrepresentation or omission.

### 3 Supporting Case Law

190 **State v. Anderson**, 5 Md. App. 482, 248 A.2d 807 (1969): The Maryland Court of Special Appeals held that perjury requires clear evidence of intentional falsehood or misleading information provided under oath. This case underscored the importance of intent and materiality, recognizing that statements deliberately crafted to mislead can constitute perjury.

191 **Smith v. State**, 7 Md. App. 384, 256 A.2d 357 (1969): This case highlighted the materiality requirement for perjury, holding that misleading statements must have the potential to affect judicial findings. Materiality in Maryland is determined by a statement's potential influence on case outcomes, whether the falsehood is direct or conveyed through selective truth.

192 **Shifflett v. State**, 245 Md. 169, 225 A.2d 440 (1967): The Maryland Court of Appeals confirmed that perjury applies to statements intended to mislead the court's understanding of material facts, even if technically true. The court emphasized that perjury is established when the intent is to distort or manipulate the court's perception of the facts.

### 4 Application of Perjury in Dillon-Capps' Case

193 In Dillon-Capps's case, Plaintiff and Plaintiff's counsel, Miles & Stockbridge (M&S), submitted multiple statements under oath that meet Maryland's elements for perjury, specifically by making "technically truthful" statements crafted to mislead the court. These statements misrepresented critical facts, directly impacting the court's decisions and prolonging harm to Dillon-Capps. Specific instances include:

194     **Technically True Statements Intended to Mislead the Court:** M&S made statements under oath that omitted critical context or selectively presented facts to portray a false narrative. For instance, affidavits submitted by M&S regarding Dillon-Capps's FMLA rights contained language that, while technically accurate in some respects, omitted context critical to the court's understanding, and others are entirely false. Under *Shifflett v. State*, Maryland law recognizes perjury where statements are framed to mislead rather than inform. These omissions and selective truths created a misleading impression that directly affected the court's rulings, satisfying the requirement of knowing falsity.

195     **Materiality of the Misleading Statements:** M&S's statements concerning Dillon-Capps's work status and FMLA entitlements were central to the court's findings on injunctive relief and contempt orders. According to *Smith v. State*, statements qualify as perjury if they could reasonably impact the court's decision-making. The misleading statements in this case materially affected rulings that have caused ongoing harm to Dillon-Capps, establishing their significance.

196     **Intent to Mislead and Misrepresent the Facts:** The nature of M&S's statements and their pattern of omissions, selective truth, and procedural manipulation indicate a clear intent to deceive. The affidavits presented by M&S were structured to lead the court to specific, unfavorable conclusions about Dillon-Capps without disclosing essential context, a practice Maryland courts have recognized as perjury. As affirmed in *State v. Anderson*, M&S's deliberate omissions and selective presentations demonstrate intent to distort the court's understanding of Dillon-Capps's legitimate claims and defenses.

197 **Cumulative Harm and Distortion of Judicial Findings:** The perjured statements made by M&S have led to significant harm for Dillon-Capps, with procedural decisions influenced by these misleading statements compounding the injury. Under Maryland law, as evidenced in *Shifflett v. State*, perjury that materially impacts the proceedings and results in harm warrants corrective action. The cumulative effect of M&S's statements has distorted the court's findings, causing undue financial, reputational, physical, and emotional damage to Dillon-Capps and further validating the need for judicial correction.

198 M&S's statements meet Maryland's prima facie elements for perjury due to their misleading nature, material impact, and evident intent to deceive. These statements influenced critical rulings in the case, extending and worsening harm to Dillon-Capps, and warranting judicial intervention.

## 5 Conclusion

199 Maryland law defines perjury as not only making false statements under oath but also providing statements that intentionally mislead the court, particularly where material facts are affected. In Dillon-Capps's case, M&S's actions in submitting misleading, selectively truthful statements under oath constitute perjury. The materiality of these statements and their impact on Dillon-Capps's rights demonstrate the severity of M&S's conduct and the need for judicial correction. Addressing these perjured statements is essential to uphold judicial integrity, correct previous rulings, and prevent further harm to Dillon-Capps, aligning with Maryland's statutory and case law standards.

## F Wrongful Termination

1 Legal Standard and Prima Facie Elements of Wrongful Termination

200 **Legal Standard:** Under both the **Family and Medical Leave Act (FMLA)** and the **Americans with Disabilities Act (ADA)**, it is unlawful to terminate an employee in retaliation for exercising protected rights. The FMLA protects employees who take medical leave from adverse employment actions, while the ADA prohibits discrimination against employees with disabilities, including unjust termination. Maryland employment law also offers protections that reinforce the standards set forth by these federal statutes.

2 Prima Facie Elements for Wrongful Termination under FMLA and ADA:

201 **Protected Activity:** The employee must demonstrate engagement in a legally protected activity, such as taking medical leave under FMLA or requesting reasonable accommodations under ADA.

202 **Adverse Employment Action:** The employer terminated or took a materially adverse action against the employee.

203 **Causal Connection:** A clear, proximate link between the protected activity and the adverse action, suggesting that the protected activity was a motivating factor in the termination.

3 Prima Facie Elements of Wrongful Termination

204 To establish wrongful termination, Dillon-Capps must meet the following prima facie elements under FMLA and ADA protections:

1. **Engagement in Protected Activity:** Dillon-Capps requested and was granted intermittent FMLA leave due to documented medical conditions and exercised ADA rights by requesting workplace accommodations.



2. **Termination or Adverse Action by Employer:** Dillon-Capps faced adverse actions, including suspension, retaliatory litigation, and eventual termination, following their exercise of FMLA and ADA rights.

3. **Causal Link Between Protected Activity and Adverse Action:** There must be a connection between Dillon-Capps's exercise of FMLA leave and ADA accommodations and the termination or related adverse actions by Ohana. Dillon-Capps was terminated during ongoing litigation and suspension for FMLA-related leave, which suggests retaliatory motivation.

#### 4 Supporting Case Law

205 **Burlington Northern & Santa Fe Railway Co. v. White**, 548 U.S. 53 (2006): The U.S. Supreme Court held that retaliation includes any adverse employment action that would dissuade a reasonable employee from engaging in protected activity. Termination following the exercise of protected rights, such as FMLA leave, can meet this standard.

206 **Hoge v. Honda of America Mfg., Inc.**, 384 F.3d 238 (6th Cir. 2004): The court found that interference with FMLA rights, especially when retaliatory termination follows medical leave, justifies a wrongful termination claim.

207 **Ennis v. National Ass'n of Business and Educational Radio, Inc.**, 53 F.3d 55 (4th Cir. 1995): The Fourth Circuit affirmed that the ADA protects against termination based on an employee's disability, recognizing wrongful termination when an employer terminates an employee in retaliation for seeking reasonable accommodations.

208 **Shapiro v. Massengill**, 105 Md. App. 743, 661 A.2d 202 (1995): The Maryland Court of Special Appeals supported an employee's claim that retaliation for engaging in protected activity

violated state employment law, establishing grounds for wrongful termination under Maryland common law principles.

## 5 Application of Wrongful Termination in Dillon-Capps's Case

209 In Dillon-Capps's case, Ohana's conduct meets the criteria for wrongful termination under FMLA and ADA based on the following actions:

1. **Engagement in Protected Activity:** Dillon-Capps was granted FMLA leave for medical conditions and exercised ADA rights by requesting work-from-home accommodations. Both of these actions constitute protected activities under federal law.
2. **Adverse Actions by Employer:** After notifying supervisors of FMLA leave and seeking accommodations, Dillon-Capps experienced escalating adverse actions, including suspension, retaliatory litigation, and eventual termination. The timing of these actions, especially the suspension and termination, directly followed Dillon-Capps's exercise of protected rights, indicating retaliatory intent.
3. **Causal Link Between Protected Activity and Adverse Action:** The termination occurred during ongoing litigation in which Dillon-Capps sought to enforce their FMLA and ADA rights. Ohana's decision to terminate Dillon-Capps in the context of disputed FMLA leave and ADA accommodations demonstrates retaliatory motivation, as discussed in *Hoge v. Honda of America Mfg., Inc.* and *Burlington Northern*.
4. **Retaliation Through Litigation:** Ohana's lawsuit appears to serve as a pretext for retaliatory suspension and termination, further supporting a wrongful termination claim. Filing a lawsuit without substantial grounds shortly after Dillon-Capps exercised

their rights highlights an attempt to suppress protected activity through retaliatory litigation.

## 6 Conclusion

210 Dillon-Capps's claim for wrongful termination is supported by both FMLA and ADA standards, as well as Maryland's employment laws. Ohana's suspension, litigation, and ultimate termination of Dillon-Capps after their exercise of protected rights reflect an adverse employment action motivated by retaliation. Maryland and federal case law establish grounds for wrongful termination, justifying a finding in favor of Dillon-Capps's claim. Sanctions against Ohana are warranted for violating statutory protections against wrongful termination, as well as for engaging in retaliatory actions intended to prevent Dillon-Capps from exercising federally protected rights.

## G Hostile Work Environment (HWE)

### 1 Legal Standard and Prima Facie Elements of Hostile Work Environment

211 **Legal Standard:** The **Americans with Disabilities Act (ADA)** prohibits a hostile work environment based on disability discrimination, and Maryland employment laws similarly prohibit discriminatory and retaliatory workplace conditions. A hostile work environment claim arises when an employee is subject to severe or pervasive conduct that interferes with their ability to work or creates an abusive atmosphere. Furthermore, retaliatory litigation can also contribute to a hostile work environment if intended to harass or suppress an employee's rights.

2 Prima Facie Elements for Hostile Work Environment under ADA and Maryland Law:

212 **Membership in a Protected Class:** The employee must belong to a protected class, such as an individual with a disability under ADA.

213 **Unwelcome Harassment:** The employee must experience unwelcome harassment or adverse actions that affect workplace conditions.

214 **Severe or Pervasive Conduct:** The harassment must be severe or pervasive enough to create an intimidating, hostile, or abusive work environment.

215 **Causal Connection:** A link between the protected characteristic (e.g., disability) or protected activities (e.g., ADA requests, FMLA leave) and the adverse or hostile conduct.

3 Prima Facie Elements of Hostile Work Environment

216 For Dillon-Capps's hostile work environment claim, the following elements must be established:

217 **Protected Class Membership:** Dillon-Capps is an individual with a disability, qualifying for protection under ADA.

218 **Unwelcome Harassment:** Dillon-Capps faced unwelcome actions, including discriminatory comments, dismissive treatment, and adverse employment actions.

219 **Severe or Pervasive Conduct:** The adverse actions, including the initiation of retaliatory litigation and efforts to undermine Dillon-Capps's FMLA and ADA rights, were pervasive and had a significant impact on Dillon-Capps's ability to perform their role.

220 **Causal Connection to Protected Activity:** Ohana's hostile actions followed Dillon-Capps's request for ADA accommodations and FMLA leave, suggesting that these actions were retaliatory in nature.

#### 4 Supporting Case Law

221 **Harris v. Forklift Systems, Inc.**, 510 U.S. 17 (1993): The U.S. Supreme Court held that a hostile work environment claim requires conduct severe or pervasive enough to alter the conditions of employment. Conduct that intimidates or undermines an employee's rights under federal statutes, such as ADA, can meet this standard.

222 **Faragher v. City of Boca Raton**, 524 U.S. 775 (1998): The Court found that hostile work environment claims may arise from actions that are frequent, severe, or create an abusive workplace atmosphere, establishing grounds for a hostile work environment based on harassment and intimidation.

223 **Fox v. General Motors Corp.**, 247 F.3d 169 (4th Cir. 2001): The Fourth Circuit held that ADA-related harassment that impedes an employee's ability to perform job duties constitutes a hostile work environment.

224 **Mossburg v. Montgomery County**, 105 Md. App. 1, 658 A.2d 1093 (1995): The Maryland Court of Special Appeals ruled that a hostile work environment claim can be based on pervasive conduct that interferes with an employee's job performance or mental well-being, reinforcing the hostile work environment doctrine within Maryland law.

#### 5 Application of Hostile Work Environment in Dillon-Capps's Case

225 In Dillon-Capps's case, Ohana's conduct meets the criteria for a hostile work environment claim under ADA and Maryland law based on the following actions:

1. **Protected Class Membership:** Dillon-Capps's status as an individual with a disability and their exercise of ADA and FMLA rights qualify them for statutory protection against discriminatory and retaliatory treatment.

2. **Unwelcome Harassment:** Dillon-Capps faced persistent hostility, including suspension, coerced employment conditions, and retaliatory litigation intended to undermine their ADA and FMLA rights. Additionally, litigation itself became a means of harassment, with Ohana pursuing baseless claims and adversarial actions to intimidate Dillon-Capps.

3. **Severe or Pervasive Conduct:** The hostile environment was amplified by Ohana's use of litigation to further harm Dillon-Capps, creating a stressful and hostile atmosphere that affected Dillon-Capps's mental well-being and ability to defend their rights. This conduct aligns with *Harris v. Forklift Systems* and *Faragher v. City of Boca Raton*, where pervasive hostility impacted the terms and conditions of employment.

4. **Causal Connection:** The adverse actions, particularly the initiation of retaliatory litigation after Dillon-Capps requested ADA accommodations and FMLA leave, indicate a clear connection between the protected activities and Ohana's hostile conduct. Ohana's actions appear intended to suppress Dillon-Capps's rights through retaliatory legal proceedings, creating an abusive atmosphere similar to *Fox v. General Motors Corp.*.

5. **Litigation as Hostile Work Environment:** Ohana's use of the legal system to attack Dillon-Capps's rights further substantiates the hostile work environment claim. The lawsuit exacerbated Dillon-Capps's hostile work environment, demonstrating an intent to retaliate and harass rather than resolve legitimate disputes.

## 6 Conclusion

226 Ohana's conduct, including retaliatory litigation, baseless disciplinary actions, and a hostile workplace atmosphere, meets the legal standard for a hostile work environment claim

under ADA and Maryland law. Maryland and federal case law support finding a hostile work environment when an employer engages in discriminatory, retaliatory, or coercive actions that interfere with an employee's ability to perform their job. The court should impose sanctions against Ohana for creating and perpetuating a hostile work environment, as demonstrated in *Harris v. Forklift Systems*, *Faragher v. City of Boca Raton*, and related cases, to protect Dillon-Capps's rights and reinforce workplace protections against retaliatory discrimination

## H Witness Tampering

### 1 Legal Standard and Prima Facie Elements of Witness Tampering

227 **Legal Standard: Witness tampering** is prohibited under both Maryland's criminal statutes and common law. Maryland Criminal Law § 9-305 makes it illegal to intimidate, influence, or mislead a witness with the intent to alter their testimony or disrupt judicial proceedings. This standard encompasses both direct intimidation and more subtle actions, such as providing misleading information, "coaching" witnesses, or altering affidavits to manipulate the court's perception of facts. In cases where attorneys or parties facilitate or engage in such conduct, the court may impose sanctions to uphold the integrity of the judicial process.

### 2 Prima Facie Elements for Witness Tampering:

1. **Intent to Influence Testimony:** The party sought to influence, alter, or manipulate the witness's statements in a manner that would impact court proceedings.
2. **Interference with Judicial Process:** Actions that disrupt the course of justice or impede the discovery of truth by affecting witness statements.
3. **Deceptive or Coercive Tactics:** Conduct that includes misleading statements, omission of material facts, or procedural interference with a witness's testimony.

4. **Material Impact on Proceedings:** The tampering had the potential to influence the outcome or obstruct the proper administration of justice.

### 3 Prima Facie Elements of Witness Tampering

228 In Dillon-Capps's case, witness tampering is evident through affidavits that contain contradictory or misleading statements, reflecting a potential attempt to control or distort witness testimony:

1. **Intent to Influence Testimony:** The affidavits by Randall Romes and Daniel Levett contain language and content indicating that their statements may have been influenced or structured by counsel, resulting in affidavits that appear designed to align with Ohana's claims rather than objectively present the facts.
2. **Interference with Judicial Process:** M&S's direct communication with the court to attach Romes' signature page ex parte raises questions about whether these actions were intended to avoid scrutiny or limit cross-examination opportunities.
3. **Deceptive or Coercive Tactics:** Romes' affidavit contains contradictions to other evidence provided by Dillon-Capps, particularly concerning Romes' statements about Dillon-Capps's communication of specific requirements—despite contrary evidence in the letter and attachments provided to the judge.
4. **Material Impact on Proceedings:** The affidavits, if believed, support Ohana's claims against Dillon-Capps and could materially influence the court's decisions. Additionally, Judge Barranco's prevention of cross-examination of Romes obstructed Dillon-Capps's ability to challenge these statements and to address inconsistencies directly.



#### 4 Supporting Case Law

229 **People v. Martinez**, 200 P.3d 1053 (Cal. 2009): The California Supreme Court held that altering witness testimony or otherwise influencing witness statements is grounds for sanctions and criminal penalties. Coaching witnesses or shaping testimony to fit a narrative, rather than to present truthful statements, constitutes witness tampering.

230 **State v. Johnson**, 282 Md. 314, 384 A.2d 709 (1978): The Maryland Court of Appeals confirmed that manipulating testimony to mislead the court undermines the integrity of judicial proceedings and warrants sanctions or criminal liability.

231 **Attorney Grievance Commission v. Kent**, 447 Md. 555, 136 A.3d 1126 (2016): The court emphasized that attorneys are subject to sanctions for witness tampering or any conduct aimed at influencing or controlling witness statements to favor their client's narrative.

232 **United States v. Aguilar**, 515 U.S. 593 (1995): The U.S. Supreme Court reinforced that witness tampering includes attempts to mislead witnesses and present fabricated or altered statements to the court, mandating sanctions to maintain judicial integrity.

#### 5 Application of Witness Tampering in Dillon-Capps's Case

233 In Dillon-Capps's case, the following actions by Ohana, M&S, and witnesses reflect an effort to tamper with witness statements, alter court perception, and obstruct the administration of justice:

234 **Intent to Influence Testimony - Randall Romes**: Randall Romes' affidavit contains copy-pasted language from Richard Hartman's affidavit, suggesting collusion or "coaching." His statement that he was provided with Dillon-Capps's letter to the judge is contradicted by his assertion that Dillon-Capps made no statements about specific requirements, despite evidence to

the contrary. The structured language and omissions in his affidavit suggest intentional shaping to avoid unfavorable admissions.

235 **Interference with Judicial Process - Submission of Signature Page:** After Romes’ affidavit was submitted, M&S contacted the judge directly to have the signature page attached, bypassing standard filing procedures. This communication appears to have been used to prevent Dillon-Capps from challenging the affidavit in a timely manner, further compromising procedural fairness.

236 **Deceptive or Coercive Tactics - Daniel Levett’s Affidavit:** Levett’s affidavit claims involvement in critical events, but the described timeline and actions raise questions about his actual role and whether he was “coached” to support Ohana’s narrative. Shifts in language and tone within his affidavit indicate possible editing or guidance by counsel to ensure statements aligned with Ohana’s defense, leading to a reasonable inference of tampering.

237 **Material Impact on Proceedings:** The content of Romes and Levett’s affidavits could significantly affect judicial perception, particularly in misrepresenting Dillon-Capps’s statements and actions. Dillon-Capps’s inability to cross-examine Romes—prevented by Judge Barranco—further exacerbates the prejudicial impact, as Romes’ testimony went unchallenged on points central to the defense.

## 6 Conclusion

238 Ohana and M&S’s actions in relation to witness testimony demonstrate clear evidence of witness tampering under **Maryland Criminal Law § 9-305** and applicable case law. The affidavits from Romes and Levett appear strategically crafted to fit Ohana’s narrative, with inconsistencies and omissions that hinder the court’s ability to ascertain truth. Communications

to attach Romes' affidavit signature and the obstruction of cross-examination indicate deliberate attempts to control the record, violate procedural fairness, and prejudice Dillon-Capps's defense. Maryland case law and broader legal precedents support imposing sanctions against Ohana and M&S to uphold judicial integrity, deter tampering, and reinforce the importance of unbiased witness testimony.

## I Disqualification of Counsel

### 1 Legal Standard and Purpose of Disqualification

239 Disqualification of counsel is a fundamental tool in Maryland law designed to protect the integrity of the judicial system, uphold the public's trust in legal proceedings, and ensure that parties are represented fairly. Under **Maryland Rules of Professional Conduct Rule 1.7**, disqualification is warranted where conflicts of interest exist, particularly if those conflicts impact a lawyer's judgment or impartiality or compromise the fairness of the litigation. Disqualification serves equitable goals by preventing counsel with potential biases or improper motivations from continuing representation, thereby protecting the court, opposing parties, and the public from further harm.

240 In cases like this, disqualification does more than ensure fairness—it serves as a safeguard against continued misuse of the judicial process. By disqualifying counsel, the court not only protects Dillon-Capps from further harm but also prevents Plaintiff's counsel from perpetuating a litigation strategy that has already revealed itself as abusive, malicious, and intended to inflict harm. Here, **disqualification protects**, aligning with principles of judicial economy, Maryland's public policy goals, and equitable doctrines by setting a precedent that such behavior has no place in Maryland's courts.

## 2 Prima Facie Elements for Disqualification

1. **Conflict of Interest:** The representation must involve a conflict that affects the lawyer's independent judgment, creating bias or partiality.
2. **Unethical or Bad-Faith Conduct:** Counsel's conduct must show a pattern of behavior that harms the integrity of the proceedings, either through perjury, misrepresentation, or abusive litigation tactics.
3. **Impact on Fairness and Judicial Integrity:** The continued representation must compromise the fairness of the case or the public's confidence in the judicial system.

## 3 Supporting Case Law

241 **Klupt v. Krongard**, 126 Md. App. 179, 728 A.2d 727 (1999): In this case, Maryland's Court of Special Appeals emphasized that disqualification is warranted when a lawyer's representation is compromised by conflicts or ethical breaches that could jeopardize the fairness of the trial. The court underscored the importance of ensuring that parties receive unbiased representation to maintain the integrity of the judicial process.

242 **Ashcraft & Gerel v. Shaw**, 126 Md. App. 325, 728 A.2d 798 (1999): Maryland's Court of Special Appeals disqualified counsel where representation raised ethical concerns that compromised judicial fairness. The court's ruling stressed that protecting judicial integrity outweighs any inconvenience to the client or counsel, underscoring disqualification's role in upholding the court's credibility.

## 4 Application to Dillon-Capps's Case

243 The disqualification of **Miles & Stockbridge, PC**, Plaintiff's counsel, is essential in this case. Disqualification serves multiple purposes: it **protects** the defendant and public by

preventing further harm, **prevents** Plaintiff from continuing to pursue a meritless, perjury-driven lawsuit, and **preserves** the integrity of the judiciary by removing counsel whose motivations are steeped in apparent malice and unethical intentions. Miles & Stockbridge's involvement has revealed clear conflicts of interest and a personal vendetta, as shown by their persistent, aggressive tactics aimed at incarcerating Dillon-Capps and pursuing unwarranted contempt actions—conduct that exceeds the bounds of typical representation.

244 Given that this litigation has persisted for over five months, with Miles & Stockbridge pursuing severe penalties and incarceration as outcomes for what are demonstrably baseless claims, disqualification is necessary. A law firm acting without bias or personal interests would likely not pursue such aggressive measures against Dillon-Capps, nor would they continue representation with the ethical breaches and sanctionable conduct displayed thus far.

245 Disqualification of Plaintiff's counsel is both a protective measure and a preventative one. It protects the court, defendant, and public from ongoing abuse, prevents the Plaintiff from continuing a fraudulent, malicious, and unethical lawsuit, and sends a message that the pursuit of litigation as a tool for harm will not be tolerated. Maryland's courts must deter bad-faith litigation by disqualifying counsel whose representation jeopardizes the judicial system's integrity, setting a precedent of **reciprocal relief** in which unethical actions yield proportional consequences. Disqualification here not only prevents further harm to Dillon-Capps but establishes Maryland as a jurisdiction committed to fairness, ethics, and the rule of law.

J [42 U.S.C. § 1983: Civil Action for Deprivation of Rights](#)

## 1 Legal Standard and Prima Facie Elements

246 Under **42 U.S.C. § 1983**, individuals may bring a civil action against state officials, including judges, for violating federally protected rights under the color of law. Although judges are typically granted **judicial immunity**, this immunity is limited and does not protect against actions taken **outside the judge's jurisdiction** or actions performed with **clear absence of all jurisdiction** or **malice**. Additionally, courts have ruled that judicial immunity does not apply when the conduct in question violates constitutional due process protections or is willfully abusive.

247 To establish a § 1983 claim against a judicial officer, the plaintiff must show:

248 **Deprivation of a Federal Right:** The plaintiff must prove that the judge's actions violated a federally protected right, such as due process or equal protection.

249 **Acting Under Color of State Law:** The judge's actions must be conducted within the scope of official duties, though exceptions apply when the judge acts beyond jurisdiction.

250 **Absence of Judicial Immunity:** Judicial immunity is forfeited if the judge's actions demonstrate malice, exceed jurisdictional authority, or involve a deprivation of constitutional rights that fundamentally undermines the judicial process.

## 2 Supporting Case Law

251 **Stump v. Sparkman**, 435 U.S. 349 (1978): The U.S. Supreme Court ruled that judicial immunity applies only if the judge's actions were within their lawful jurisdiction. The case emphasized that judges are liable under § 1983 if their actions are entirely outside their jurisdiction or conducted in bad faith.

252 **Pierson v. Ray**, 386 U.S. 547 (1967): This decision established that judicial immunity does not shield judges when their actions violate clear constitutional protections or when they act with malicious intent to harm the individual's rights.

253 **Forrester v. White**, 484 U.S. 219 (1988): The Court held that judicial immunity is qualified and can be removed if judges engage in administrative or executive acts that fall outside judicial discretion or that are abusive in nature, especially if such actions violate constitutional protections.

254 **Pulliam v. Allen**, 466 U.S. 522 (1984): The Supreme Court allowed for injunctive relief and attorney's fees against judges under § 1983 when their actions violate constitutional rights, demonstrating that judicial immunity is not absolute in cases involving clear deprivations of due process.

### 3 [Application to Judge Barranco's Actions in Dillon-Capps's Case](#)

255 In Dillon-Capps's case, Judge Barranco's actions included multiple instances of bias, denial of due process rights, and refusals to hear crucial evidence, all of which fundamentally compromised Dillon-Capps's constitutional rights:

256 **Deprivation of Due Process:** Judge Barranco repeatedly dismissed Dillon-Capps's attempts to present evidence related to FMLA and ADA violations. Additionally, the judge's comments referring to Dillon-Capps's filings as "unintelligible" or "incoherent" indicate a prejudiced view that limited Dillon-Capps's ability to present an effective defense. This violates the due process protections under the **Fourteenth Amendment** and constitutes a deprivation of federal rights.

257     **Exceeding Judicial Discretion and Acting with Bias:** Judge Barranco’s refusal to allow cross-examination of witnesses, especially regarding material facts related to alleged fraud and procedural violations, went beyond the bounds of judicial discretion and prevented Dillon-Capps from exercising the right to a fair trial. As established in *Stump v. Sparkman* and *Forrester v. White*, judicial immunity does not apply when a judge’s actions exceed judicial discretion or demonstrate clear bias, as these actions do not serve the judiciary’s neutral role.

258     **Malicious Conduct and Refusal to Correct Errors:** Judge Barranco’s conduct, including repeated denials of motions and baseless rulings of “moot” without addressing substantive claims, demonstrates a pattern of intentional disregard for Dillon-Capps’s rights. This conduct aligns with the malice exception under *Pierson v. Ray*, where malicious intent in judicial actions that disregard fundamental rights exposes the judge to § 1983 liability.

259     **Pattern of Procedural Violations and Constitutional Deprivations:** The cumulative nature of Judge Barranco’s actions, including the no-notice TRO, two-day show cause orders, and continued denial of ADA accommodations, shows a persistent violation of procedural norms. In *Pulliam v. Allen*, the Court ruled that judicial immunity does not protect judges from § 1983 liability when their actions demonstrate a systematic disregard for procedural protections, as is evident in Judge Barranco’s handling of Dillon-Capps’s case.

260     Through these actions, Judge Barranco effectively deprived Dillon-Capps of a fair hearing and access to due process protections. The judge’s dismissive rulings and hostile comments reflect not only bias but also a breach of judicial duty, effectively stripping him of immunity under § 1983.



#### 4 Conclusion

261 Under **42 U.S.C. § 1983** and as supported by **Stump v. Sparkman**, **Pierson v. Ray**, and **Pulliam v. Allen**, Judge Barranco’s actions in Dillon-Capps’s case demonstrate a clear deprivation of due process and biased judicial conduct. His refusal to acknowledge Dillon-Capps’s FMLA, ADA, and due process claims, coupled with hostile comments and procedural dismissals, shows a pattern of actions that exceed the scope of judicial discretion and are marked by apparent malice. The court should permit § 1983 claims against Judge Barranco, hold the Maryland judiciary accountable, and order remedies that address these constitutional deprivations to protect judicial integrity and ensure fair proceedings.

### VII EXPANDING MARYLAND STATUTES THROUGH THE INTENT, PURPOSE, FOCUS, AND MEANING OF COMMON LAW

#### A Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503

262 Maryland’s statutory framework, particularly **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, provides the legal foundation for Maryland courts to incorporate principles rooted in English common law, including key tort doctrines and equitable defenses. These statutes authorize Maryland’s courts to reference doctrines summarized in the Restatements of Torts and Contracts—sources widely recognized for shaping common law doctrine in the United States. Together, §§ 10-501 and 10-503 equip Maryland courts with the authority and discretion necessary to interpret and apply these doctrines in a way that upholds judicial integrity and fairness in contemporary cases.

#### 1 Section 10-501: Incorporation of English Common Law Principles

263 **Section 10-501** codifies Maryland’s reliance on English common law principles, stating that Maryland law “incorporates principles derived from the common law of England” unless

expressly altered by statute or judicial decision. This statute grants Maryland courts the legal basis to draw from established doctrines like unclean hands, estoppel, fraud, and abuse of process—doctrines that ensure fairness and accountability in judicial proceedings. Section 10-501 empowers Maryland courts to utilize these traditional doctrines in cases where equitable relief or tort liability is sought, making it possible for Maryland courts to apply the same high standards of integrity and fairness as those upheld in the English common law tradition.

## 2 Section 10-503: Judicial Discretion in Applying Common Law Principles

264 **Section 10-503** provides Maryland courts with discretionary authority to adapt and apply common law doctrines to the specific circumstances of each case. This statute enables Maryland’s judiciary to assess the relevance and suitability of doctrines such as unclean hands, equitable estoppel, promissory estoppel, fraud, and abuse of process in light of modern standards of fairness. By granting courts the flexibility to interpret these doctrines to align with contemporary justice, § 10-503 ensures that Maryland’s common law defenses and tort principles are applied in ways that uphold both ethical standards and judicial integrity.

265 Together, §§ 10-501 and 10-503 create a statutory foundation that supports the use of established common law doctrines as effective tools for maintaining fairness, accountability, and consistency in Maryland’s judicial system. This statutory foundation underpins Maryland courts’ ability to apply doctrines derived from the Restatements of Torts and Contracts in cases involving tortious and equitable claims, allowing the judiciary to enforce high standards of conduct, prevent misuse of judicial resources, and ensure just outcomes.

## B Incorporation of Tort Doctrines

266 Maryland's common law framework allows the application of key tort doctrines to uphold standards of honesty, fairness, and lawful conduct in cases involving fraud, abuse of process, negligence, and other tortious conduct. Supported by **Md. Code Ann., Cts. & Jud. Proc. § 10-503**, Maryland courts apply these doctrines, often referenced in the Restatements of Torts, to protect parties from harm resulting from deceit, misuse of legal processes, and breaches of reasonable care. These doctrines are instrumental in holding parties accountable for wrongful conduct, ensuring that Maryland's legal standards reflect principles of justice and good faith.

# 1 Foundations of Maryland's Tort Doctrines

267 Maryland courts rely on the Restatements to define and apply tort doctrines that address fraudulent, abusive, and negligent behavior, ensuring the accountability of parties who cause harm:

1. **Dolus (Fraud): Restatement (Second) of Torts, § 525** defines fraud as an intentional misrepresentation intended to deceive another party, resulting in harm. Maryland courts use this standard to evaluate claims of fraudulent conduct, holding parties liable when intentional deception causes financial or personal harm to others. This doctrine emphasizes Maryland's commitment to honesty and transparency in contractual and transactional dealings.
2. **Fraudulent Misrepresentation:** Defined in **Restatement (Third) of Torts, § 9**, fraudulent misrepresentation involves knowingly false statements that induce another party's reliance, causing harm. Maryland courts apply this doctrine to prevent parties from benefitting from deliberately misleading conduct, affirming that truthfulness is essential in both contract and tort claims.

3. **Abuse of Process: Restatement (Second) of Torts, § 682** establishes abuse of process as a tort remedy for misuse of legal proceedings to achieve ends other than those intended by law. Maryland courts recognize this doctrine to prevent parties from weaponizing judicial processes for coercive or retaliatory purposes, ensuring that legal procedures are used solely for legitimate purposes.

4. **Malicious Prosecution: Restatement (Second) of Torts, § 674** defines malicious prosecution as the initiation of baseless legal actions with improper motives. Maryland courts apply this doctrine to hold parties liable when they pursue groundless claims for ulterior purposes, protecting individuals from the harm and harassment associated with baseless litigation.

5. **Duty of Care (Negligence):** Under **Restatement (Second) of Torts, § 282**, Maryland courts recognize a duty of care, requiring individuals to act reasonably to avoid foreseeable harm. Maryland courts enforce this standard to hold parties liable when they fail to exercise reasonable care, resulting in injury or damage. This doctrine underscores Maryland's emphasis on accountability for actions that result in harm to others.

## 2 Judicial Standards for Applying Tort Doctrines in Maryland

268 Maryland courts enforce these tort doctrines according to specific standards that ensure fair and ethical behavior in legal and contractual matters:

1. **Fraud and Fraudulent Misrepresentation:** Maryland courts evaluate fraud by determining whether a party intentionally misrepresented facts to deceive another, and whether this deception led to financial or personal harm. Fraudulent misrepresentation requires a showing that the defendant knowingly made false statements, causing the

plaintiff to rely on these statements to their detriment. This standard holds parties to a high duty of truthfulness.

2. **Abuse of Process and Malicious Prosecution:** Abuse of process is assessed by examining whether legal procedures were used for improper purposes, while malicious prosecution requires proof of baseless legal action with malicious intent. Maryland courts apply these standards to protect individuals from harm and harassment caused by the misuse of judicial procedures, upholding the court's integrity.

3. **Duty of Care (Negligence):** Maryland courts impose a duty of care based on what a reasonable person would do to prevent harm. This standard requires parties to exercise caution and foreseeability in their actions. Breaches of this duty are assessed by evaluating whether the harm was preventable and whether reasonable measures could have mitigated the risk.

### 3 Maryland Case Law on Tort Doctrines

269 Maryland appellate courts provide consistent guidance on applying these tort doctrines, establishing a framework for lower courts to address cases involving fraud, abuse, and negligence effectively:

1. **Fraud and Fraudulent Misrepresentation:** In *Hoffman v. Stamper*, 385 Md. 1, 867 A.2d 276 (2005), the Maryland Court of Appeals affirmed that fraud requires intentional misrepresentation made with the intent to deceive. Maryland courts enforce this doctrine strictly, holding parties liable for actions that result in financial harm due to deceitful conduct.

2. **Abuse of Process to Address Judicial Misuse:** In *One Thousand Fleet Ltd. P'ship v. Guerriero*, 346 Md. 29, 694 A.2d 952 (1997), the Maryland Court of Appeals outlined that abuse of process occurs when legal procedures are used to coerce or harass another party. This case highlights Maryland's commitment to preventing misuse of judicial authority for purposes beyond lawful intent.

3. **Malicious Prosecution for Groundless Actions:** *Herring v. Citizens Bank & Tr. Co.*, 21 Md. App. 517, 320 A.2d 575 (1974), reinforced Maryland's standards for malicious prosecution, holding that parties may be liable for initiating baseless claims out of malice. Maryland courts emphasize that initiating legal action without probable cause and with improper motives warrants accountability.

4. **Duty of Care and Negligence:** In *Jacques v. First Nat'l Bank of Md.*, 307 Md. 527, 515 A.2d 756 (1986), the Maryland Court of Appeals held that parties must adhere to a duty of care, recognizing that negligence occurs when actions fall short of what a reasonable person would do to avoid harm. This standard reinforces Maryland's commitment to protecting individuals from foreseeable harm through reasonable precautions.

#### 4 Application in Dillon-Capps's Case

270 Each of these tort doctrines directly applies to Dillon-Capps's case, as Ohana's actions reflect fraudulent misrepresentations, misuse of legal processes, and failures in exercising reasonable care:

1. **Fraud and Fraudulent Misrepresentation:** Ohana's contradictory statements about Dillon-Capps's employment status and access rights amount to fraudulent

misrepresentation. Drummond's assurances on June 7th that Dillon-Capps would receive support from Hartman Executive Advisors (HEA) were never upheld, misleading Dillon-Capps about his ability to perform his role effectively. Maryland courts would likely hold Ohana accountable for this misrepresentation, as Dillon-Capps relied on their assurances in good faith.

2. **Abuse of Process:** Ohana's pursuit of contempt orders and fines based on unfounded allegations constitutes abuse of process. Maryland courts, following *One Thousand Fleet*, would view these actions as an improper use of judicial authority to retaliate against Dillon-Capps for exercising his legal rights. By seeking coercive measures without just cause, Ohana misused the court's resources to harass rather than seek lawful relief.

3. **Malicious Prosecution:** Ohana's baseless actions against Dillon-Capps, including punitive measures unsupported by probable cause, reflect malicious prosecution. Maryland courts would likely apply this doctrine to hold Ohana accountable for initiating legal actions driven by improper motives. In line with *Herring*, Maryland courts would recognize that Ohana's actions lacked legitimate grounds, constituting a misuse of judicial processes for malicious purposes.

4. **Duty of Care and Negligence:** Ohana's disregard for Dillon-Capps's requests for access and support reflect a failure to exercise reasonable care. Maryland courts would likely apply the duty of care standard to assess Ohana's negligence, recognizing that failing to provide promised access directly hindered Dillon-Capps's ability to fulfill his

role. This negligence created foreseeable harm, as Ohana's lack of response to requests undermined Dillon-Capps's professional responsibilities.

271 Maryland's incorporation of tort doctrines—fraud, abuse of process, malicious prosecution, and duty of care—provides a robust framework for holding parties accountable for wrongful actions that cause harm. Supported by § 10-503, Maryland courts apply these doctrines to prevent misuse of legal proceedings and uphold standards of fairness and accountability. In Dillon-Capps's case, each doctrine would bar Ohana from benefitting from their wrongful actions and impose accountability for fraudulent misrepresentations, misuse of process, and negligent conduct.

### C Equitable Doctrines of Defense

272 Maryland's legal system incorporates core equitable defenses that prevent parties from benefitting from wrongful conduct and ensure fairness in judicial proceedings. Supported by **Md. Code Ann., Cts. & Jud. Proc. § 10-503**, Maryland courts apply doctrines such as **unclean hands, public policy-based unclean hands, equitable estoppel, and promissory estoppel** to hold parties accountable for their representations, conduct, and commitments. These defenses bar relief where a party has engaged in conduct that violates legal protections or contradicts prior assurances, particularly where another party has reasonably relied on those representations.

#### 1 Foundations of Maryland's Equitable Defenses

273 Maryland's equitable doctrines are rooted in principles of fairness, supported by sections of the Restatements that provide clear standards for their application:

1. **Unclean Hands (Public Policy and Unlawful Conduct):** Maryland courts apply the unclean hands doctrine, grounded in **Restatement (Second) of Contracts, § 179 and**



§ 192, to deny claims when a party's actions violate ethical standards or involve unlawful conduct. This doctrine ensures that Maryland's judicial resources are not used to support claims arising from wrongful conduct that conflicts with legal protections or public standards.

2. **Equitable Estoppel:** As outlined in **Restatement (Second) of Torts, § 894(1)**, equitable estoppel prevents parties from taking contradictory positions when another party has reasonably relied on their prior representations. Maryland courts use this doctrine to maintain consistency, preventing parties from manipulating their statements to the disadvantage of others.

3. **Promissory Estoppel:** Defined in **Restatement (Second) of Contracts, § 90**, promissory estoppel enforces promises that induce reasonable reliance. Maryland courts apply this doctrine to prevent unjust outcomes by holding parties to their promises, especially when one party has relied to their detriment.

## 2 Judicial Standards for Applying Equitable Defenses in Maryland

274 Maryland courts apply these doctrines under specific standards that protect the integrity of judicial proceedings:

1. **Unclean Hands and Public Policy:** Maryland courts consider whether a party's conduct contravenes public policy or legal principles, invoking unclean hands to bar relief when actions violate statutory protections or ethical standards. This prevents misuse of the judiciary by denying equitable relief to those who act inconsistently with core legal and ethical principles.

2. **Equitable and Promissory Estoppel:** Maryland courts apply equitable estoppel where a party's contradictory conduct harms another who relied on prior statements. Promissory estoppel is applied to enforce promises when reliance has resulted in substantial harm. These doctrines ensure accountability by preventing unjust reversals of position.

### 3 Maryland Case Law on Equitable Defenses

275 Maryland appellate courts provide binding guidance on these doctrines, ensuring equitable defenses are applied fairly and consistently:

1. **Unclean Hands and Public Policy:** In *Hammond v. Marketing Management, Inc.*, 445 Md. 310, 126 A.3d 1137 (2015), the Maryland Court of Appeals held that courts may deny relief on public policy grounds under the unclean hands doctrine when a party's actions contradict ethical principles or societal values. Maryland courts thus prevent unethical or unlawful conduct from benefitting from judicial relief.
2. **Equitable Estoppel for Consistency:** In *Knapp v. Smethurst*, 139 Md. App. 676, 779 A.2d 970 (2001), the court applied equitable estoppel to bar a party from altering a previously asserted position that had induced reasonable reliance. The court underscored that equitable estoppel is essential to uphold consistency and fairness in the judicial process.
3. **Promissory Estoppel for Reliance-Based Commitments:** In *Pavel Enterprises, Inc. v. A.S. Johnson Co.*, 342 Md. 143, 674 A.2d 521 (1996), the Maryland Court of Appeals enforced promissory estoppel to hold a party accountable for a promise made in

good faith that had induced reasonable reliance. This precedent emphasizes that Maryland courts uphold promises to prevent injustice and honor reliance.

#### 4 Application in Dillon-Capps's Case

276 Each of these equitable defenses directly applies to Dillon-Capps's case, as Ohana's actions demonstrate contradictions, broken promises, and unlawful conduct. Maryland courts would likely apply these doctrines to prevent Ohana from benefitting from its own inconsistent, retaliatory, and unlawful actions:

##### 1. **Unclean Hands Due to Unlawful Conduct and Public Policy Violations:**

Ohana's conduct—including baseless contempt orders, unjustified fines, and attempts to discourage Dillon-Capps's use of FMLA leave—violates statutory protections. Under **29 U.S.C. § 2615(a)(1)** and **29 C.F.R. § 825.220**, it is unlawful for an employer to interfere with or retaliate against an employee's FMLA rights. Maryland courts would invoke the unclean hands doctrine to bar Ohana's claims, given their attempts to circumvent these statutory protections. Ohana's actions, rooted in retaliation and interference, contravene public policy, disqualifying them from relief.

##### 2. **Equitable Estoppel to Address Contradictory Actions:**

Ohana's contradictory conduct surrounding Dillon-Capps's access rights and employment commitments warrants application of equitable estoppel. For instance, Justin Drummond assured Dillon-Capps on June 7th that someone from Hartman Executive Advisors (HEA) would address his access issues, only for Ohana to disregard these assurances and later penalize Dillon-Capps. Maryland courts would apply equitable

estoppel to hold Ohana to their prior statements, protecting Dillon-Capps from harm caused by their reversal.

3. **Promissory Estoppel to Enforce Commitments on Employment Support:**

Ohana's June 7th accord with Dillon-Capps promised access rights and job accommodations, which Dillon-Capps reasonably relied upon to structure his job responsibilities. Despite this, Ohana failed to fulfill these assurances, undermining Dillon-Capps's employment stability. Consistent with *Pavel Enterprises*, Maryland courts would apply promissory estoppel to prevent Ohana from retracting their promises, as Dillon-Capps's reliance was both justified and essential to his role.

277 Maryland's equitable doctrines of unclean hands, public policy-based unclean hands, equitable estoppel, and promissory estoppel ensure that courts uphold fairness, integrity, and consistency. Supported by § 10-503, Maryland courts are empowered to apply these doctrines to cases like Dillon-Capps's, where unethical conduct, contradictions, and broken promises undermine the opposing party's rights and expectations. Applying these doctrines would bar Ohana from obtaining relief, enforcing Maryland's standards for equitable conduct and accountability, and ensuring that judicial resources are not used to support claims arising from improper actions.

**D Doctrine of Mootness**

278 The doctrine of **mootness** is a principle of judicial restraint, limiting courts to live controversies where effective relief remains possible. **Grounded in Article III's "case or controversy" requirement**, mootness restricts judicial power, preventing courts from issuing advisory opinions or addressing hypothetical scenarios. Maryland courts incorporate this

doctrine as part of the state's reliance on English common law and uphold it as a fundamental constraint on judicial authority. However, Maryland courts also recognize important exceptions to ensure cases with unresolved consequences or lasting impact receive judicial consideration.

## 1 Foundations of the Doctrine of Mootness in Maryland Law

279 Maryland's adoption of the doctrine of mootness is rooted in common law principles.

While not expressly codified, mootness principles align with **Restatement (Second) of Judgments, § 13**, which states that only active disputes merit judicial review. This Restatement underscores the importance of focusing judicial resources on current controversies and avoiding determinations on legally irrelevant or resolved issues. However, it also recognizes that some issues retain practical importance due to lasting consequences or potential relief, which Maryland courts consider essential in mootness determinations.

## 2 Judicial Standards for Applying the Doctrine of Mootness in Maryland

280 Maryland courts have developed clear standards for applying mootness, including specific circumstances under which the doctrine may be set aside to avoid unjust outcomes:

1. **Active Controversy Requirement:** Maryland courts require a present, ongoing dispute for mootness to apply, ensuring that the matter is not merely hypothetical or resolved without further implications. Maryland courts consistently hold that cases with unresolved legal, reputational, or financial consequences do not meet the criteria for mootness, as such cases involve ongoing interests that necessitate judicial intervention.
2. **Collateral Consequences Exception:** The collateral consequences doctrine allows Maryland courts to proceed with cases when there are ongoing effects of a resolved issue—such as reputational or financial harm—that warrant judicial attention.

This exception ensures that Maryland courts protect parties from unresolved harm and underscores that cases with continuing implications are not dismissed as moot, allowing the court to provide meaningful relief.

3. **Potential for Relief:** Maryland courts exercise caution to ensure that mootness does not prematurely prevent cases with possible relief from judicial review. Preliminary motions and objections that seek clarification of material facts or essential claims hold significant value in cases where unresolved issues remain relevant to the parties. Maryland courts uphold judicial responsibility by recognizing potential relief as a basis for allowing cases to proceed, even if some primary issues appear resolved.

### 3 Maryland Case Law on the Doctrine of Mootness

281 Maryland appellate courts have provided important guidance on the application of mootness, establishing exceptions that ensure fairness and accountability in cases with lasting impact:

1. **Attorney Grievance Commission v. Stolarz**, 379 Md. 387, 842 A.2d 42 (2004): The Maryland Court of Appeals held that a matter should not be dismissed as moot if resolving it would provide meaningful relief or address unresolved legal issues. This case affirms that Maryland courts apply mootness cautiously, ensuring that cases with significant implications for the parties receive a full judicial review.
2. **In re Kaela C.**, 394 Md. 432, 906 A.2d 915 (2006): The Maryland Court of Appeals ruled that mootness does not bar review in cases with collateral consequences that continue to affect a party. This ruling underscores that Maryland courts should avoid

dismissing cases where unresolved reputational or financial harm remains, prioritizing comprehensive judicial review in cases with lasting impact.

3. **State v. Parker**, 334 Md. 576, 640 A.2d 1104 (1994): This case emphasized that courts should exercise caution when applying mootness to prevent denying parties meaningful relief. The Court of Appeals confirmed that cases must not be dismissed if live issues affecting the parties continue, thereby upholding fairness and ensuring that the courts address substantive claims.

#### 4 Application in Dillon-Capps's Case

282 The doctrine of mootness, particularly in light of Maryland's standards and exceptions, plays a critical role in Dillon-Capps's case, where unresolved legal, reputational, and financial consequences remain due to prior court rulings:

1. **Unresolved Contempt Orders and Fines:** Judge Mayer's August 20 ruling, which deemed Dillon-Capps's Motion to Vacate the Show Cause Order "moot" after Plaintiff's withdrawal of the contempt petition, failed to address Dillon-Capps's reputational and financial harm arising from the unresolved contempt orders. Under the collateral consequences exception, Maryland courts would recognize that this ruling leaves Dillon-Capps with enduring reputational damage, warranting further judicial review.

2. **Dismissal of Counterclaims on Mootness Grounds:** Judge Stringer's October 28 ruling, which dismissed Dillon-Capps's counterclaims as moot following Plaintiff's voluntary dismissal, disregarded his timely response challenging the allegations. By dismissing his defense as moot, the court failed to consider the ongoing reputational and

financial harm arising from these unaddressed allegations. Maryland case law, as shown in *Stolarz* and *Kaela C.*, supports judicial review in cases where potential relief could mitigate lasting consequences.

3. **Impact of Judicial Bias in Mootness Rulings:** Judge Barranco's ruling on Dillon-Capps's Motion to Assert Rights, which dismissed arguments concerning premature default as moot, included statements that personally criticized Dillon-Capps's pro se conduct. This ruling overlooked valid claims and failed to provide judicial relief from unresolved legal implications. Consistent with *Parker*, Maryland courts should ensure that all claims with potential for effective relief receive thorough consideration rather than dismissal under mootness.

283 Maryland's doctrine of mootness serves as a critical constraint on judicial power, yet it is applied with care to avoid prematurely dismissing unresolved matters. By enforcing the active controversy requirement and recognizing exceptions for collateral consequences and potential relief, Maryland courts ensure that cases with lasting legal significance are not dismissed as moot. In Dillon-Capps's case, the inappropriate application of mootness has left him with ongoing reputational, financial, and legal consequences. Maryland's standards for applying mootness support judicial review in cases like this, ensuring that unresolved issues and claims are addressed to uphold fairness and provide meaningful relief.

### E Good Faith and Reasonable Jury Standard

284 Maryland's commitment to fairness and ethical litigation is underscored by the doctrines of **good faith** and the **reasonable jury standard**, both fundamental principles that ensure integrity in the judicial process. Grounded in **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and**



**10-503**, Maryland's statutory framework incorporates these doctrines from common law, allowing courts to evaluate claims with a rigorous standard that preserves judicial resources, prevents abusive litigation, and promotes substantive fairness.

1 **Foundations of Good Faith and Reasonable Jury Standard in Maryland Law**

285 Maryland's adoption of good faith and the reasonable jury standard is supported by common law principles and the Restatements, which Maryland courts incorporate under §§ 10-501 and 10-503:

1. **Good Faith:** Good faith is a central principle in Maryland law, requiring honesty, fairness, and integrity in both contractual dealings and litigation conduct. This doctrine prohibits deceptive practices, manipulation, or bad-faith tactics aimed at gaining an unfair advantage. In Maryland, good faith is essential for claims and defenses involving equitable doctrines like unclean hands, where courts examine a party's ethical behavior to ensure fairness.
2. **Reasonable Jury Standard:** The reasonable jury standard, a common law principle reinforced by Maryland's statutory framework, requires claims to be assessed based on what a reasonable jury could plausibly find given the evidence. This doctrine filters out cases that lack factual substance, ensuring only claims with credible support progress to full adjudication. Maryland courts apply this standard to prevent speculative or baseless claims from advancing, preserving the integrity and efficiency of the court system.

## 2 Judicial Standards for Applying Good Faith and Reasonable Jury Standard in Maryland

286 Maryland courts enforce good faith and reasonable jury standards to maintain ethical conduct and procedural fairness. Specific judicial standards guide the application of these doctrines:

1. **Good Faith as a Procedural and Substantive Requirement:** Maryland courts apply good faith as both a procedural and substantive requirement. Procedurally, good faith mandates that parties engage in litigation without intent to deceive or manipulate, while substantively, it supports equitable doctrines like unclean hands by denying relief to parties acting dishonestly. Maryland courts routinely assess good faith to determine whether a party's behavior meets ethical standards; a failure to do so can lead to the denial of relief or dismissal of claims.
2. **Reasonable Jury Standard as a Threshold for Claims:** The reasonable jury standard operates as a threshold, requiring claims to present enough credible evidence for a jury to find plausibility. Maryland courts employ this standard to prevent baseless claims from consuming judicial resources, ensuring that only plausible cases advance. By rigorously applying this standard, Maryland courts uphold procedural integrity and shield the judicial system from frivolous claims.

## 3 Maryland Case Law on Good Faith and Reasonable Jury Standard

287 Maryland appellate courts have consistently enforced these doctrines, providing precedents that lower courts follow to ensure fair and ethical litigation:

1. **Good Faith in Contractual and Litigation Conduct:** In *Hammond v. Marketing Management, Inc.*, 445 Md. 310, 126 A.3d 1137 (2015), the Maryland Court of Appeals

emphasized that good faith is critical in both contractual and procedural matters. Parties are expected to engage in honest and fair dealings, and Maryland courts underscore that good faith is essential for upholding claims and enforcing contracts.

2. **Application of the Reasonable Jury Standard:** *Parker v. State*, 334 Md. 576, 640 A.2d 1104 (1994), outlines that claims must meet the threshold of plausibility based on evidence that would convince a reasonable jury. Maryland courts apply this standard to ensure that unsubstantiated claims do not progress, safeguarding judicial resources and fairness in legal proceedings.

3. **Good Faith and Unclean Hands Doctrine:** *Hicks v. Gilbert*, 135 Md. App. 394, 762 A.2d 986 (2000), reinforces that good faith is integral to the doctrine of unclean hands. The Maryland Court of Special Appeals applied unclean hands to bar relief for a party lacking good faith, affirming that Maryland courts demand ethical standards for judicial relief.

#### 4 Application in Dillon-Capps's Case

288 In Dillon-Capps's case, the doctrines of good faith and the reasonable jury standard are crucial in evaluating the validity and ethical grounding of Ohana's claims. These doctrines support Dillon-Capps's core arguments, particularly concerning the tort doctrines, equitable defenses, and claims of perjury:

1. **Lack of Good Faith in Plaintiff's Conduct:** Ohana Growth Partners, LLC, and its counsel have demonstrated a lack of good faith through contradictory statements, baseless contempt orders, and coercive litigation tactics unsupported by factual evidence. Maryland courts would likely find Ohana's conduct ethically deficient under the good

faith standard, thereby making them ineligible for judicial relief. This lack of good faith supports defenses such as unclean hands, barring Ohana's claims and ensuring procedural integrity.

2. **Failure to Meet the Reasonable Jury Standard:** Ohana's allegations lack the evidentiary basis required by the reasonable jury standard, as their claims, including disputed contempt orders and unsupported accusations, do not present credible evidence sufficient to convince a reasonable jury. Maryland courts, consistent with *Parker*, would likely dismiss these claims as implausible, thereby preserving judicial resources for substantiated cases.

3. **Intersection with Perjury Claims:** The principle of good faith bolsters Dillon-Capps's arguments regarding perjury, as Ohana's use of contradictory affidavits, evasive statements, and misleading claims reveals a pattern of intent to deceive. Maryland courts view good faith as essential in assessing claims of perjury and apply doctrines like unclean hands to prevent relief for parties engaged in unethical litigation conduct.

289 Incorporated under §§ 10-501 and 10-503, Maryland's doctrines of good faith and reasonable jury standard uphold ethical conduct, fairness, and judicial efficiency. By filtering out baseless or unethical claims, Maryland courts ensure that only substantiated cases advance through the judicial process. In Dillon-Capps's case, applying these principles would likely lead to the dismissal of Ohana's claims, reinforcing the court's commitment to a principled and fair judicial process and lending critical support to Dillon-Capps's primary arguments regarding tort doctrines, equitable defenses, and perjury.

## F Preponderance of Evidence

## 1 Foundations of Preponderance of Evidence

290 The **preponderance of evidence** standard is the foundational burden of proof in Maryland civil cases, requiring that the evidence make a claim more likely true than not. Grounded in common law and incorporated under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, this standard is essential for establishing a fair basis for civil claims. The preponderance standard functions as a threshold for proving entitlement to relief, especially in cases involving equitable remedies, by determining whether a claim meets the minimum level of evidentiary support necessary for judicial action.

## 2 Judicial Standards for Applying Preponderance of Evidence

291 Maryland courts rigorously apply the preponderance of evidence standard to ensure that only substantiated claims move forward. Under this standard, the party with the burden of proof must present evidence that tips the scale slightly in its favor. By filtering out claims that lack sufficient evidence, Maryland courts uphold judicial integrity, discourage speculative or frivolous litigation, and preserve judicial resources.

292 Applying the preponderance standard aligns with Maryland's commitment to fairness and judicial economy, as it demands that each party substantiate its claims before receiving judicial relief. This threshold test serves as a safeguard, ensuring that only claims with a reasonable evidentiary basis are adjudicated.

## 3 Maryland Case Law

293 **Coleman v. Anne Arundel County Police Dept.**, 369 Md. 108, 797 A.2d 770 (2002): Maryland's Court of Appeals affirmed the preponderance of evidence as the standard in civil cases, establishing that a claim must be more probable than not based on the evidence. This case

confirmed that the preponderance standard is the baseline for determining the validity of civil claims, upholding Maryland's focus on fairness and judicial integrity.

294 **Owens-Illinois, Inc. v. Hunter**, 162 Md. App. 385, 875 A.2d 157 (2005): This decision reinforced that preponderance of evidence is essential in both equitable and tort claims, ensuring that claims lacking evidentiary support do not advance in litigation. Maryland courts rely on this standard to provide a fair balance of proof in civil cases, filtering out baseless claims from further consideration.

#### 4 Application to Dillon-Capps's Case

295 In Dillon-Capps's case, the preponderance of evidence standard is central to his counterclaims, which seek equitable relief based on Plaintiff's repeated misuse of judicial processes and apparent bad faith. Evidence such as documented contradictions, baseless contempt filings, and harassing tactics demonstrate that Plaintiff's actions are more likely than not to have been motivated by malice and intent to harm. This weight of evidence meets the preponderance standard, supporting Dillon-Capps's claim for reciprocal relief and sanctions.

296 Applying the preponderance of evidence standard here ensures that the claims for relief are substantively backed by evidence, aligning with Maryland's public policy to deter frivolous litigation and uphold equitable principles. By requiring claims to meet this evidentiary threshold, Maryland courts protect judicial efficiency and fairness, ensuring that cases with sufficient merit proceed to full adjudication.

#### G Irreparable Harm

## 1 Foundations of Irreparable Harm

297 **Irreparable harm** is a principle rooted in Maryland's common law and incorporated through **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, which establishes that certain types of harm cannot be adequately remedied by monetary compensation alone. This standard justifies the granting of equitable relief, including injunctive measures, when the harm is imminent, severe, and uniquely injurious. Irreparable harm must be ongoing or immediate, creating consequences that cannot be later reversed or compensated. The doctrine ensures that courts have the authority to intervene promptly to prevent lasting damage and protect fundamental rights.

## 2 Judicial Standards for Applying Irreparable Harm

298 Maryland courts apply the irreparable harm standard with rigorous scrutiny, evaluating whether the harm:

1. Is ongoing or imminent, presenting a significant threat to a party's rights, well-being, or livelihood.
2. Cannot be adequately addressed through monetary damages due to its unique or non-compensable nature.
3. Necessitates immediate judicial intervention to prevent continued or exacerbated harm.

299 Maryland courts recognize that this standard aligns with principles of fairness and judicial efficiency, allowing courts to respond decisively to prevent harms that monetary remedies cannot adequately resolve.

### 3 Maryland Case Law

300 **State Dep't of Health & Mental Hygiene v. Baltimore County**, 281 Md. 548, 383 A.2d 51 (1978): The Maryland Court of Appeals held that irreparable harm supports non-monetary relief, particularly when the harm cannot be fully addressed by monetary compensation alone. The court emphasized the necessity of judicial intervention in situations where ongoing or imminent harm threatens the party's fundamental rights or well-being.

301 **Schade v. Maryland State Bd. of Elections**, 401 Md. 1, 930 A.2d 304 (2007): Reinforced that irreparable harm justifies equitable relief, especially where harm is such that it cannot be undone or compensated later. This case underscores the principle that courts must protect against irreversible harm when monetary damages are insufficient.

### 4 Application to Dillon-Capps's Case

302 In Dillon-Capps's case, the harm inflicted by Plaintiff and counsel is multi-faceted, severe, and ongoing, warranting immediate injunctive relief. Plaintiff's relentless tactics—including harassment, manipulation of legal processes, and efforts to coerce Dillon-Capps through baseless contempt filings and threats of incarceration—have caused irreparable harm impacting nearly every aspect of Dillon-Capps's life. This includes:

1. **Mental and Physical Health Deterioration:** The litigation has exacerbated Dillon-Capps's PTSD, resulting in a mental break and catatonic episodes, which have worsened to malignant catatonia—a life-threatening condition affecting autonomous functions like temperature regulation and breathing. The physical toll has manifested as severe memory loss, which not only impairs daily functioning but also hinders Dillon-



Capps's ability to engage in their AI work, effectively halting their career and erasing years of expertise.

2. **Professional and Financial Devastation:** The reputational and professional harm caused by Plaintiff's actions has resulted in the collapse of Dillon-Capps's investment in MXT3, LLC, as well as the loss of investor confidence and access to funding.

Financially, this has placed Dillon-Capps in severe distress, with damage to their credit rating, defaulting obligations, and the inability to cover basic necessities. The financial damage extends to those dependent on Dillon-Capps, including their disabled brother, elderly mother, and spouse with cerebral palsy.

3. **Imminent Risk of Homelessness:** As financial harm continues to escalate, Dillon-Capps faces the immediate risk of utility shutoff, foreclosure, and homelessness. The potential loss of housing jeopardizes Dillon-Capps's safety and welfare as well as those of their vulnerable dependents.

4. **Denial of Due Process and Failure of Relief Mechanisms:** Dillon-Capps has been consistently denied access to relief, with half a dozen motions for hearings and injunctive relief dismissed or ruled as moot. Plaintiff has exploited the legal process to avoid accountability, including using procedural tactics to dismiss claims without consent despite counterclaims and ongoing harm.

303 This combination of physical, financial, professional, and reputational harm is irreparable through financial compensation alone. The pervasive and escalating nature of the harm caused by Plaintiff's litigation requires immediate injunctive relief to prevent further irreparable damage to Dillon-Capps's life, health, and career.

304 Maryland's doctrine of irreparable harm mandates judicial intervention where harm is imminent, severe, and non-compensable by monetary damages. In Dillon-Capps's case, the cumulative effects of harassment, bad-faith litigation, and financial and reputational damage have created a situation that cannot be rectified by damages alone. By granting injunctive relief, the court can prevent ongoing harm, protect Dillon-Capps's rights, and uphold Maryland's commitment to fairness and judicial integrity.

## H Legitimate Purpose

### 1 Foundations of Legitimate Purpose

305 The concept of **legitimate purpose** is central to Maryland's judicial standards for evaluating the validity and propriety of claims in civil litigation. Under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, Maryland courts incorporate common law principles, including the doctrine that legal actions must serve a legitimate, bona fide purpose. Claims or legal actions filed with no purpose other than to harass, burden, or intimidate the opposing party are viewed as an abuse of the judicial system. When claims lack legitimate purpose, Maryland courts are authorized to dismiss those claims or impose sanctions on the offending party, as such actions undermine the equitable and just use of judicial resources.

### 2 Judicial Standards for Applying Legitimate Purpose

306 Maryland courts employ several standards to determine whether a claim serves a legitimate purpose:

1. **Objective of the Claim:** The claim should aim to address a substantive legal issue or resolve a genuine dispute, rather than to harass or cause harm to the opposing party.

2. **Intent of the Filing Party:** Courts assess whether the intent behind filing the claim was to pursue justice or, conversely, to retaliate, delay, or coerce.

3. **Consistency with Judicial Integrity:** Claims that serve only to waste judicial resources or impose unnecessary burdens on the opposing party contradict Maryland's public policy goals of fairness, judicial economy, and ethical litigation.

307 The absence of a legitimate purpose undermines the credibility of the judicial process and diverts resources from genuine claims, justifying judicial intervention to prevent abuse.

Maryland courts thus ensure that all claims brought before them serve a bona fide purpose, aligned with ethical and procedural standards.

### 3 Maryland Case Law

1. **Needle v. White**, 81 Md. App. 463, 568 A.2d 856 (1990): The Court of Special Appeals clarified that litigation without a legitimate purpose constitutes an abuse of process, warranting sanctions. The court held that legal actions solely intended to harass or burden the opposing party violate the standards of proper legal practice and ethical conduct.

2. **Bartlett v. Portfolio Recovery Assocs., LLC**, 438 Md. 255, 91 A.3d 1127 (2014): This case reinforced that Maryland courts may dismiss or penalize claims that lack substantive merit or legitimate purpose. The court emphasized that the justice system must not be used as a tool for harassment or coercion, reaffirming the importance of good faith in litigation.

#### 4 Application to Dillon-Capps's Case

308 In Dillon-Capps's case, Plaintiff's legal actions demonstrate a clear absence of legitimate purpose, as evidenced by their reliance on tactics designed to intimidate, coerce, and exhaust Dillon-Capps financially, professionally, and personally. Key examples of Plaintiff's lack of legitimate purpose include:

1. **Hostile and Retaliatory Filings:** Plaintiff's filings, including motions for contempt and demands for incarceration, reveal a strategy aimed at pressuring Dillon-Capps rather than pursuing a bona fide legal resolution. The aggressive pursuit of penalties, such as incarceration, reflects a retaliatory approach that has escalated without substantive legal grounds.
2. **Manipulation of Legal Procedures:** Plaintiff has exploited procedural loopholes, including filing a no-notice TRO and a two-day notice contempt hearing, tactics that denied Dillon-Capps the opportunity for adequate preparation and defense. Such strategies are inconsistent with legitimate litigation objectives and have instead been employed to create undue pressure on Dillon-Capps.
3. **Prolonged and Unsubstantiated Litigation:** For over five months, Plaintiff has perpetuated this baseless lawsuit, draining Dillon-Capps's resources and preventing them from focusing on their livelihood and well-being. The absence of substantive claims, coupled with a pattern of excessive and redundant filings, underscores that Plaintiff's intent is to inflict harm, rather than to resolve a genuine dispute.

309 The Plaintiff's conduct exemplifies bad-faith litigation and reflects an abuse of process as described in *Needle v. White*. These actions, lacking any legitimate legal purpose, align with

Maryland's criteria for imposing sanctions and reciprocal relief. Granting Dillon-Capps's request for relief would send a clear message that Maryland courts do not tolerate litigation intended solely to harass, intimidate, or coerce the opposing party.

310 Maryland's standards require that legal actions serve a legitimate purpose, aligned with principles of fairness and judicial integrity. In Dillon-Capps's case, the Plaintiff's claims have been pursued with the intent to harass and inflict harm, rather than to address a genuine legal grievance. Under Maryland's common law standards, this absence of legitimate purpose justifies the court's intervention through sanctions and dismissal, reinforcing Maryland's commitment to equitable litigation practices and the ethical use of judicial resources.

## I Severe Harm

### 1 Foundations of Severity of Harm

311 The concept of **severity of harm** serves as a guiding factor for Maryland courts in assessing appropriate remedies and sanctions in cases involving significant misconduct. Under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, Maryland courts incorporate common law principles, allowing them to consider the gravity or "severity" of a party's conduct as a basis for determining whether heightened penalties are justified. This standard allows courts to evaluate the impact and intent of the offending party's actions to ensure that responses are proportionate to the harm inflicted.

312 The severity of harm includes consideration of factors such as the nature of the offense, the extent of damage caused, and the broader implications for the court's integrity and the public's confidence in the justice system. Where harm is particularly severe—such as cases involving malicious intent, bad faith, or systematic abuse of process—Maryland courts may

impose heightened sanctions or equitable remedies to prevent ongoing harm and deter future misconduct.

## 2 Judicial Standards for Applying Severity of Harm

313 Maryland courts assess the severity of harm by evaluating the degree to which the offending conduct:

1. Demonstrates bad faith, malice, or intent to harm.
2. Results in substantial damage that cannot be easily mitigated or rectified.
3. Threatens broader interests, such as judicial integrity or public confidence in the justice system.

314 The severity of harm is considered when issuing remedies that exceed standard compensatory relief, allowing Maryland courts to address particularly egregious cases of misconduct with appropriate consequences.

## 3 Maryland Case Law

315 **Higginbotham v. Public Serv. Comm’n**, 171 Md. App. 254, 909 A.2d 1087 (2006): The Maryland Court of Special Appeals held that courts may assess the degree of offense when determining the severity of sanctions or remedies. The case highlighted that misconduct resulting in significant harm warrants more substantial judicial responses, emphasizing that Maryland courts have the discretion to consider the impact and intent behind the actions in question.

316 **Worsham v. Ehrlich**, 181 Md. App. 711, 957 A.2d 161 (2008): This case reinforced that courts should assess the severity of harm when evaluating equitable relief, especially where intentional or reckless actions cause lasting damage. The court held that greater harm justifies more rigorous judicial intervention to uphold fairness and prevent further abuse.

#### 4 Application to Dillon-Capps's Case

317 The severity of harm in Dillon-Capps's case is evident in the compounded financial, professional, and personal damage inflicted by Plaintiff's sustained pattern of abusive litigation tactics. Key aspects of this severe harm include:

1. **Malicious Litigation Tactics:** Plaintiff's relentless pursuit of baseless contempt actions, aggressive motions for incarceration, and disregard for procedural fairness reflect an intent to harm Dillon-Capps beyond any legitimate legal objective. This pattern demonstrates bad faith and malice, intended to inflict maximum disruption on Dillon-Capps's life.
2. **Irreversible Financial and Professional Harm:** The Plaintiff's actions have caused Dillon-Capps irreparable financial harm, including the destruction of their business investments and the loss of investor confidence in MXT3, LLC, thereby terminating a 15-year investment in AI research. This financial devastation is compounded by harm to Dillon-Capps's credit rating, defaulting on financial obligations, and now impending homelessness due to potential foreclosure.
3. **Severe Physical and Mental Health Deterioration:** The Plaintiff's tactics have escalated Dillon-Capps's PTSD to the point of triggering catatonic episodes, which have worsened to malignant catatonia, a life-threatening condition. The severity of these symptoms has impacted Dillon-Capps's ability to function on a basic level, presenting irreparable harm that worsens with each day the litigation persists.
4. **Impact on Vulnerable Dependents:** The financial and emotional toll on Dillon-Capps directly threatens the well-being of their dependents, including a disabled brother,

elderly mother, and a spouse with cerebral palsy. The harm Plaintiff has caused extends beyond Dillon-Capps, creating further adverse effects on these individuals who rely on Dillon-Capps for support.

5. Maryland courts, under the principles established in *Higginbotham v. Public Serv. Comm'n* and *Worsham v. Ehrlich*, are empowered to impose heightened sanctions and equitable relief in cases involving severe harm. The Plaintiff's sustained abuse of the judicial system justifies a significant judicial response to prevent further damage, deter future misconduct, and provide Dillon-Capps with meaningful relief.

318 Maryland's judicial standards allow for an assessment of severity when issuing remedies, particularly where conduct reflects bad faith, intent to harm, or gross negligence. The severe, multi-dimensional harm inflicted upon Dillon-Capps by Plaintiff's malicious litigation tactics meets the threshold for heightened judicial intervention. By addressing the severity of harm through rigorous penalties and equitable relief, the court can uphold Maryland's commitment to fairness, protect Dillon-Capps from ongoing harm, and deter similar misconduct in future cases.

## J Intent

### 1 Foundations of Intent

319 **Intent** is a critical factor in Maryland's common law, especially in cases involving bad-faith litigation, fraud, and abuse of process. Under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, Maryland courts incorporate common law principles that assess whether actions were deliberate, malicious, or calculated, as opposed to accidental or negligent. Where intent to harm or deceive is evident, Maryland courts impose heightened penalties and equitable relief to prevent further abuse. Intent to harm elevates the severity of the offense, justifying a judicial



response proportionate to the misconduct, particularly where legal processes are weaponized to evade accountability or coerce the opposing party.

## 2 Judicial Standards for Applying Intent

320 Maryland courts examine intent by assessing whether:

1. **Deliberate, Calculated Actions:** Courts evaluate whether actions reveal a premeditated approach to inflict harm, deceive, or evade responsibility, as opposed to incidental conduct.
2. **Misuse of Legal Procedures for Coercive Purposes:** Intent is scrutinized where legal processes are exploited for intimidation, deception, or coercion rather than to resolve a legitimate dispute.
3. **Pattern of Evasion and Knowledge of Harm:** Courts consider whether the party actively evaded responsibilities or misled the court, signaling a pattern of calculated misconduct that suggests a deliberate intent to harm.

321 When intent is proven to be malicious or reckless, Maryland courts impose heightened sanctions to prevent ongoing abuse, safeguard judicial integrity, and deter similar conduct.

## 3 Maryland Case Law

322 **Montgomery County v. MicroVote Corp.**, 200 Md. App. 134, 24 A.3d 1163 (2011):

Maryland's Court of Special Appeals upheld that malicious or deliberate intent to harm warrants heightened penalties. The court emphasized that intent to deceive or manipulate distorts judicial fairness, supporting punitive sanctions as a deterrent.

323 **Bey v. Shapiro Brown & Alt, LLP**, 997 F. Supp. 2d 310 (D. Md. 2014): Reinforced that intent to deceive or coerce justifies civil penalties, especially where actions reveal a pattern of

bad-faith behavior. Maryland courts consistently find that when parties act with harmful or fraudulent intent, punitive measures are appropriate.

#### 4 Application to Dillon-Capps's Case

324 In Dillon-Capps's case, Plaintiff's actions—supported and exacerbated by the conduct of their law firm, Miles & Stockbridge—demonstrate a clear intent to harm, deceive, and evade accountability. Plaintiff's representatives, including Justin Drummond and the law firm, took calculated actions designed to obstruct, mislead, and intimidate Dillon-Capps. Key examples of this intent include:

1. **Evasion of Agreement and Collective Deception:** On June 7th, Drummond agreed to an accord for receiving access by June 10th and 11th but then evaded satisfying this agreement. Despite claiming to await a response from Hartman Executive Advisors (HEA), Drummond failed to follow through, creating grounds for a later lawsuit. When Dillon-Capps raised concerns in emails to the owners, expressing the belief that Hartman's actions were "deranged and dangerous," no owner or executive responded, demonstrating collective intent to ignore Dillon-Capps's concerns and support a strategy of harm.
2. **Law Firm's Misuse of Process and Deliberate Evasion:** Miles & Stockbridge (M&S) exacerbated this harm by filing a no-notice TRO through Dillon-Capps's work email—an address prohibited from use under the terms of suspension—while having Dillon-Capps's personal phone and email available. This calculated decision deprived Dillon-Capps of timely notice and procedural fairness. Additionally, M&S misled the court by citing incorrect statutes, resulting in an expedited, two-day contempt show cause

hearing instead of a pre-hearing conference with the required 20-day notice. This strategic misuse of process reflects a pattern of bad-faith intent to coerce Dillon-Capps.

3. **Failure to Engage in Pre-Litigation Resolution:** Seven days before the lawsuit was filed, a written accord was reached, but neither Ohana nor M&S made any effort to resolve the matter outside of litigation. The fact that they filed immediately rather than attempting resolution indicates that both the Plaintiff and M&S had no intention of addressing the issues in good faith. This is further demonstrated by attorney Holly Butler's refusal to acknowledge whether M&S was representing Ohana when Dillon-Capps sought clarity on the representation status for a potential resolution. This intentional withholding of information, occurring just over a week before the lawsuit, demonstrates M&S's awareness and intent to escalate the conflict rather than resolve it.

4. **Prolonged Litigation to Evade Accountability:** Over the past five months, Plaintiff and M&S have sustained a baseless lawsuit, filing contempt motions, making perjured statements, and manipulating procedures to pressure Dillon-Capps. The timing of M&S's voluntary dismissal, filed hours after Dillon-Capps moved to compel accountability, demonstrates a calculated intent to evade judicial scrutiny. M&S's actions are not mere mistakes but reveal an intentional strategy aimed at prolonging harm while avoiding responsibility.

325 Plaintiff's and M&S's collective actions—failing to acknowledge valid contact methods, citing incorrect statutes to obtain expedited hearings, and manipulating procedural rules to prevent resolution—demonstrate a malicious intent to harm Dillon-Capps. This aligns with the

Maryland standards described in *Montgomery County v. MicroVote Corp.*, where the court upheld severe penalties for deliberate misconduct.

326 Maryland courts recognize intent as a critical factor in assessing equitable relief and sanctions, especially where actions are deliberate, calculated, and malicious. In Dillon-Capps's case, Plaintiff's conduct, supported by M&S, demonstrates a collective intent to harm, deceive, and evade accountability. This malicious intent, evident in their deliberate evasion, misuse of procedures, and refusal to engage in pre-litigation resolution, justifies severe penalties and reciprocal relief. By addressing the collective intent of Plaintiff and M&S, the court can protect Dillon-Capps from ongoing abuse, uphold judicial integrity, and reinforce Maryland's commitment to fairness and accountability.

## K Malicious Purpose

### 1 Foundations of Malicious Purpose

327 **Malicious purpose**, or **malice**, is a foundational concept in Maryland's common law that justifies punitive relief or sanctions in cases where actions are driven by ill-will, animosity, or a specific intent to harm rather than to resolve a legitimate legal dispute. Incorporated under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, the doctrine of malice permits Maryland courts to issue heightened penalties when a party's motivations are shown to be vindictive, coercive, or purely destructive. Malicious purpose goes beyond ordinary misconduct by introducing an element of spite or hostility that distorts the judicial process, compromises fairness, and warrants an equitable response to prevent abuse.

328 This principle serves as a protective measure within Maryland's judicial system, deterring parties from using the legal system as a weapon for personal vendettas or harassment. By

recognizing malice as a basis for punitive relief, Maryland courts reinforce ethical standards and uphold the judicial system's integrity.

## 2 Judicial Standards for Applying Malicious Purpose

329 Maryland courts apply the standard of malicious purpose by assessing whether:

1. **Actions are Motivated by Ill-Will or Animosity:** Malice is established when a party acts with the primary objective of harming or intimidating the opposing party rather than addressing a substantive legal issue.
2. **Conduct is Deliberately Vindictive or Coercive:** Courts assess whether actions were specifically intended to impose hardship, fear, or undue pressure on the opposing party, beyond what is required by a legitimate legal dispute.
3. **Harm is Excessive and Incompatible with Legal Resolution:** Maryland courts consider whether the harm imposed is disproportionate or unrelated to the goals of the case, signaling an intent to injure rather than pursue justice.

330 When malicious purpose is evident, Maryland courts are authorized to impose severe sanctions or punitive relief, both to penalize the offending party and to deter future abuse of the legal system.

## 3 Maryland Case Law

331 **Towns v. State**, 349 Md. 373, 708 A.2d 829 (1998): Maryland's highest court held that malice in civil cases justifies punitive sanctions. The court emphasized that malicious intent, especially when designed to harm another party without legitimate cause, is grounds for imposing punitive measures to discourage vindictive litigation practices.

332 **Keys v. Chrysler Credit Corp.**, 303 Md. 397, 494 A.2d 200 (1985): This case reinforced that malice, particularly when actions are motivated by personal animosity or ill-will, supports the imposition of punitive relief. The court clarified that Maryland’s judicial system must protect parties from the consequences of litigation driven by spite or hostility, as such conduct threatens the court’s integrity and fairness.

#### 4 Application to Dillon-Capps’s Case

333 The Plaintiff’s conduct and that of their counsel, Miles & Stockbridge, clearly demonstrate a malicious purpose aimed at inflicting harm on Dillon-Capps beyond any reasonable pursuit of justice. Plaintiff’s actions reflect an intent to coerce, intimidate, and exhaust Dillon-Capps financially, mentally, and professionally, with no legitimate effort to resolve the underlying issues. Key examples of Plaintiff’s malice include:

1. **Vindictive and Coercive Litigation Tactics:** Plaintiff’s actions—pursuing contempt motions, filing for a no-notice TRO, and seeking incarceration—go beyond what is reasonable in a civil dispute. These measures indicate an intent to maximize harm and instill fear in Dillon-Capps, employing litigation as a weapon rather than as a means to resolve issues. This pattern aligns with Maryland’s standard for malicious purpose, as seen in *Towns v. State*, where litigation aimed solely at harming another party justified punitive measures.
2. **Evasion of Resolution and Intensification of Hostility:** Plaintiff’s and M&S’s refusal to engage in any pre-litigation resolution despite a written accord signed on June 7th suggests an intent to escalate the conflict rather than resolve it. Even when Dillon-Capps sought clarity on M&S’s representation to discuss potential resolutions, attorney

Holly Butler avoided acknowledging M&S's role. This deliberate avoidance and subsequent filing of a lawsuit without attempting resolution indicate malicious intent to maintain hostility and inflict harm, as opposed to addressing a genuine dispute.

3. **Exploitation of Procedural Loopholes to Amplify Harm:** Plaintiff's and M&S's strategic choice to use Dillon-Capps's work email, prohibited by the suspension terms, to notify them of the no-notice TRO, while ignoring Dillon-Capps's personal contact information, reveals a calculated intent to deprive them of procedural fairness. Additionally, M&S's misrepresentation of statutes to obtain an expedited contempt show cause hearing, rather than the standard pre-hearing conference, demonstrates a pattern of procedural manipulation with malicious intent to catch Dillon-Capps unprepared and impose further hardship.

4. **Continued Litigation Despite Knowledge of Truth:** Dillon-Capps repeatedly indicated that M&S would not have filed the lawsuit if they knew the truth. Despite this, M&S has continued the litigation for over five months, with no acknowledgment of Dillon-Capps's statements, revealing their intent to sustain litigation solely to inflict harm. The recent filing for voluntary dismissal, immediately after Dillon-Capps's motion to compel evidence, further illustrates M&S's intent to evade accountability while continuing to pressure and harm Dillon-Capps.

334 Plaintiff's actions, supported by M&S, reveal a deliberate, malicious purpose aimed at harming Dillon-Capps, consistent with Maryland's criteria for punitive sanctions as established in *Towns v. State* and *Keys v. Chrysler Credit Corp.*. By using litigation to intimidate, exhaust

resources, and create fear, Plaintiff has acted not out of legitimate legal motives but out of spite, making punitive measures and reciprocal relief appropriate.

335 Malicious purpose in Maryland civil litigation justifies heightened penalties and punitive sanctions, particularly where actions are motivated by ill-will or intent to harm. In Dillon-Capps's case, Plaintiff's conduct, supported by M&S's intentional procedural abuses, demonstrates clear malice. This is evident in their strategic evasion, refusal to engage in resolution, procedural manipulation, and disregard for Dillon-Capps's rights. By addressing this malicious purpose, the court can uphold Maryland's commitment to fairness, deter future abuses, and protect Dillon-Capps from continued harm.

## L Material Statements and Supporting Evidence

### 1 Foundations of Material Statements and Supporting Evidence

336 Maryland law, supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, upholds that all material statements in legal proceedings must be accurate, complete, and substantiated by evidence. Rooted in English common law and incorporated into Maryland's judicial framework, these provisions ensure that all statements presented in court meet standards of truthfulness and materiality, safeguarding the court's role as a fair and impartial arbiter. A material statement is one that could reasonably affect the court's decision or shape the litigation's outcome. Misrepresentations or omissions that are material to the case's core issues constitute ethical and procedural violations, impacting the integrity of the judicial process.

337 Key elements of material statements in Maryland include:

1. **Truthfulness and Completeness:** Statements must truthfully reflect all relevant facts and omit nothing that could mislead.



2. **Materiality:** Statements must relate to key facts with the potential to influence the court's findings or a jury's understanding.

3. **Supportive Evidence:** Material statements should be backed by admissible, credible evidence that verifies their accuracy, especially if they underlie claims or defenses.

## 2 Judicial Standards for Applying Material Statements and Evidence

338 Maryland courts, under §§ 10-501 and 10-503, apply these principles as follows:

1. **Accuracy and Relevance:** Statements in affidavits, pleadings, or court proceedings must be both truthful and relevant to the claims or defenses in question.

2. **Verification through Evidence:** All material statements should be corroborated by admissible evidence; false or unsupported statements with material impact can lead to charges of perjury, fraud, or abuse of process.

3. **Potential to Influence Judicial Findings:** Statements are deemed material if they bear sufficient relevance to sway court decisions or impact judicial findings.

## 3 Maryland Case Law and Statutory Basis

339 **Shifflett v. State**, 245 Md. 169, 225 A.2d 440 (1967): The Maryland Court of Appeals emphasized that misleading statements include both outright falsehoods and selective omissions. Material statements must reflect the truth to uphold judicial integrity.

340 **Attorney Grievance Commission v. Mixer**, 441 Md. 416, 109 A.3d 1 (2015): Maryland courts sanction attorneys for material misstatements intended to distort judicial outcomes, underscoring that litigants and attorneys must ensure factual integrity in all legal claims.

341 **Maryland Rules 3-301 & 5-901:** These evidentiary rules require that claims be substantiated by reliable, admissible evidence. Material misrepresentations unsupported by evidence are grounds for procedural sanctions.

#### 4 [Application to Dillon-Capps's Case](#)

342 In Dillon-Capps's case, Ohana and M&S filed materially false statements and omitted critical information to distort the court's understanding of Dillon-Capps's employment, FMLA rights, and other central issues. Key examples include:

1. **Selective Omissions in Affidavits:** Affidavits submitted by Ohana executives, such as Richard Hartman and Justin Drummond, omitted significant facts regarding Dillon-Capps's FMLA rights and Ohana's obligations under the June 7th written accord. This selective presentation mirrors the misleading statements deemed perjury in *Shifflett v. State*.
2. **Unsupported Claims of Access Refusal:** Ohana falsely claimed that Dillon-Capps refused access, even though Ohana had failed to complete the agreed-upon steps to obtain access per the written accord. Maryland law requires material claims to be substantiated by evidence, as seen in *Attorney Grievance Commission v. Mixter*; claims without factual basis can result in sanctions for misleading the court.
3. **Potential Impact on Judicial Findings:** These misrepresentations and omissions were instrumental in the court's early rulings on injunctive relief and show cause orders. Had the court been informed of the omitted details—particularly Ohana's failure to fulfill its contractual obligations—the initial rulings may have differed significantly, underscoring how material omissions affected the judicial outcome.

343 Maryland's commitment to integrity in judicial proceedings, supported by §§ **10-501 and 10-503**, mandates that all material statements be accurate and evidence-supported. In Dillon-Capps's case, M&S's and Ohana's misleading affidavits and selective omissions violated these principles, undermining judicial fairness and necessitating corrective sanctions. The court should impose measures to correct the record, hold M&S and Ohana accountable, and reinforce Maryland's standards for material truthfulness in litigation.

#### **M Breach of Contract:**

##### **1 Foundations of Breach of Contract**

344 Under Maryland law, supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, breach of contract occurs when one party fails to meet its obligations under a valid agreement without legal justification. Maryland's contract law principles apply to both traditional contracts and accords—agreements created to resolve disputes or clarify mutual obligations. When breached, such accords entitle the injured party to seek remedies under contract law, reinforcing accountability and good faith between parties.

345 Key elements of breach of contract in Maryland include:

1. **Existence of a Valid Contract or Accord:** A valid contract or accord requires mutual assent, clear terms, and consideration.
2. **Material Terms:** For an agreement to be enforceable, its terms must be sufficiently defined and essential to the purpose of the contract.
3. **Failure to Perform:** Breach occurs when one party fails to perform its agreed-upon obligations, especially when non-performance disrupts a material term.

4. **Resulting Damages:** The breach must cause harm or detriment to the non-breaching party, entitling them to legal or equitable remedies.

## 2 Judicial Standards for Applying Breach of Contract

346 Maryland courts evaluate breach of contract claims based on:

1. **Existence of a Clear and Enforceable Agreement:** Maryland courts assess whether an agreement has valid, binding terms that clearly define each party's obligations.
2. **Material Breach:** A breach is material when it undermines an essential element of the contract, impacting the non-breaching party's rights or interests significantly.
3. **Resulting Damages:** Maryland law requires proof that the breach caused actual harm to the non-breaching party, such as financial losses or legal disadvantages.

## 3 Maryland Case Law and Statutory Basis

347 **Academy of IRM v. LVI Environmental Services, Inc.**, 344 Md. 434, 687 A.2d 669 (1997): Maryland's Court of Appeals highlighted that contracts must contain clear terms and mutual assent to be enforceable. The case affirms that failing to perform essential terms constitutes a breach, entitling the injured party to relief.

348 **Hrehorovich v. Harbor Hospital Center, Inc.**, 93 Md. App. 772, 614 A.2d 1021 (1992): The Maryland Court of Special Appeals found that a breach of an accord—an agreement resolving specific obligations—is actionable, with remedies available if the breach impacts the performance of key terms.

349 **College of Notre Dame of Maryland, Inc. v. Morabito Consultants, Inc.**, 132 Md. App. 158, 752 A.2d 265 (2000): Maryland courts have consistently held that failure to perform a

contract's essential terms constitutes a material breach, warranting relief for the non-breaching party.

350 **C & B Construction, Inc. v. Dashiell**, 240 Md. App. 136, 201 A.3d 1 (2019):

Maryland's standard for awarding damages in breach of contract cases requires material harm, particularly when the breach interferes with the agreement's purpose and the non-breaching party's rights.

#### 4 Application to Dillon-Capps's Case

351 In Dillon-Capps's case, Ohana and M&S breached the June 7th written accord, an agreement establishing access and support provisions intended to facilitate Dillon-Capps's professional duties. Under the accord, Ohana was to receive access on June 10th and 11th, as a prerequisite for Dillon-Capps to fulfill work obligations. Instead of fulfilling its own obligations, Ohana evaded compliance and subsequently filed an injunction lawsuit on June 13th, falsely claiming that Dillon-Capps was refusing access.

1. **Existence of a Valid Accord:** The June 7th written accord is a legally binding agreement that clearly defined mutual obligations, particularly relating to Ohana's responsibility to receive access, as confirmed in *Academy of IRM v. LVI Environmental Services, Inc.*
2. **Material Breach by Ohana's Failure to Receive Access:** Ohana's failure to fulfill its obligation to receive access on June 10th and 11th represents a material breach. This breach disrupted Dillon-Capps's ability to meet professional requirements, obstructing Dillon-Capps's legal rights under the agreement.

3. **Resulting Damages to Dillon-Capps:** The breach has led to significant harm to Dillon-Capps, as Ohana's evasion of its obligations under the accord hindered Dillon-Capps's work, resulting in reputational damage and financial strain. This impact aligns with the damages standard established in *C & B Construction, Inc. v. Dashiell*, as Dillon-Capps suffered material harm from Ohana's failure to comply.

4. The actions of Ohana and M&S in breaching the accord meet Maryland's criteria for breach of contract, warranting compensatory relief to restore Dillon-Capps's position and address the resulting damages.

5. Maryland's contract law, reinforced by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, protects the enforceability of accords and agreements that establish clear, mutual obligations. Ohana's failure to fulfill its obligations under the June 7th written accord constitutes a material breach of contract, as defined by Maryland case law. The court should impose remedies consistent with *Academy of IRM v. LVI Environmental Services, Inc.* and *College of Notre Dame v. Morabito Consultants, Inc.* to hold Ohana accountable and compensate Dillon-Capps for the significant harm caused by this breach.

#### N Attempted

#### 1 Foundations of Attempted Conduct in Maryland Common Law and Statutory Law

352 Under Maryland common law and statutory provisions, **attempted conduct** refers to actions taken with the intent to commit a specific offense, even if the offense remains incomplete. Maryland courts incorporate the doctrine of attempt through **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, allowing them to impose consequences for actions that demonstrate an intent to achieve a harmful outcome. In addition, **Md. Code Ann., Crim. Law §**

**1-201** codifies the principle that attempts to commit a crime are punishable, reflecting the state's recognition that incomplete offenses, where intent and substantial steps are present, warrant judicial response.

353 The essential elements of attempt in both common law and statutory contexts include:

1. **Intent to Commit the Offense:** The individual must have a clear, deliberate intention to carry out the wrongful act.
2. **Substantial Step Toward Completion:** The party must take concrete actions that advance the offense, going beyond mere preparation and showing a real threat of harm.

354 These elements allow Maryland courts to assess attempted conduct based on both intent and substantial action, thereby addressing cases where harm is intended but incomplete. By recognizing attempted conduct as a punishable offense, Maryland courts can protect against threats that, while not fully realized, exhibit a clear risk of harm or procedural abuse.

## 2 Judicial Standards for Applying Attempted Conduct

355 Maryland courts apply the doctrine of attempt by examining the following factors:

1. **Intent and Purpose:** The accused must demonstrate a clear, purposeful aim to complete the offense, as opposed to incidental or unintentional actions.
2. **Proximity and Substantial Actions:** Actions must be sufficiently proximate to the offense, representing a direct effort to complete the wrongful act.
3. **Risk of Harm and Abuse of Process:** Courts assess whether attempted conduct poses a real threat or reflects an intent to misuse legal procedures, particularly where actions are used to intimidate, evade accountability, or manipulate the judicial system.

356 By addressing both common law and statutory components of attempt, Maryland courts can impose penalties for conduct that poses a substantial and deliberate threat of harm.

### 3 Maryland Case Law and Statutory Basis

357 **Cox v. State**, 311 Md. 326, 534 A.2d 1333 (1988): The Maryland Court of Appeals clarified that attempt requires a “substantial step” toward completing the offense, beyond mere preparation. This case established that courts must assess intent and actions that demonstrate a real and proximate threat of harm, even when the offense remains incomplete.

358 **State v. Earp**, 319 Md. 156, 571 A.2d 1227 (1990): The court reaffirmed that attempt requires specific intent and a substantial step toward completing the intended offense. This ruling highlights that attempted conduct is actionable because it poses a legitimate threat of harm or abuse of the judicial process, warranting judicial intervention.

359 **Md. Code Ann., Crim. Law § 1-201**: This statute codifies Maryland’s treatment of attempt, establishing that attempts to commit crimes are punishable. By aligning with Maryland’s common law standards, this statute provides a basis for addressing actions where intent and substantial steps indicate a direct effort to commit an offense, even if incomplete.

### 4 Application to Attempted False Imprisonment and Procedural Abuse in Dillon-Capps’s Case

360 In Dillon-Capps’s case, the Plaintiff’s conduct, enabled by Miles & Stockbridge (M&S), demonstrates both an attempt at false imprisonment and an ongoing abuse of procedural mechanisms to evade accountability. Plaintiff’s actions reveal an intent to harm Dillon-Capps through coercion, intimidation, and strategic evasion once their tactics were questioned. Key elements include:



361 **Intent to Coerce Through Threat of Imprisonment:** Plaintiff's repeated contempt filings with requests for incarceration reveal a clear intent to coerce Dillon-Capps into compliance through the threat of false imprisonment. This malicious intent aligns with Maryland's common law and statutory definitions of attempted conduct, as the Plaintiff's aim was to create a climate of fear and intimidation, not to pursue a legitimate legal remedy.

362 **Substantial Steps Toward False Imprisonment:** By filing expedited contempt motions under deceptive statutory citations, Plaintiff and M&S bypassed procedural safeguards, such as the required pre-hearing conference with a 20-day notice period, and instead sought an immediate two-day notice contempt hearing. This misuse of procedural rules constitutes a "substantial step" under Maryland law, moving beyond mere preparation and bringing Dillon-Capps dangerously close to unlawful confinement.

363 **Subsequent Withdrawal to Evade Accountability:** Following the filing of contempt motions and other aggressive tactics, Plaintiff and M&S withdrew certain filings once Dillon-Capps moved to compel accountability. This sequence reveals an attempt to evade responsibility through procedural abuse, showing a strategy not only to inflict harm but also to avoid scrutiny. The voluntary dismissal filing immediately after Dillon-Capps's second motion to compel further demonstrates an attempt to abuse procedural mechanisms to evade judicial examination of their conduct.

364 **Ongoing Procedural Manipulation:** Plaintiff's recent filing of a notice of voluntary dismissal represents another attempt to evade accountability. By leveraging procedural tactics to file and withdraw as convenient, Plaintiff and M&S demonstrate an ongoing pattern of procedural abuse. This strategy aligns with Maryland's standards for attempted conduct, where

actions are taken with clear intent to manipulate legal processes and avoid responsibility for their harmful actions.

365 Plaintiff's and M&S's actions meet Maryland's standards for attempted false imprisonment and procedural abuse, as they exhibit clear intent and substantial steps toward wrongful confinement and evasion. Through procedural manipulation and subsequent withdrawals, they attempted both to imprison Dillon-Capps falsely and to evade the legal consequences, justifying judicial intervention to prevent further harm and misuse of Maryland's legal processes.

366 Maryland's common law and statutory framework recognize attempted conduct as a basis for judicial action, particularly where intent and substantial steps indicate a proximate threat of harm or abuse. In Dillon-Capps's case, Plaintiff's calculated actions—including contempt filings, procedural manipulation, and strategic withdrawals—demonstrate a clear attempt at false imprisonment and an abuse of legal processes to evade accountability. By addressing these attempted actions, Maryland courts can protect Dillon-Capps from ongoing harm, uphold the integrity of the judicial system, and reinforce standards that prevent procedural abuse.

## O False Imprisonment

### 1 Foundations of Attempted False Imprisonment

367 Maryland law, supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, incorporates common law principles prohibiting false imprisonment, which includes any unlawful confinement or restriction of an individual's freedom without legal authority. **Md. Code Ann., Crim. Law § 3-801 and § 3-802** further define false imprisonment, criminalizing the act of unlawfully confining another person with intent to cause harm or exert control over

them. Attempted false imprisonment involves actions or procedural abuses intended to achieve unlawful confinement, even if the confinement is not fully realized. This doctrine is particularly relevant in civil contexts where legal processes are manipulated to achieve confinement without just cause.

368 Key elements of attempted false imprisonment in Maryland include:

369 **Intent to Confine or Restrain:** Attempted false imprisonment requires evidence of intent to unlawfully restrict another person's freedom of movement.

370 **Absence of Legal Justification:** The confinement must be without lawful grounds or authority, especially when achieved through abuse of process or misrepresentation.

371 **Actions Toward Confinement:** Actions taken to confine or restrict, even if they do not fully succeed, constitute an attempt to falsely imprison if they reveal a deliberate plan to achieve wrongful confinement.

## 2 Judicial Standards for Applying Attempted False Imprisonment

372 Maryland courts evaluate attempted false imprisonment based on:

1. **Clear Evidence of Intent to Restrict Freedom:** The defendant must demonstrate an intent to confine or restrict the plaintiff without lawful authority.
2. **Misuse of Judicial Processes:** Attempted false imprisonment often overlaps with abuse of process when judicial mechanisms are misused to unlawfully restrict an individual's freedom, especially when achieved through fraudulent statements or fabricated claims.

3. **Lack of Legal Justification or Authority:** Courts assess whether the defendant's actions were unsupported by lawful authority, often looking at whether attempts were made to deceive or manipulate the court to authorize confinement.

### 3 Maryland Case Law and Statutory Basis

373 **Montgomery Ward v. Wilson**, 339 Md. 701, 664 A.2d 916 (1995): The Maryland Court of Appeals established that confinement without lawful authority constitutes false imprisonment, including cases where actions are taken with the intent to restrict an individual's freedom.

Misuse of authority to achieve unlawful detention is actionable as false imprisonment.

374 **Great Atl. & Pac. Tea Co. v. Paul**, 256 Md. 643, 261 A.2d 731 (1970): Maryland's highest court affirmed that steps toward unlawful confinement—such as seeking confinement through false allegations or procedural manipulation—can meet the criteria for false imprisonment if intended to intimidate or harm.

375 **Hawkins v. Rockville Garage, Inc.**, 241 Md. 126, 215 A.2d 767 (1966): Maryland courts have held that actions taken with the intention to unlawfully confine or restrict, even when confinement is incomplete, constitute attempted false imprisonment, particularly where the intention to restrict is evident.

### 4 Cross Argument Case Law

#### I. TURNING ATTEMPTED FALSE IMPRISONMENT INTO FALSE IMPRISONMENT

376 **Broughton v. State of New York**, 37 N.Y.2d 451, 373 N.Y.S.2d 87, 335 N.E.2d 310 (1975): The New York Court of Appeals ruled that attempted false imprisonment may be treated as false imprisonment when the intent to confine is coupled with clear procedural abuse. The

case establishes that intent and procedural manipulation warrant treating attempted actions as completed offenses.

377 **State v. Lenarz**, 301 Conn. 417, 22 A.3d 536 (2011): The Connecticut Supreme Court held that when actions go beyond mere preparation and include a substantial step toward wrongful confinement, attempted false imprisonment may be elevated to actual false imprisonment if intent and harmful effects are clear.

## II. FRAUDULENT LAWSUITS SEEKING CONFINEMENT AS FALSE IMPRISONMENT

378 **Jones v. Jones**, 46 Md. App. 460, 418 A.2d 1253 (1980): The Maryland Court of Special Appeals recognized that fraudulent use of legal proceedings to achieve confinement constitutes false imprisonment. The court ruled that false statements made to achieve confinement through judicial processes warrant treating the suit as a tool for false imprisonment.

379 **King v. Ruffin**, 89 Md. App. 588, 598 A.2d 756 (1991): The court ruled that using fraudulent claims or procedural manipulation to incarcerate or restrict another is actionable as false imprisonment. The ruling emphasized that legal processes should not be used to achieve wrongful confinement under false pretenses.

### 5 Application to Dillon-Capps's Case

380 In Dillon-Capps's case, Ohana and M&S engaged in attempted false imprisonment through procedural abuse, specifically by pursuing a second show cause order to seek Dillon-Capps's incarceration. This action was based on perjured statements and manipulated evidence, demonstrating both intent to confine and abuse of judicial process:

1. **Intent to Confine through Procedural Abuse:** Ohana and M&S's pursuit of the second show cause order, despite no legal basis for confinement, reflects a clear intent to restrict Dillon-Capps's liberty unjustly, in line with *Montgomery Ward v. Wilson*.

2. **Misrepresentation and Lack of Justification:** The show cause motion relied on perjured statements and unsupported claims, aligning with *Great Atl. & Pac. Tea Co. v. Paul*. This abuse of process demonstrates a lack of legal basis, constituting a deliberate effort to manipulate judicial authority.

3. **Elevating Attempted to Actual False Imprisonment:** The filing of a fraudulent lawsuit seeking confinement parallels the standards in *Jones v. Jones* and *King v. Ruffin*, which held that misuse of legal process to achieve confinement through deception qualifies as false imprisonment. By manipulating the court through misrepresentation, Ohana and M&S's actions justify treatment as completed false imprisonment.

381 The coordinated actions of Ohana and M&S in seeking Dillon-Capps's confinement demonstrate attempted false imprisonment through abuse of process, aligning with Maryland's criteria for wrongful restraint and meriting sanctions.

382 Maryland law, supported by §§ 10-501 and 10-503, protects against wrongful confinement and prohibits attempts to manipulate judicial processes to achieve it. Ohana's and M&S's abuse of process in pursuing incarceration under false pretenses constitutes attempted false imprisonment, warranting significant sanctions. The court should impose compensatory relief and penalties to address this procedural manipulation and deter similar misconduct, aligning with the standards established in *Jones v. Jones* and *Montgomery Ward v. Wilson*.

## P Coercion

## 1 Foundations of Coercion

383 Maryland law, supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, incorporates the doctrine of coercion from English common law principles, prohibiting efforts to compel someone to act or refrain from acting through unlawful pressure or intimidation.

Coercion involves actions or threats that leave the individual with no reasonable alternative but to comply. In Maryland, coercion is not limited to physical threats but also includes psychological pressure, misuse of authority, and manipulation aimed at forcing compliance or silence.

384 Key elements of coercion in Maryland include:

1. **Unlawful Threats or Pressure:** Coercion occurs when a party employs threats, intimidation, or abuse of authority to force another party into compliance.
2. **Intent to Influence Behavior:** Coercion is marked by a clear intent to control or manipulate the actions of another party.
3. **Absence of Legitimate Justification:** Coercion lacks lawful authority and is aimed at compelling actions contrary to the coerced party's interests or rights.

## 2 Judicial Standards for Applying Coercion

385 Maryland courts evaluate coercion based on:

1. **Nature of the Threat or Pressure:** The courts examine whether the threat or pressure exerted was unlawful, unjustified, or intended to force compliance.
2. **Intent to Manipulate or Control:** Maryland law requires evidence of the defendant's intent to compel certain actions, silence, or acquiescence from the plaintiff through coercive measures.

3. **Lack of Lawful Authority:** Coercion must lack legitimate grounds, relying instead on threats, retaliation, or abuse of legal or employment power.

### 3 Maryland Case Law and Statutory Basis

386 **Doe v. Sovereign Grace Ministries, Inc.**, 217 Md. App. 650, 94 A.3d 654 (2014):

Maryland's Court of Special Appeals addressed coercion by ruling that an organization cannot use authority to compel silence on matters of public or personal interest. Coercion occurs when a party manipulates another into compliance without lawful grounds.

387 **Warfel v. Brady**, 95 Md. App. 141, 620 A.2d 325 (1993): The court held that coercion includes psychological manipulation and misuse of authority to control behavior. This case reinforced that coercive conduct does not require physical force but may include threats of adverse action or abuse of authority.

388 **Hartford Accident & Indem. Co. v. Scarlett Harbor Assocs. Ltd. P'ship**, 109 Md. App. 217, 674 A.2d 106 (1996): Maryland courts have established that coercion encompasses threats, intimidation, and manipulation intended to influence the actions of another, particularly in the absence of legitimate authority.

### 4 Application to Dillon-Capps's Case

389 In Dillon-Capps's case, Ohana and M&S engaged in a pattern of coercive behavior designed to silence Dillon-Capps and compel compliance. Between May 20 and June 13, Ohana and M&S used threats of adverse employment action, suspension, a fraudulent lawsuit, and an attempted show cause motion to incarcerate Dillon-Capps as part of an orchestrated effort to prevent Dillon-Capps from reporting or challenging their misconduct.



390     **Threats of Adverse Employment Action:** Between May 24 and June 13, Ohana threatened Dillon-Capps with suspension, adverse employment consequences, and termination if Dillon-Capps exercised their rights under FMLA or spoke out about the company's misconduct. These threats align with *Doe v. Sovereign Grace Ministries, Inc.*, where coercion was found in efforts to suppress or intimidate another into silence or compliance.

391     **Suspension and Termination to Silence Dillon-Capps:** Ohana suspended Dillon-Capps in retaliation for their whistleblowing actions, intending to suppress further reporting. The suspension, followed by wrongful termination, reflects coercive intent as outlined in *Warfel v. Brady*, as both actions were aimed at limiting Dillon-Capps's ability to challenge Ohana's practices or report their conduct.

392     **Fraudulent Lawsuit and Attempted Confinement:** Ohana's fraudulent lawsuit, based on perjured statements, sought not only to gain injunctive relief but also to intimidate Dillon-Capps into submission. The attempted show cause order for incarceration was designed to threaten Dillon-Capps with confinement if they continued to exercise their rights. This aligns with the standards in *Hartford Accident & Indem. Co. v. Scarlett Harbor Assocs.*, where threats and abusive legal processes aimed at forcing compliance were deemed coercive.

393     **Intention to Suppress Whistleblowing:** The cumulative actions of Ohana and M&S—from adverse employment actions and legal threats to fraudulent allegations—were specifically aimed at deterring Dillon-Capps from reporting illegal activities within the company. The pattern of intimidation illustrates a clear intent to control Dillon-Capps's behavior, coercing silence through a misuse of authority and abuse of legal processes.

394 The concerted efforts of Ohana and M&S demonstrate coercive tactics intended to force Dillon-Capps into complacency, preventing them from exposing the company's misconduct. Maryland's standards for coercion are met here, as Ohana and M&S used threats, manipulation, and procedural abuse to unjustly influence Dillon-Capps's actions.

395 Coercion, as established under Maryland law and supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, encompasses actions intended to force compliance or silence through threats, intimidation, and abuse of authority. In Dillon-Capps's case, Ohana's and M&S's pattern of adverse employment actions, procedural manipulation, and threats of incarceration collectively represent coercive actions meant to suppress Dillon-Capps's rights. The court should impose sanctions and remedies to hold Ohana and M&S accountable for their coercive conduct and to deter future misuse of power.

## Q Fraud Upon the Court

### 1 Foundations of Fraud Upon the Court

396 **Fraud upon the court** refers to conduct that intentionally seeks to deceive or corrupt the judicial process, impacting the integrity of the proceedings and subverting the court's ability to render a fair judgment. Under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, Maryland courts adopt principles from common law to recognize and penalize actions that compromise the judicial process. This doctrine allows Maryland courts to take corrective action when fraudulent conduct impacts the proceedings at a fundamental level, whether by filing perjured statements, submitting falsified evidence, or engaging in any other misconduct that obstructs the court's ability to adjudicate fairly.

397 Fraud upon the court is considered a particularly egregious form of misconduct as it seeks to undermine the very foundation of judicial integrity. When fraud upon the court is established, courts may impose severe sanctions, vacate judgments, and hold the offending party accountable to restore judicial trust.

## 2 Judicial Standards for Applying Fraud Upon the Court

398 Maryland courts apply the doctrine of fraud upon the court by assessing:

1. **Intentional Deception of the Court:** Courts evaluate whether a party knowingly engaged in actions designed to deceive or mislead the court, impacting the fairness of the proceedings.
2. **Impact on Judicial Integrity:** Fraud upon the court is considered where misconduct subverts the judicial process, threatening the court's ability to serve justice impartially.
3. **Materiality of Misconduct:** Maryland courts examine whether the fraudulent conduct directly affects the court's judgment or the essential issues in the case, as the fraud must relate to core matters before the court.

399 These criteria allow Maryland courts to address severe abuses of process and to ensure that judicial proceedings remain impartial and trustworthy. The doctrine of fraud upon the court empowers Maryland courts to take corrective action, whether by sanctioning the party, vacating judgments, or otherwise addressing the misconduct to uphold fairness.

## 3 Maryland Case Law

400 **Hlubek v. Pelekakis**, 201 Md. 179, 93 A.2d 847 (1953): The Maryland Court of Appeals held that fraud upon the court justifies setting aside judgments obtained through deception,

underscoring that intentional misrepresentations that affect the court's decision-making process can nullify outcomes. The court emphasized that protecting judicial integrity is paramount when addressing such fraud.

401 **Macke Co. v. Pizza of Gaithersburg, Inc.**, 259 Md. 479, 270 A.2d 645 (1970): This case reaffirmed that fraud upon the court undermines the foundation of judicial proceedings. Maryland courts hold that such fraud requires intentional misconduct that impacts the case's material issues, justifying remedial actions to restore fairness.

#### 4 [Application to Fraud Upon the Court in Dillon-Capps's Case](#)

402 In Dillon-Capps's case, Plaintiff's actions, enabled and supported by Miles & Stockbridge (M&S), demonstrate a clear pattern of fraud upon the court, designed to manipulate the judicial process, evade accountability, and harm Dillon-Capps. Plaintiff's conduct shows intentional misrepresentation, material misstatements, and procedural abuses, each aimed at deceiving the court. Key examples include:

403 **Perjured Statements and Falsified Affidavits:** Plaintiff submitted affidavits containing material falsehoods, knowingly misrepresenting facts to mislead the court. These affidavits were used to support a no-notice TRO, contempt filings, and aggressive demands, each undermining Dillon-Capps's procedural rights. Such intentional misrepresentations directly impact the proceedings, meeting Maryland's standard for fraud upon the court by materially affecting the court's decisions.

404 **Misrepresentation of Statutory Grounds:** Plaintiff, through M&S, misrepresented statutes to expedite a two-day notice contempt hearing rather than the 20-day pre-hearing conference that is standard. By citing incorrect statutory grounds, Plaintiff misled the court into

providing an accelerated timeline that deprived Dillon-Capps of proper notice and preparation. This procedural manipulation was intentional and calculated to affect the court's handling of the case, meeting the standard for fraud upon the court.

405 **Withholding of Essential Information and Evasive Tactics:** M&S's pattern of withholding responses and refusing to acknowledge Dillon-Capps's inquiries into representation, particularly by attorney Holly Butler, underscores a strategy of deception. By evading legitimate inquiries into M&S's role and intentions, Plaintiff and its counsel manipulated Dillon-Capps's understanding of the proceedings, misusing the court as a tool for misinformation and obstruction. This evasion, coupled with later withdrawals of key filings, constitutes a concerted effort to deceive the court and Dillon-Capps alike.

406 **Voluntary Dismissal to Evade Accountability:** After Dillon-Capps filed a motion to compel accountability, Plaintiff and M&S filed a voluntary dismissal. This last-minute dismissal, designed to avoid judicial scrutiny and prevent a ruling on Dillon-Capps's motion, constitutes an attempt to manipulate the court's procedural options. This abuse of process aligns with Maryland's standards for fraud upon the court, as the dismissal was used to escape the consequences of their own misconduct and perpetuate harm to Dillon-Capps.

407 Plaintiff's actions and M&S's support of these tactics reveal a clear and coordinated intent to deceive the court, mislead Dillon-Capps, and evade judicial accountability. The deliberate misrepresentations, procedural manipulations, and withholding of critical information meet Maryland's standards for fraud upon the court, as they directly interfere with the court's ability to render an impartial judgment. Under *Hlubek v. Pelekakis*, such fraud justifies severe

sanctions, as it constitutes a profound abuse of judicial resources and threatens the integrity of the judicial process itself.

408 Maryland's common law doctrine of fraud upon the court empowers courts to impose severe penalties where actions are intended to deceive or subvert judicial proceedings. In Dillon-Capps's case, Plaintiff's pattern of perjured statements, statutory misrepresentations, and procedural abuses—facilitated by M&S—demonstrates a clear instance of fraud upon the court. By addressing this misconduct, Maryland courts can uphold judicial integrity, protect Dillon-Capps from further harm, and set a precedent that deters future abuses in Maryland's legal system.

## R Bias

### 1 Foundations of Bias

409 **Bias** in judicial proceedings refers to actions or decisions that demonstrate partiality, prejudice, or favoritism, potentially affecting the fairness of the case. Maryland courts incorporate the principle that judicial proceedings must be free from bias under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, ensuring all parties have a fair and impartial hearing. Bias undermines the integrity of judicial proceedings by skewing outcomes and compromising the court's role as an impartial arbiter.

410 Bias can arise from personal, financial, or procedural factors and, if demonstrated, justifies corrective measures, including judicial recusal, reconsideration of decisions, and in extreme cases, vacating judgments. Maryland courts hold that even the appearance of bias can warrant judicial intervention, as public confidence in the legal system relies on the perception of impartiality.

## 2 Judicial Standards for Applying Bias

411 Maryland courts assess bias by examining:

1. **Evidence of Partiality or Prejudice:** Courts look for indicators that suggest a lack of impartiality, including favoritism or adverse treatment based on factors unrelated to the merits of the case.
2. **Procedural and Substantive Fairness:** Bias is considered when actions compromise the procedural fairness of the case, such as through uneven application of procedural rules or discretionary decisions favoring one side.
3. **Appearance of Bias and Public Confidence:** Maryland courts also consider whether there is an appearance of bias, which could undermine public trust in the judicial process even if explicit evidence of partiality is lacking.

412 When bias is shown or even reasonably suspected, Maryland courts are empowered to address it through recusal, reopening of proceedings, or corrective measures to ensure a fair outcome.

## 3 Maryland Case Law

413 **Jefferson-El v. State**, 330 Md. 99, 622 A.2d 737 (1993): The Maryland Court of Appeals held that judicial bias, whether actual or perceived, can undermine the fairness of proceedings. The court emphasized that even an appearance of bias may justify corrective actions to ensure that parties are afforded impartial consideration.

414 **Attorney Grievance Comm’n v. Culver**, 381 Md. 241, 849 A.2d 423 (2004): This case underscored the principle that impartiality is essential to judicial integrity, holding that perceived bias or favoritism can justify reconsideration or sanctions where the court’s neutrality is

compromised. The Maryland court stressed that maintaining the appearance of fairness is crucial to public trust in the legal system.

#### 4 Application to Bias in Dillon-Capps' Case

415 In Dillon-Capps's case, elements of bias have emerged through procedural inconsistencies, selective responsiveness, and decisions that appear to disproportionately favor Plaintiff and its counsel, Miles & Stockbridge. These actions have created a perception that bias may be influencing the case's trajectory, impacting Dillon-Capps's access to a fair and impartial hearing. Key indicators of bias include:

416 **Inconsistent Procedural Rulings Favoring Plaintiff:** Throughout the proceedings, Plaintiff and M&S have received favorable procedural outcomes, including a no-notice TRO and expedited contempt hearing, that deprived Dillon-Capps of adequate notice and preparation. These procedural deviations suggest a possible bias favoring Plaintiff's interests, as they provided Plaintiff undue procedural advantage at Dillon-Capps's expense.

417 **Selective Enforcement of Court Requirements:** Despite Dillon-Capps's repeated motions to compel accountability and address procedural abuse, Plaintiff's evasive tactics have gone unchecked. M&S's attempts to sidestep responsibilities and use last-minute withdrawals, including a voluntary dismissal, to evade consequences have not met the scrutiny typical in equitable proceedings, potentially signaling judicial leniency or bias toward Plaintiff.

418 **Lack of Response to Key Evidence and Arguments:** Throughout the litigation, Dillon-Capps has highlighted inconsistencies in Plaintiff's filings and noted that M&S would not have proceeded had they known the factual truth. However, these statements have been met with little acknowledgment or consideration in the court's rulings, creating an impression of bias by failing



to address significant issues raised by Dillon-Capps, which are directly relevant to the case's fairness.

419 **Appearance of Favoritism Toward M&S:** The court's acceptance of M&S's procedural maneuvers, including misleading citations and evasive withdrawals, without applying corrective measures, has fostered an appearance of favoritism. This perception is further reinforced by the court's failure to scrutinize M&S's use of restricted contact information to obtain the TRO, which disadvantaged Dillon-Capps and appeared to tilt procedural outcomes in Plaintiff's favor.

420 Maryland's standards, as set forth in *Jefferson-El v. State and Attorney Grievance Comm'n v. Culver*, stress the importance of addressing bias to preserve fairness and public confidence. In this case, the procedural discrepancies and lack of responsive oversight create a perception of bias, threatening Dillon-Capps's right to a fair hearing and compromising the integrity of the proceedings.

421 Bias, whether actual or perceived, undermines the fairness of judicial proceedings and justifies corrective action under Maryland law. In Dillon-Capps's case, indicators of potential bias—such as favorable procedural rulings for Plaintiff, selective enforcement, and a lack of consideration for key arguments—undermine the court's neutrality. By addressing these signs of bias, Maryland courts can protect Dillon-Capps's right to a fair and impartial hearing, uphold judicial integrity, and reinforce public trust in the legal system.

## S Discrimination

### 1 Foundations of Discrimination

422 **Discrimination** in judicial proceedings refers to actions, comments, or rulings that unfairly target a party based on personal characteristics, trauma responses, or disabilities,

detracting from an objective evaluation of the case's merits. Maryland's principles of fairness, grounded in **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, mandate that judicial proceedings remain impartial, free from any form of bias or prejudice. When discrimination is present, it compromises the litigant's access to justice, undermines the court's integrity, and fosters a hostile judicial environment that perpetuates trauma and bias.

423 Discriminatory conduct, particularly in the context of judicial rulings, is especially harmful when it diminishes substantive claims based on procedural or stylistic critiques that target a litigant's disability-related traits. Maryland courts are empowered to address and correct instances of discrimination to restore fairness and uphold judicial integrity.

## 2 Judicial Standards for Addressing Discrimination

424 Maryland courts evaluate discrimination by examining:

1. **Evidence of Targeted Language or Rulings:** Courts assess whether comments or rulings unfairly critique a party's disability or trauma response, particularly where such critiques detract from substantive issues.
2. **Impact on Procedural and Substantive Fairness:** Discriminatory comments or rulings that trivialize disability-related characteristics impair a party's right to an impartial hearing and equitable consideration of their case.
3. **Public Confidence in Judicial Impartiality:** Discriminatory conduct, especially when reflected in official rulings, undermines public trust and creates an appearance of bias, requiring judicial redress to restore confidence in the court's commitment to fairness.

425 Discrimination in judicial proceedings justifies remedial action, including vacating biased rulings, reconsidering decisions, and ensuring that future considerations are free from prejudice.

### 3 Maryland Case Law

426 **Surratt v. Prince George's County**, 320 Md. 439, 578 A.2d 745 (1990): The Maryland Court of Appeals held that discriminatory actions within legal proceedings compromise fairness and must be addressed to ensure impartiality. The court underscored that judicial decisions must be free from personal biases against a party's characteristics or disabilities.

427 **Attorney Grievance Comm'n v. Kimmel**, 405 Md. 647, 955 A.2d 269 (2008): This case established that derogatory remarks or dismissive language regarding a party's characteristics, especially in official judicial settings, can constitute discrimination. The Maryland court emphasized that judicial impartiality is compromised by any form of bias that detracts from fair treatment.

### 4 Application to Discrimination in Dillon-Capps' Case

428 In Dillon-Capps's case, both the court, represented by Judge Michael Barranco, and Plaintiff's counsel, Miles & Stockbridge (M&S), engaged in discriminatory conduct that targeted Dillon-Capps's disability-related trauma response. Their comments and rulings sought to discredit substantive arguments by focusing on Dillon-Capps's over-explanation, a symptom of their PTSD, rather than addressing the legal merits. The discrimination Dillon-Capps faced parallels the hostile environment they endured at Ohana, where similar critiques were used to dismiss their work. Key aspects of this discriminatory conduct include:

1. **Judge Barranco's Dismissive Language in Official Rulings:** In a ruling related to Dillon-Capps's filings, which included claims of FMLA, ADA, and due process rights

violations, Judge Barranco labeled Dillon-Capps's submissions as "incoherent" and "unintelligible." These comments, issued in connection to a ruling that imposed a \$2,500 daily fine and specified procedural restrictions, did not address the substantive claims presented but instead diminished Dillon-Capps's arguments based on style. By dismissing substantive issues under the guise of procedural critique, Judge Barranco's language targeted Dillon-Capps's disability response, perpetuating the discrimination they experienced in the workplace.

2. **Personal Attacks by M&S Counsel in Defensive Filings:** Robert Brennen of M&S repeatedly used language such as "lengthy" and "rambling" to describe Dillon-Capps's filings, framing them as unnecessarily complex. This language, however, did not relate to the defense of Plaintiff's interests but appeared aimed at defending M&S's own interests and the court's prior rulings, including those by Judge Barranco. Brennen's comments mimic the hostile workplace tactics Dillon-Capps faced at Ohana, where personal critiques were weaponized to discredit substantive work. Such remarks reflect a pattern of discrimination focused on Dillon-Capps's trauma response, detracting from the actual legal issues at hand.

3. **Failure to Address Core Claims of Disability Discrimination and Rights Violations:** Both Judge Barranco and M&S's comments ignore Dillon-Capps's FMLA and ADA claims, which highlight discrimination related to their PTSD and resulting trauma responses. Rather than engaging with the substance of Dillon-Capps's disability-related claims, the court and counsel dismissed these filings on the basis of style, ignoring the core rights violations asserted. This dismissal mirrors the workplace discrimination

Dillon-Capps experienced, where focus on style was used to avoid addressing the actual substance of their work, creating a hostile judicial environment.

4. **Support for a Broader Pattern of Bias and Evasion:** The dismissive remarks by Judge Barranco and M&S not only reflect bias but also support a broader environment of evasion and accountability avoidance. This pattern suggests a deliberate attempt to discredit Dillon-Capps and evade accountability for procedural and substantive missteps, aligning with elements of conspiracy to shield Plaintiff and counsel from consequences.

429 Judge Barranco's comments in official rulings, coupled with M&S's continued personal attacks, reflect an institutional bias that discredits Dillon-Capps's disability-related responses. By ignoring substantive claims and focusing on presentation style, the court and counsel both contributed to a discriminatory environment, affecting Dillon-Capps's right to a fair hearing. Maryland's standards, as set forth in *Surratt v. Prince George's County* and *Attorney Grievance Comm'n v. Kimmel*, mandate corrective actions to prevent discrimination from influencing judicial outcomes.

430 Discrimination in judicial proceedings, particularly when exhibited in official rulings and filings, undermines fairness and harms the affected party. In Dillon-Capps's case, Judge Barranco's and M&S's discriminatory comments reveal a bias against their PTSD-related communication style, dismissing substantive issues in favor of personal critique. Addressing this discrimination is essential to restore fairness, uphold judicial integrity, and ensure that Dillon-Capps's rights are protected from bias within Maryland's legal system.

## T Conspiracy

## 1 Foundations of Conspiracy

431 **Conspiracy** in Maryland is a recognized basis for civil and criminal liability, involving an agreement between two or more parties to engage in unlawful acts or use unlawful means to achieve any objective. Maryland courts incorporate conspiracy principles under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, allowing them to apply common law doctrines to cases involving conspiracy. Additionally, Maryland's **Criminal Law Article § 1-202** defines conspiracy as an agreement to commit a crime or pursue a wrongful purpose. This statute reinforces that conspiratorial acts, even where the intended outcome is not fully realized, warrant judicial intervention and potential liability.

432 To establish conspiracy, Maryland courts typically require:

- **Agreement Among Parties:** An understanding, express or implied, exists among two or more parties to achieve a specific objective.
- **Unlawful Objective or Means:** The purpose of the agreement is to commit an unlawful act or use wrongful methods, even if the objective itself is not inherently illegal.
- **Overt Act in Furtherance of the Conspiracy:** At least one party must perform an act that advances the conspiracy, such as submitting false statements, engaging in misrepresentation, or coordinating actions to obstruct justice.

433 These elements allow Maryland courts to hold parties accountable for coordinated misconduct that undermines judicial fairness and causes harm to third parties.

## 2 Judicial Standards for Applying Conspiracy

434 Maryland courts assess conspiracy by examining:

- **Existence of an Agreement:** Courts determine whether there was an express or implied agreement to work together for an improper or illegal purpose.
- **Unlawful Intent or Means:** Courts look for intent to pursue an unlawful objective or to use unlawful methods, including deceit, coercion, or manipulation of judicial processes.
- **Concrete Acts in Furtherance of the Conspiracy:** Courts require evidence of at least one overt act that advances the conspiracy, impacting the fairness or integrity of judicial proceedings.

435 These criteria empower Maryland courts to take corrective action in cases where conspiratorial conduct disrupts judicial impartiality and harms litigants.

### 3 Maryland Case Law and Statutory Basis

- **Hoffman v. Stamper**, 385 Md. 1, 867 A.2d 276 (2005): The Maryland Court of Appeals confirmed that civil conspiracy requires both an agreement and an overt act to achieve a wrongful purpose. The court held that conspirators are liable for actions taken in furtherance of the conspiracy, particularly where those actions harm a third party or obstruct justice.
- **Alleco Inc. v. Harry & Jeanette Weinberg Foundation, Inc.**, 340 Md. 176, 665 A.2d 1038 (1995): This case established that conspiracy requires a meeting of the minds to commit wrongful acts. The court emphasized that conspiratorial actions that compromise fairness or mislead the court warrant significant remedial action.
- **Md. Code Ann., Crim. Law § 1-202:** This statute codifies conspiracy in Maryland, defining it as an agreement to commit a crime or engage in wrongful acts. Although

primarily criminal, the principles extend to civil actions where collusion among parties affects judicial fairness or defrauds a third party.

#### 4 Application to Conspiracy in Dillon-Capps Case

436 In Dillon-Capps's case, Plaintiff, represented by Ohana Growth Partners, LLC, and its counsel, Miles & Stockbridge (M&S), exhibit a coordinated pattern of conduct that aligns with the elements of conspiracy. Judge Michael Barranco's rulings, which align with M&S's procedural abuses, indicate an appearance of judicial bias that may support this collusion, tying Plaintiff, M&S, and potentially Judge Barranco in furthering a shared objective. Additionally, Ohana's connection to its third-party vendor, implicated in fraudulent activities, identity theft, wire fraud, and suspicious real estate practices, suggests broader potential misconduct that warrants judicial scrutiny. Key examples include:

- **Coordinated Efforts to Manipulate Procedural Outcomes:** Plaintiff and M&S strategically manipulated procedural rules to secure a no-notice TRO and an expedited contempt hearing. These actions deprived Dillon-Capps of due process and procedural safeguards, demonstrating an agreement to use improper means. The alignment of Judge Barranco's rulings with M&S's filings indicates a concerning appearance of judicial bias, as rulings repeatedly favored procedural advantages for Plaintiff without regard for Dillon-Capps's rights, supporting a shared objective of coercion and intimidation.
- **Collusion to Protect Plaintiff's Vendor and Avoid Accountability:** Evidence suggests that Ohana's third-party vendor engaged in fraudulent activities, including identity theft, wire fraud, and financial manipulation tied to accounting irregularities. Written evidence of the vendor's fraudulent actions and internal documentation confirm these allegations.



Ohana's failure to address or investigate these issues, coupled with M&S's dismissal of Dillon-Capps's related arguments, suggests a collective intent to evade accountability and protect the vendor's and Plaintiff's interests, prioritizing their defense over legal compliance.

- **Pattern of Evasion and Defensive Rulings:** M&S's filings and arguments consistently focused on defending Judge Barranco's rulings, particularly those made in the June 26th and 27th hearings. These rulings imposed punitive fines on Dillon-Capps and incorporated language critical of Dillon-Capps's filings. M&S's defensive stance, directed more toward defending its own and Judge Barranco's actions rather than addressing Plaintiff's claims, reinforces the inference of collusion to prevent scrutiny of procedural misconduct.
- **Substantial Evidence of Fraudulent and Suspicious Activity:** Allegations surrounding Ohana's third-party vendor include suspicious real estate sales, questionable company legitimacy, and circumstantial evidence of fraudulent practices. The vendor's association with Ohana connects Plaintiff to potential legal violations, which M&S has systematically ignored or dismissed in court filings. By aligning with Plaintiff to shield these activities from judicial review, M&S and Ohana jointly contributed to an effort to prevent judicial scrutiny, forming an implied agreement to obstruct justice.
- **Evasive Conduct and Misrepresentations in Court Filings:** Plaintiff and M&S repeatedly submitted affidavits containing false statements to support coercive filings, including contempt motions seeking incarceration for Dillon-Capps. These affidavits contained material misrepresentations that distorted facts, intentionally deceiving the

court to secure punitive actions. This coordinated effort to mislead and intimidate Dillon-Capps fulfills the requirements for conspiracy, as both Plaintiff and M&S worked together to misrepresent facts, evade accountability, and use the legal system to harass Dillon-Capps.

437 The coordinated actions of Ohana, M&S, and potentially Judge Barranco reflect a conspiratorial intent to harm Dillon-Capps, evade judicial scrutiny, and protect Ohana's interests, even where linked to fraudulent and illegal activities by a third-party vendor. The appearance of conspiracy is supported by the alignment of procedural advantages, evasive filings, and protective measures favoring Plaintiff and M&S. This collusion supports Dillon-Capps's claim of conspiracy, satisfying Maryland's standards as set forth in *Hoffman v. Stamper* and *Alleco Inc. v. Harry & Jeanette Weinberg Foundation, Inc.*.

438 Conspiracy in judicial proceedings undermines fairness and erodes public trust in the legal system. In Dillon-Capps's case, the coordinated actions of Plaintiff, M&S, and the appearance of alignment with Judge Barranco's rulings establish a basis for conspiracy, reinforced by connections to fraudulent activities and evasive conduct. By addressing this conspiracy, Maryland courts can restore judicial integrity, protect Dillon-Capps's rights, and prevent similar collusion from compromising fairness in future cases.

#### U Stare Decisis

439 The principle of **stare decisis** mandates that lower courts in Maryland adhere to precedents established by higher courts within the same jurisdiction. In Maryland, this principle requires that circuit courts, including the Baltimore County Circuit Court, follow the decisions of the **Maryland Court of Appeals** and the **Court of Special Appeals** on doctrines, legal

standards, and principles such as unclean hands, equitable estoppel, and tort doctrines. Through **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501, 10-503, and 1-201(a)**, Maryland's statutory framework further reinforces this binding authority, underscoring the obligation of lower courts to apply doctrines and principles in alignment with appellate interpretations.

## 1 Foundations of Stare Decisis

440 Maryland's judicial system is structured to uphold appellate rulings as binding on lower courts, ensuring uniformity and consistency in the application of legal doctrines and principles. **Md. Code Ann., Cts. & Jud. Proc. § 1-201(a)** provides that Maryland law, including statutory and common law interpretations by the Court of Appeals, governs all civil and criminal matters. This statutory provision confirms that circuit courts must adhere to the binding authority of the state's highest courts, maintaining consistency in Maryland's jurisprudence.

441 Sections **10-501 and 10-503** further authorize the incorporation of English common law principles and doctrines, allowing Maryland courts to reference and apply doctrines such as fraud, abuse of process, and unclean hands. However, these doctrines must be applied as interpreted by Maryland's appellate courts, whose decisions serve as the authoritative guide for lower courts.

## 2 Judicial Standards for Applying Stare Decisis in Maryland

442 Under stare decisis, Maryland circuit courts are required to apply doctrines and defenses as interpreted by the Court of Appeals and the Court of Special Appeals. Maryland appellate courts establish binding standards for interpreting and enforcing doctrines, and circuit courts must follow these interpretations precisely:

1. **Mandatory Adherence to Appellate Interpretations:** Maryland circuit courts are required to follow the Court of Appeals' interpretations of state doctrines and statutes. The authority of the Court of Appeals, as the state's highest court, ensures consistent application of doctrines across Maryland's judiciary. The Court of Special Appeals, as Maryland's intermediate appellate court, also provides precedents that circuit courts must adhere to when addressing equitable and tort doctrines.

2. **Uniform Application of Equitable and Tort Doctrines:** Maryland appellate decisions direct circuit courts to apply doctrines such as unclean hands, equitable estoppel, and tort principles consistently, maintaining judicial integrity and ensuring fairness. Appellate interpretations set specific standards for doctrines, mandating that lower courts deny relief to parties acting in bad faith or employing unethical tactics.

### 3 Maryland Case Law on Stare Decisis and Binding Authority

443 Maryland's appellate courts have emphasized the binding authority of their decisions on lower courts, reinforcing the obligation of circuit courts to apply doctrines and principles as interpreted by the Court of Appeals and Court of Special Appeals:

1. **Piper Rudnick LLP v. Hartz**, 386 Md. 201, 872 A.2d 58 (2005): The Maryland Court of Appeals held that lower courts are bound by precedential decisions from the Court of Appeals, underscoring that circuit courts must follow appellate rulings as binding precedent. This case affirms that circuit courts must apply equitable doctrines and tort principles in alignment with appellate guidance.
2. **Pittman v. Atlantic Realty Co.**, 359 Md. 513, 754 A.2d 1030 (2000): In this case, Judge Wilner confirmed that decisions from both the Court of Appeals and the

Court of Special Appeals are binding on circuit courts. The Court of Appeals emphasized that lower courts are required to interpret state doctrines consistently with the standards set forth by Maryland's appellate courts.

3. **Baltimore City Detention Ctr. v. Foy**, 461 Md. 627, 198 A.3d 1187 (2018): This case reiterated that Maryland appellate interpretations of legal doctrines carry binding authority over all trial courts, including circuit courts. The Court of Appeals confirmed that doctrines such as equitable estoppel and tort principles must be enforced consistently across all levels of Maryland's judiciary.

#### 4 Application in Dillon-Capps' Case

444 In Dillon-Capps's case, Maryland's principle of stare decisis mandates that the Baltimore County Circuit Court follow established appellate interpretations of equitable and tort doctrines. Circuit courts must apply Maryland's appellate standards to ensure a consistent and fair application of doctrines, particularly where allegations of unclean hands, fraud, and abuse of process are at issue:

1. **Mandatory Adherence to Equitable Doctrine Standards:** Maryland appellate rulings on equitable doctrines, such as unclean hands and equitable estoppel, provide binding guidance for circuit courts. In Dillon-Capps's case, the circuit court is required to apply these doctrines as defined by appellate precedents, which direct that parties acting in bad faith or with unethical motives are ineligible for judicial relief. Under *Piper Rudnick* and *Pittman*, the Baltimore County Circuit Court must follow these established standards, applying the unclean hands doctrine to bar relief for Ohana's claims if they lack ethical or factual integrity.

2. **Consistent Application of Tort Doctrines as Directed by Appellate**

**Precedents:** Maryland's appellate decisions on tort doctrines, including fraud and abuse of process, bind the circuit court to apply these principles in cases of alleged wrongful conduct. The Baltimore County Circuit Court is required to apply the standards outlined in *Baltimore City Detention Ctr. v. Foy*, ensuring that Ohana's actions, which appear to involve manipulative tactics and misuse of legal processes, are evaluated under the authoritative guidance of Maryland's appellate courts.

3. **Requirement to Uphold Judicial Integrity in Following Appellate Directives:**

The principle of stare decisis, reinforced by §§ 1-201(a), 10-501, and 10-503, mandates that circuit courts adhere to established appellate doctrines. In Dillon-Capps's case, the Baltimore County Circuit Court is obligated to follow appellate interpretations consistently, applying doctrines such as unclean hands and equitable estoppel to ensure a fair, just, and procedurally sound outcome, as mandated by *Pittman* and *Standard Fire Ins. Co. v. Berrett*.

445 Maryland's appellate court decisions create a binding framework for lower courts, mandating that circuit courts apply doctrines and principles consistently as interpreted by the state's highest courts. **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501, 10-503, and 1-201(a)** reinforce the authority of appellate court rulings over all Maryland courts, codifying the principle of stare decisis as a fundamental requirement. Through established cases such as *Pittman v. Atlantic Realty Co.* and *Standard Fire Ins. Co. v. Berrett*, Maryland's judiciary ensures that equitable doctrines, tort principles, and other legal standards are applied uniformly, promoting fairness and judicial integrity across the state's legal system. In Dillon-Capps's case, the

Baltimore County Circuit Court is required to apply these doctrines and uphold Maryland's appellate standards to achieve a just and equitable resolution.

## V Limits of Judicial Discretion

### 1 Foundations of Judicial Discretion and Limits

446 **Judicial discretion** refers to a judge's authority to make decisions within a range of acceptable legal standards, tailored to the specific circumstances of a case. However, Maryland's common law, alongside **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, establishes that judicial discretion has defined limits, requiring adherence to statutory guidelines, procedural rules, and principles of fairness and due process. Maryland courts hold that discretion is exceeded when judicial actions deviate from established legal standards, compromise due process, or result in decisions that unjustly favor one party.

447 Judicial discretion is exceeded when:

1. **Decisions Extend Beyond Legal Authority:** Rulings that ignore or violate statutory mandates or procedural requirements fall outside judicial discretion.
2. **Rulings Lack Rational Basis:** Judicial discretion must be exercised with reason and legal justification; decisions made arbitrarily or capriciously exceed acceptable bounds.
3. **Actions Impair Due Process or Fairness:** Where decisions deny parties fair hearing, limit legitimate procedural rights, or create undue burdens, they exceed judicial discretion.

448 Exceeding judicial discretion undermines the integrity of judicial proceedings, justifying appellate review, corrective measures, or vacating of orders to restore fairness.

## 2 Judicial Standards for Determining Excessive Discretion

449 Maryland courts evaluate excessive judicial discretion by assessing:

1. **Compliance with Statutory and Procedural Standards:** Rulings must align with Maryland's statutory requirements and established procedural rules, ensuring that judicial authority is exercised within lawful boundaries.
2. **Objective Basis for Decision-Making:** Courts consider whether a ruling is supported by reasoned analysis, as arbitrary decisions or favoritism compromise judicial integrity.
3. **Impact on Due Process and Party Rights:** Decisions that deny procedural protections, limit party rights to fair hearings, or result in disparate treatment signal excessive judicial discretion.

450 These standards maintain judicial accountability, ensuring that decisions are within the scope of legally permissible action and support fairness for all parties involved.

## 3 Maryland Case Law

451 **In re Adoption/Guardianship No. 10941**, 335 Md. 99, 642 A.2d 201 (1994): The Maryland Court of Appeals held that judicial discretion must be bounded by reason and legal standards, and arbitrary use of discretion can be challenged. The court emphasized that judicial decisions must respect statutory requirements and procedural fairness.

452 **Schlossberg v. Schlossberg**, 341 Md. 650, 672 A.2d 625 (1996): This case underscored that judicial discretion is limited by procedural and statutory rules. Excessive discretion that impairs a party's rights justifies correction or reversal, ensuring that judicial actions adhere to legal mandates.



#### 4 Application to Exceeding Judicial Discretion in Dillon-Capps' Case

453 In Dillon-Capps's case, multiple rulings by Judge Michael Barranco and other judges demonstrate an overreach of judicial discretion, collectively impacting due process, ignoring substantive claims, and compromising fairness. The recurring theme of denying Dillon-Capps fair opportunity to present arguments, disregard of statutory and procedural protections, and rulings favoring Plaintiff without proper legal basis reveal a pattern of exceeding judicial discretion. Notable examples include:

454 **Premature Default Entry Without Testimony:** In a significant procedural violation, a judge entered a premature default against Dillon-Capps without taking testimony to substantiate it. This ruling disregarded Maryland procedural standards that require factual support for default judgments, especially in contested matters. The entry of default without a hearing demonstrates excessive discretion, as it unfairly penalized Dillon-Capps without due consideration of evidence—a decision later vacated as improper.

455 **Ignoring Federal Supremacy, FMLA, and ADA Arguments:** During a June 26th–27th hearing, Judge Barranco dismissed key arguments raised by Dillon-Capps regarding FMLA and ADA rights, federal supremacy, and jurisdictional issues, even as Plaintiff's counsel openly admitted that Ohana violated Dillon-Capps's FMLA leave rights. Barranco deemed these rights violations immaterial to the case, despite their centrality to Dillon-Capps's claims for injunctive relief and ADA accommodations. This decision undermines federal protections, exceeding discretion by disregarding substantive rights guaranteed under federal law.

456 **Disregard of Medical Evidence and Testimony on Disability:** Judge Barranco refused to consider medical evidence regarding Dillon-Capps's ADA accommodations and health

conditions, which included healthcare provider documentation confirming eligibility for accommodations, testimony from Dillon-Capps's licensed therapist spouse, and Dillon-Capps's own testimony regarding severe memory loss and catatonia. Judge Barranco dismissed these accounts, stating that he "did not find Dillon-Capps credible" and implying capability despite evident cognitive impairments. Such disregard of critical evidence demonstrates excessive discretion that compromises ADA protections and Dillon-Capps's procedural rights.

457     **Interference with Cross-Examination:** Judge Barranco prevented Dillon-Capps from cross-examining Plaintiff's expert, interrupting questions aimed at the expert's contradictory statements and document review process. This prevented Dillon-Capps from challenging misleading expert conclusions. By limiting cross-examination and instead directing Dillon-Capps back to self-directed questioning, Judge Barranco denied Dillon-Capps the right to a fair examination of the expert's credibility, reflecting excessive judicial intervention favoring Plaintiff.

458     **Ruling Denials on Key Procedural Motions:** In multiple instances, judges prematurely ruled on key motions, including motions for reconsideration before errata were fully submitted and motions to strike procedural errors, such as improper hyperlinking. By issuing denials without due review, the court demonstrated a pattern of ruling without complete evidence or procedural adherence, reflecting excessive discretion that disadvantaged Dillon-Capps.

459     **Repeated "Moot" Rulings to Evade Accountability:** Several issues raised by Dillon-Capps were repeatedly ruled moot, despite ongoing and unresolved arguments directly impacting the case's fairness. Judge Barranco ruled "moot" on the very opinion containing discriminatory remarks about Dillon-Capps's filings as "incoherent" and "unintelligible." Additionally, another

judge ruled a hearing moot despite significant counterclaims and motions to strike based on abuse of process. Such evasive rulings demonstrate an excessive use of judicial discretion to sidestep critical issues, preventing full adjudication.

460 **Misuse of Judicial Authority in Denying Extension Requests:** A ruling denying Dillon-Capps's request for extension only partially addressed the arguments raised, and it inaccurately represented the basis for the attorney-client relationship ending after TRO and complaint filings. By ignoring half the arguments and relying on misleading information, the denial reflects excessive judicial discretion and lack of thorough review, unfairly limiting Dillon-Capps's procedural rights.

461 Judge Barranco's and other judges' rulings, as outlined above, exhibit a pattern of exceeding judicial discretion by consistently dismissing Dillon-Capps's procedural rights, disregarding substantive legal protections, and issuing arbitrary denials that disproportionately favored Plaintiff. Maryland's standards, as set forth in *In re Adoption/Guardianship No. 10941* and *Schlossberg v. Schlossberg*, require judicial discretion to align with statutory and procedural requirements to maintain fairness and impartiality. The rulings in Dillon-Capps's case demonstrate an erosion of these principles, warranting correction to restore judicial integrity.

462 Exceeding judicial discretion undermines fairness, due process, and confidence in judicial impartiality. In Dillon-Capps's case, Judge Barranco's and other judges' actions demonstrate a pattern of discretionary overreach, including procedural deviations, unjustified denials, and the selective dismissal of substantive claims. These actions exceed the acceptable bounds of judicial discretion, justifying appellate review, corrective measures, and restoration of Dillon-Capps's

rights to fair treatment. Maryland courts, by addressing these actions, can reinforce the limits of judicial discretion and ensure equitable treatment for all parties.

## W Accessory and Accessory After the Fact

### 1 Foundations of Accessory and Accessory After the Fact

463 An **accessory** is a person or entity that assists or enables another party to commit an unlawful act, either by facilitating the conduct or, in the case of an accessory after the fact, by helping to conceal the act or protect the principal from accountability. Under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, Maryland incorporates principles from common law to recognize liability for both accessories and accessories after the fact. Maryland courts also apply **Md. Code Ann., Crim. Law § 1-301**, which extends criminal liability to individuals who aid, abet, or assist in the commission or concealment of unlawful acts.

464 To establish accessory liability, Maryland courts generally require:

465 **Knowledge of the Primary Unlawful Act:** The accessory must have knowledge of the crime or unlawful act being committed.

466 **Intent to Assist or Facilitate:** The accessory intentionally provides assistance or support to the principal party, either during or after the offense.

467 **Concrete Actions in Support of the Principal's Conduct:** An accessory, whether during or after the fact, takes deliberate steps to aid the primary offender or to prevent the discovery and accountability of the crime.

468 Accessory and accessory after the fact liability ensure that those who contribute to or attempt to conceal wrongful conduct are held accountable, even if they did not directly commit the act themselves.

## 2 Judicial Standards for Applying Accessory and Accessory After the Fact

469 Maryland courts assess accessory liability by evaluating:

470 **Awareness and Knowledge of Wrongful Conduct:** Courts consider whether the  
accessory had sufficient knowledge of the primary offense or wrongful conduct.

471 **Intent to Aid, Abet, or Conceal:** An accessory must demonstrate intent to either  
facilitate the offense or protect the principal party from legal consequences.

472 **Active Participation or Concealment:** For accessory after the fact, Maryland courts  
examine whether the party took concrete steps to cover up, legitimize, or protect the principal  
from accountability.

473 These standards allow Maryland courts to hold accessories liable, addressing those who  
knowingly engage in or conceal wrongful actions that harm third parties and compromise the  
legal system.

## 3 Maryland Case Law and Statutory Basis

474 **State v. Hawkins**, 326 Md. 270, 604 A.2d 489 (1992): The Maryland Court of Appeals  
confirmed that accessories after the fact bear liability if they knowingly assist in concealing or  
aiding the principal in evading justice. The court emphasized that concrete actions taken to  
support the primary actor, even after the offense, meet the threshold for accessory liability.

475 **Watson v. State**, 208 Md. App. 496, 56 A.3d 801 (2012): Maryland's appellate court  
reinforced that accessories, both during and after the fact, are liable if they act with intent to aid  
or protect the principal. Maryland courts recognize that deliberate attempts to shield the principal  
from accountability or support the wrongful acts justify accessory liability.

476 **Md. Code Ann., Crim. Law § 1-301:** This statute defines accessories and extends liability to those who knowingly aid or conceal the commission of an offense. Under Maryland law, those who act as accessories, whether before, during, or after the offense, are held liable for their participation in advancing or concealing the primary act.

4 **Application to Accessory and Accessory After the Fact in Dillon-Capps' Case**

477 In Dillon-Capps's case, the actions of Plaintiff, Ohana Growth Partners, LLC; its counsel, Miles & Stockbridge (M&S); Judge Michael Barranco; and a third-party vendor collectively reflect conduct that aligns with accessory liability, both during and after the fact. Each party's actions—whether in supporting Ohana's deceptive practices, concealing fraudulent activities, or furthering procedural abuses—demonstrate a coordinated effort to protect themselves and others from accountability. Key aspects include:

478 **Ohana's Concealment and Legitimation of Vendor's Fraudulent Activities:** Despite knowledge of the vendor's involvement in fraud, identity theft, and accounting irregularities, Ohana not only continued its relationship with the vendor but increased the scope of its work, making efforts to improve the vendor's appearance of legitimacy. Ohana's deliberate actions to protect the vendor and avoid accountability constitute accessory conduct, as they knowingly supported and legitimized actions that directly contributed to the fraud. These steps, taken to cover up the vendor's conduct, meet Maryland's standard for accessory after the fact, as they furthered both the vendor's and their own evasion of responsibility.

479 **Miles & Stockbridge's Failure to Investigate and Defense of Ohana's Misconduct:** M&S's role as counsel includes a fiduciary duty to assess and report ethical concerns, particularly when clients are implicated in fraudulent activities. Instead, M&S focused on

defending Judge Barranco's rulings, engaging in procedural abuses that ignored Ohana's documented violations. This defensive strategy, which aligns with M&S's own interests, shows that M&S acted as an accessory after the fact by shielding both itself and its client from scrutiny. The choice to omit investigation into fraud allegations and support punitive actions against Dillon-Capps aligns M&S with Ohana's goal of deflecting accountability, meeting the criteria for accessory liability.

480 **Judge Barranco's Rulings that Reinforced M&S and Ohana's Actions:** Judge Barranco's alignment with M&S's tactics—including issuing rulings that dismissed Dillon-Capps's filings as “incoherent” and “unintelligible”—reinforced the discriminatory and coercive practices directed at Dillon-Capps. These rulings directly supported M&S's and Ohana's objectives by dismissing substantive issues in favor of procedural criticisms, effectively enabling further discrimination and discrediting Dillon-Capps. Barranco's rulings, especially those imposing daily fines and restrictive orders based on misleading representations, reflect accessory conduct that advanced M&S's and Ohana's shared purpose of evading accountability.

481 **Vendor's Participation in Fraud and Continued Support from Ohana and M&S:** The third-party vendor's actions, which included identity theft, wire fraud, and contributing to accounting irregularities, were documented in evidence but ignored by Ohana and M&S. By rehiring this vendor, expanding its role, and failing to address its fraudulent activities, Ohana and M&S acted as accessories after the fact, prioritizing their own interests over ethical accountability. The choice to legitimize the vendor rather than investigate or disclose its misconduct reflects a deliberate effort to conceal the fraudulent activities, furthering their evasion of scrutiny and liability.

482 **Pattern of Procedural Abuse and Misrepresentation to Discredit Dillon-Capps:** The lawsuit and related procedural actions, including the no-notice TRO and contempt motions, were designed to discredit Dillon-Capps and distract from the core issues of fraud, discrimination, and hostile workplace conditions. These tactics were used to undermine Dillon-Capps's credibility and shield Ohana and M&S from accountability. By engaging in abusive litigation to obscure their own misconduct, M&S and Ohana demonstrated accessory behavior, as these actions were not aimed at legitimate dispute resolution but at protecting themselves from repercussions.

483 The coordinated actions of Ohana, M&S, Judge Barranco, and the vendor reveal a collective intent to avoid accountability and protect each other's interests at Dillon-Capps's expense. Maryland's standards for accessory and accessory after the fact liability, as set forth in *State v. Hawkins* and *Watson v. State*, apply to each party's role in advancing or concealing fraudulent activities and abusive practices. Their continued engagement in procedural abuses, discriminatory rulings, and concealment of critical information directly supports accessory liability, as their actions collectively aimed to protect one another and obscure the truth.

484 Accessory and accessory after the fact liability ensure that those who aid, abet, or conceal wrongful conduct are held accountable. In Dillon-Capps's case, the actions of Ohana, M&S, Judge Barranco, and the vendor reflect accessory conduct intended to shield each other from accountability. By recognizing this conduct as accessory liability, Maryland courts can restore fairness, uphold judicial integrity, and prevent similar abuse of legal processes in future cases.

## X Due Process



## 1 Foundations of Due Process

485 Maryland law, as supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** and the **Fourteenth Amendment to the U.S. Constitution**, provides that individuals are entitled to fair and impartial treatment in legal proceedings. Due process rights include both procedural and substantive protections, requiring that courts operate transparently, fairly, and without bias. Maryland's adoption of these principles aligns with common law and constitutional standards to ensure that any deprivation of an individual's rights occurs only through lawful and just procedures.

486 Key elements of due process in Maryland include:

1. **Right to Notice:** Due process mandates that individuals receive proper, timely notice of legal actions affecting their rights, as enshrined in both state and federal standards.
2. **Opportunity to Be Heard:** The due process right to be heard encompasses both the ability to present evidence and to cross-examine opposing witnesses, ensuring that no one is deprived of their rights without full participation.
3. **Impartial Decision-Making:** Due process necessitates an unbiased and fair adjudicator to ensure objectivity, requiring judges to refrain from conduct that demonstrates or suggests bias.

## 2 Judicial Standards for Applying Due Process

487 Under Maryland law and constitutional standards, courts must provide:

1. **Adequate Notice and Hearing:** Courts must provide parties with adequate time and information to prepare for and engage in proceedings, as guaranteed by the

**Fourteenth Amendment's Due Process Clause and Md. Rule 2-311.**

2. **Right to Present and Challenge Evidence:** The right to be heard requires a meaningful opportunity to present one's case fully, including the ability to submit evidence and conduct cross-examinations of opposing witnesses. Maryland courts uphold this standard as foundational to ensuring fair trials.

3. **Unbiased Adjudication:** Judges must remain impartial and avoid any conduct suggesting bias or prejudice. In line with **Md. Rules 18-101.2** and **18-102.2**, impartiality is necessary to maintain public confidence in the judiciary and ensure that rulings are based solely on law and facts.

### 3 Maryland Case Law and Statutory Basis

488 **Banegura v. Taylor**, 312 Md. 609, 541 A.2d 969 (1988): Maryland's Court of Appeals underscored that due process includes the right to notice and an opportunity to be heard. Courts must ensure individuals have a fair opportunity to defend their rights before issuing decisions that may affect them.

489 **Attorney Grievance Commission v. Mooney**, 359 Md. 56, 753 A.2d 17 (2000): The court emphasized judicial impartiality as essential to due process. Judges are required to avoid any behavior suggesting bias, as it undermines public confidence and the fairness of judicial proceedings.

490 **Shaw v. Glickman**, 45 Md. App. 718, 415 A.2d 625 (1980): Maryland courts have reinforced that due process includes a reasonable opportunity to present evidence and cross-examine witnesses, as these rights protect the integrity of the proceedings and ensure substantive fairness.

#### 4 Constitutional and Federal Basis

491 **Fourteenth Amendment, U.S. Constitution:** The Due Process Clause of the Fourteenth Amendment prohibits states from depriving individuals of “life, liberty, or property, without due process of law.” This clause provides a federal foundation for Maryland’s due process requirements, mandating fair legal procedures.

492 **Goldberg v. Kelly**, 397 U.S. 254 (1970): The U.S. Supreme Court held that due process requires notice and an opportunity to be heard in a meaningful manner, reinforcing that individuals should have a fair chance to present their case when government actions may affect their rights.

#### 5 Application to Dillon-Capps’s Case

493 In Dillon-Capps’s case, Ohana, M&S, and Judge Barranco collectively violated due process protections, depriving Dillon-Capps of a fair and impartial hearing through actions including inadequate notice, biased rulings, and restrictions on evidence:

1. **Lack of Adequate Notice:** The court issued a no-notice Temporary Restraining Order (TRO) and later a two-day notice show cause order, depriving Dillon-Capps of sufficient time to prepare a defense. These actions contravene *Banegura v. Taylor* and the **Fourteenth Amendment**, as they prevented Dillon-Capps from meaningfully participating in their defense.
2. **Restricted Right to Present and Challenge Evidence:** Judge Barranco prevented Dillon-Capps from cross-examining key witnesses and presenting evidence on FMLA and ADA violations, issues directly relevant to the case. This restriction mirrors

due process violations cited in *Shaw v. Glickman*, as Dillon-Capps was denied the opportunity to address and challenge material claims.

3. **Bias and Lack of Judicial Impartiality:** Judge Barranco made derogatory comments about Dillon-Capps's filings, referring to them as "incoherent" and "unintelligible," while ignoring Dillon-Capps's evidence and ADA accommodations. Such statements suggest judicial bias, violating the standards for impartiality upheld in *Attorney Grievance Commission v. Mooney*. This bias compromised Dillon-Capps's right to a fair and impartial hearing.

4. **Failure to Address Procedural and Substantive Claims:** The court dismissed Dillon-Capps's substantive claims regarding FMLA, ADA, and due process violations without meaningful consideration. This denial of procedural fairness created a cumulative deprivation of due process, impacting Dillon-Capps's ability to defend against baseless claims.

494 Ohana's, M&S's, and Judge Barranco's collective actions denied Dillon-Capps their due process rights, violating Maryland's standards for notice, impartiality, and the right to be heard. These due process failings were cumulative, compounding Dillon-Capps's disadvantage and damaging the fairness of the proceedings.

495 Due process is an essential protection under Maryland law and the **Fourteenth Amendment**, supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**. In Dillon-Capps's case, due process was compromised through inadequate notice, restrictions on evidence, and judicial bias. The court should impose sanctions to address these violations,

correct the judicial record, and reinforce due process protections in Maryland, aligning with principles established in *Banegura v. Taylor*, *Mooney*, and *Shaw v. Glickman*.

## Y Harassment

### 1 Foundations of Harassment

496 Under Maryland law, supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, harassment is recognized as repeated and intentional conduct designed to intimidate, distress, or pressure an individual. Harassment is prohibited under both civil and criminal law, with Maryland statutes and common law principles affirming that harassment includes any sustained behavior aimed at causing undue stress or discomfort. Maryland courts and statutes address harassment as conduct lacking legitimate purpose and intended to interfere with an individual's rights or peace of mind.

497 Key elements of harassment in Maryland include:

1. **Intent to Disturb or Intimidate:** Harassment requires a showing of intent to harm, annoy, or pressure another party.
2. **Lack of Legitimate Purpose:** The conduct must lack a lawful or legitimate justification, serving only to distress or intimidate the target.
3. **Repeated and Unwanted Behavior:** Harassment is marked by repetitive conduct that targets an individual over time, creating a cumulative adverse effect.

### 2 Judicial Standards for Applying Harassment

498 Maryland courts define harassment by examining:

1. **Pattern of Behavior:** Courts assess whether the conduct in question represents a sustained pattern, as isolated incidents generally do not constitute harassment without repeated actions.
2. **Intent to Disturb, Harm, or Pressure:** Harassment requires a clear intent to cause distress or compel compliance, often evaluated through the totality of the circumstances.
3. **Lack of Legitimate Justification:** Conduct qualifies as harassment if it serves no legitimate purpose and is solely intended to harass, intimidate, or disrupt the target.

### 3 Maryland Case Law and Statutory Basis

499 **Md. Code Ann., Crim. Law § 3-803:** Defines harassment as repeated, unwanted behavior intended to harass, alarm, or annoy another person, reinforcing that intentional acts without legitimate purpose meet the legal definition of harassment.

500 **Rowe v. Baltimore Colts**, 33 Md. App. 344, 364 A.2d 131 (1976): The Maryland Court of Special Appeals held that behavior qualifies as harassment if it is both deliberate and intended to distress the target. In civil contexts, harassment encompasses sustained actions that interfere with the plaintiff's personal or professional life.

501 **R.M. v. State**, 234 Md. App. 632, 172 A.3d 1199 (2017): Maryland's courts recognize that harassment need not involve physical harm but may include repeated acts or communications that disturb or alarm the target. The court emphasized that harassment often includes actions intended to pressure, intimidate, or control the individual.

#### 4 Application to Dillon-Capps's Case

502 In Dillon-Capps's case, Ohana and M&S engaged in a pattern of harassment designed to intimidate and distress Dillon-Capps. This pattern included continuous threats of adverse employment action, baseless legal actions, and a cumulative pattern of coercive tactics.

503 **Intent to Disturb and Intimidate through Employment Threats:** From May 20 to June 13, Ohana repeatedly threatened Dillon-Capps with adverse employment consequences, including suspension and termination, in response to Dillon-Capps's exercise of FMLA rights and reporting of misconduct. These threats align with the standards established in *Rowe v. Baltimore Colts*, demonstrating deliberate actions intended to intimidate and control.

504 **Lack of Legitimate Justification:** The threats of suspension and termination, the fraudulent lawsuit, and the attempts to incarcerate Dillon-Capps all lacked legitimate purpose, as they were based on perjured statements, false claims, and procedural abuse. Such conduct reflects Maryland's standards for harassment as defined in *R.M. v. State*, where repeated acts lacking lawful basis are categorized as harassment.

505 **Sustained Pattern of Coercive Behavior:** Ohana and M&S's actions, including the unlawful termination, suspension, and threats of incarceration, show a cumulative pattern of harassment. This ongoing pressure reflects an intent to interfere with Dillon-Capps's rights, pressuring them into silence and compliance in violation of Maryland's standards under § 3-803.

506 Ohana and M&S's harassment aimed to intimidate and control Dillon-Capps, preventing them from reporting misconduct or asserting their legal rights. The cumulative impact of this behavior constitutes harassment under Maryland law, as it was intended solely to distress and deter Dillon-Capps.

507 Harassment, as defined under Maryland law and supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, includes repeated conduct lacking legitimate purpose and intended to disturb, intimidate, or distress. In Dillon-Capps's case, the pattern of adverse actions, including baseless threats, wrongful termination, and coerced compliance, qualifies as harassment. The court should impose sanctions to prevent further harassment and address the harm inflicted, aligning with the principles in *Rowe v. Baltimore Colts* and *R.M. v. State*.

## Z Spoliation of Evidence

### 1 Foundation of Spoliation of Evidence

508 **Foundation: Spoliation of evidence** encompasses the destruction, alteration, or concealment of information relevant to ongoing or anticipated litigation. Under Maryland common law, spoliation is addressed through sanctions or adverse inferences, especially when actions are taken to manipulate, delete, or obscure critical evidence that is central to a party's claim. **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** empower Maryland courts to integrate spoliation principles from common law and apply them to safeguard evidence integrity. When spoliation includes digital manipulation, such as altering roles, modifying database entries, or delaying access to secure data, the harm to judicial fairness is heightened, as it often impacts the very basis of a party's ability to substantiate their claims.

### 2 Judicial Standards for Applying Spoliation of Evidence

509 Maryland courts apply spoliation standards when certain criteria are met, especially in cases of digital or systemic evidence manipulation:



1. **Duty to Preserve Electronic Records:** Parties aware of ongoing or foreseeable litigation have an obligation to secure and preserve all relevant records, including digital databases, user roles, and system backups.
2. **Intentional or Negligent Alteration or Deletion:** Spoliation occurs when a party, directly or through agents, intentionally modifies, removes, or otherwise obscures information, especially when done to undermine evidence.
3. **Resulting Prejudice to the Opposing Party:** Spoliation is evident if the altered or deleted data hinders the opposing party's case by limiting their access to complete and authentic information.
4. **Adverse Inference or Sanctions as Remedy:** When evidence spoliation is shown, courts can impose an adverse inference against the party responsible, presuming that the altered or destroyed evidence would have been unfavorable to them.

#### **510 Purpose of the Spoliation Doctrine:**

1. **Prevent Data Manipulation as a Litigation Tactic:** Digital evidence tampering unfairly skews litigation, undermining judicial impartiality.
2. **Ensure Fairness and Preserve Evidence Integrity:** Courts safeguard data integrity by penalizing or sanctioning parties that manipulate digital records.
3. **Deter Evasive Conduct:** Sanctions for digital spoliation discourage tactics such as database edits, unauthorized role adjustments, and immunity delays to affect record retention.

### 3 Maryland Case Law and Statutory Basis

511 **Anderson v. Litzenberg**, 115 Md. App. 549, 694 A.2d 150 (1997): This case supports the use of adverse inferences when evidence is altered or withheld, applicable to cases involving deliberate data deletion or modification.

512 **Klupt v. Krongard**, 126 Md. App. 179, 728 A.2d 727 (1999): Maryland courts imposed sanctions for document tampering, extending the spoliation doctrine to cases involving altered data and records.

513 **Cost v. State**, 417 Md. 360, 10 A.3d 184 (2010): This case established that evidence destruction or alteration justifies remedial sanctions to protect judicial proceedings and address any prejudice suffered by the opposing party.

#### 514 **Statutory Basis:**

1. **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503:** These statutes authorize Maryland courts to incorporate common law doctrines and equitable principles like spoliation, applying corrective measures when evidence is manipulated, deleted, or obscured.

### 4 Application to Dillon-Capps's Case

515 In Dillon-Capps's case, the following alleged actions by Ohana and M&S constitute spoliation, focused on database and system-level manipulations:

1. **Duty to Preserve Digital and Systemic Evidence:** Ohana was required to retain accurate, unaltered records relevant to Dillon-Capps's employment, billing, and ADA/FMLA requests. This duty extends to all digital systems, databases, and user roles,

particularly those affecting evidence related to workplace roles and oversight responsibilities.

2. **Intentional Alteration of Database Records and User Roles:** Allegations that Ohana removed Leann Hartman’s “Billing Administrator” role and delayed the backup immunity expiration suggest deliberate efforts to obscure evidence. These modifications appear intended to affect records tied to key areas of Dillon-Capps’s claims, including alleged workplace misconduct and accountability.

3. **Delays to Allow for Evidence Tampering:** Allegations that Ohana waited until backup immunity expired to delete or modify records further suggest intentional spoliation. This delay strategy hinders Dillon-Capps’s ability to access complete records and evidence, obstructing the potential to present a full and accurate case. Maryland courts, as seen in *Klupt v. Krongard*, would likely interpret such actions as spoliation due to the calculated nature of the delay.

4. **Prejudice Against Dillon-Capps:** The alleged tampering directly impedes Dillon-Capps’s case by depriving them of access to critical data regarding ADA accommodations, FMLA entitlements, and employer records of adverse actions. This aligns with *Anderson v. Litzenberg*, where adverse inferences were granted due to prejudicial actions in tampering with records.

5. **Adverse Inference as Remedy:** Given the severity and deliberate nature of the alleged spoliation, the court should impose an adverse inference, presuming that any altered or deleted data would support Dillon-Capps’s case. The court may also consider

further sanctions due to the calculated delay in accessing unaltered data, consistent with *Cost v. State*, to prevent Ohana from benefiting from its own actions.

516 Ohana and M&S's alleged spoliation activities, including user role alterations, database tampering, and delay tactics to circumvent backup protections, meet the criteria for spoliation under Maryland common law and **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**. These actions justify sanctions, including adverse inferences and possible additional corrective measures, to counter the prejudice suffered by Dillon-Capps. Maryland case law supports imposing such sanctions to reinforce data integrity and ensure judicial proceedings remain fair and unbiased. The court should impose adverse inferences and any additional appropriate sanctions against Ohana and M&S in line with *Anderson v. Litzenberg*, *Klupt v. Krongard*, and *Cost v. State*.

## AA Defamation

### 1 Foundation of Defamation

517 **Foundation: Defamation** under Maryland common law encompasses both **libel** (written defamation) and **slander** (spoken defamation), whereby a false statement injures a party's reputation. Maryland recognizes that defamatory statements, if false and harmful to one's professional or personal reputation, may give rise to a claim of defamation. Maryland statutes also address defamation, with specific provisions for libel and slander under **Md. Code Ann., Cts. & Jud. Proc. § 3-503**. Additionally, if defamatory statements are included in litigation, courts may consider them as part of a broader scheme of reputational harm, especially if the litigation itself appears to be a vehicle for damaging an individual's standing or credibility.

## 2 Judicial Standards for Applying Defamation

518 Maryland courts require the following elements to establish a claim for defamation:

1. **False and Defamatory Statement:** A statement that is both false and injurious to an individual's reputation, exposing them to public contempt or ridicule.
2. **Publication to a Third Party:** The statement must be communicated or "published" to a third party, making the false information accessible to others.
3. **Fault on the Part of the Defendant:** The defendant must be at fault, either through negligence or intent, in making or spreading the false statement.
4. **Harm to the Plaintiff's Reputation:** The false statement must result in harm to the plaintiff's reputation, including potential financial, professional, or personal losses.
5. **Purpose of Defamation Doctrine:**
6. **Protect Individual Reputations:** Defamation law safeguards individuals from reputational harm caused by false and damaging statements.
7. **Prevent Misuse of Litigation for Reputation Attacks:** Courts prevent parties from using litigation as a pretext for defamation, particularly when claims are baseless or designed to malign the opposing party.
8. **Provide Remedies for Reputational Damage:** Defamation allows individuals to recover damages or seek corrective measures when false statements cause harm.

## 3 Maryland Case Law and Statutory Basis

519 **Jacron Sales Co. v. Sindorf**, 276 Md. 580, 350 A.2d 688 (1976): The Maryland Court of Appeals defined defamation standards, holding that any false statement damaging another's reputation can be actionable if it meets criteria such as fault and harm to reputation.

520 **Samuels v. Tschechtelin**, 135 Md. App. 483, 763 A.2d 209 (2000): The court held that false statements made with knowledge of their falsity or reckless disregard for the truth constitute defamation, affirming that plaintiffs may seek damages when reputation is harmed by false claims.

521 **Smith v. Danielczyk**, 400 Md. 98, 928 A.2d 795 (2007): The Maryland Court of Appeals emphasized that even implied defamatory meanings can be actionable, underscoring the court's role in safeguarding individuals from reputation damage caused by misleading or false statements.

522 **Md. Code Ann., Cts. & Jud. Proc. § 3-503**: Addresses liability for defamatory statements, specifically those impacting one's profession, credibility, or standing within the community.

#### 4 [Application to Dillon-Capps's Case](#)

523 In Dillon-Capps's case, the following statements and litigation actions by Ohana and M&S contribute to defamation based on Maryland standards:

1. **False and Defamatory Statements in Affidavits and Filings:** False assertions in affidavits and court documents, such as claims that Dillon-Capps refused access or failed to meet performance standards, are demonstrably untrue and intended to harm Dillon-Capps's reputation. These statements align with the elements of defamation outlined in *Jacron Sales Co. v. Sindorf*.
2. **Publication to a Third Party via Litigation:** By including defamatory statements within court filings, Ohana and M&S "published" false statements to the court and to Dillon-Capps's professional network. Legal filings, accessible to parties outside

the immediate litigation, serve as a mechanism of public defamation, as discussed in *Smith v. Danielczyk*.

3. **Intent to Damage Reputation:** The pattern of baseless claims and misleading statements suggests intent to damage Dillon-Capps's reputation by framing them as unprofessional or dishonest. Similar to *Samuels v. Tschechtelin*, the falsehoods appear designed to harm Dillon-Capps's standing and credibility as a professional.

4. **Harm to Dillon-Capps's Professional Reputation:** The defamatory statements have damaged Dillon-Capps's professional relationships, financial stability, and personal standing. The litigation's misuse as a vehicle for defamatory statements supports the argument for reputational harm, directly harming Dillon-Capps's ability to work and meet professional obligations.

524 Ohana and M&S's actions meet the criteria for defamation under Maryland common law and **Md. Code Ann., Cts. & Jud. Proc. § 3-503**. False and misleading statements made within affidavits, coupled with baseless litigation aimed at discrediting Dillon-Capps, constitute defamatory actions designed to harm Dillon-Capps's reputation. Maryland case law, including *Jacron Sales Co. v. Sindorf*, *Samuels v. Tschechtelin*, and *Smith v. Danielczyk*, supports imposing sanctions and awarding damages for defamation, particularly when litigation itself serves as a means to disseminate false claims. The court should recognize Ohana and M&S's statements as defamatory and consider sanctions to mitigate the reputational harm suffered by Dillon-Capps.

#### **BB Intentional Infliction of Emotional Distress (IIED)**

## 1 Foundation of Intentional Infliction of Emotional Distress (IIED)

525 **Foundation: Intentional Infliction of Emotional Distress (IIED)** is a common law tort recognized under Maryland law, applicable when a party's conduct is so extreme and outrageous that it causes severe emotional distress to another. The **Restatement (Second) of Torts § 46** provides the basis for IIED claims, which have been incorporated into Maryland law. To meet the threshold for IIED, the conduct in question must surpass mere negligence or even intentional wrongdoing; it must be "atrocious, and utterly intolerable in a civilized society." When combined with employment actions and aggressive litigation intended to intimidate or harass, such conduct may meet the standard for IIED if it causes severe emotional harm to the affected party.

## 2 Judicial Standards for Applying IIED

526 Maryland courts generally require four elements to establish IIED, each demanding a high threshold of evidence due to the severe nature of the claim:

1. **Extreme and Outrageous Conduct:** The defendant's actions must be outrageous to the extent that they "exceed all bounds of decency," reflecting behavior that is intentionally harmful, oppressive, or in reckless disregard of the plaintiff's rights.
2. **Intent or Reckless Disregard:** The defendant must have acted with the intent to cause emotional distress or with reckless disregard of the likelihood that their actions would result in severe emotional harm.
3. **Severe Emotional Distress:** The plaintiff must demonstrate that the conduct caused severe emotional distress, not merely annoyance or frustration. This often includes medical or psychological evidence of the distress suffered.



4. **Causal Connection:** There must be a direct causal link between the extreme and outrageous conduct and the severe emotional distress experienced by the plaintiff.

527 **Purpose of IIED Doctrine:**

1. **Protect Individuals from Extreme Abuse:** IIED shields individuals from conduct intended to terrorize, oppress, or intimidate.
2. **Deter Outrageous Conduct in Legal and Employment Contexts:** The doctrine of IIED prevents parties from using litigation or employment authority as tools for personal vendettas.
3. **Remedy for Mental and Emotional Harm:** Courts provide relief for individuals who suffer genuine, severe emotional trauma from egregious conduct.

3 **Maryland Case Law and Common Law Basis**

528 **Harris v. Jones**, 281 Md. 560, 380 A.2d 611 (1977): The Maryland Court of Appeals set a high bar for IIED, requiring conduct to be truly outrageous and severe emotional distress to be clearly demonstrated through evidence.

529 **Batson v. Shiflett**, 325 Md. 684, 602 A.2d 1191 (1992): The court reaffirmed that IIED requires extreme, egregious conduct intended to harm the plaintiff emotionally. Simple annoyance or insensitivity falls short of this threshold.

530 **Lasater v. Guttman**, 194 Md. App. 431, 5 A.3d 79 (2010): The court clarified that IIED claims necessitate objective evidence of severe emotional distress caused by the defendant's outrageous conduct.

#### 4 Application to Dillon-Capps's Case

531 In Dillon-Capps's case, Ohana and M&S's conduct meets the criteria for IIED based on the following factors:

1. **Extreme and Outrageous Conduct:** Ohana and M&S engaged in behavior that exceeds typical adversarial conduct, including:
  - 1.1 Filing a retaliatory lawsuit filled with knowingly false statements, escalating the situation to intimidate Dillon-Capps.
  - 1.2 Seeking an ex parte Temporary Restraining Order (TRO) and a no-notice contempt show cause, leveraging judicial mechanisms as tools of harassment.
  - 1.3 Perpetuating a hostile work environment through employment-related retaliatory tactics, including Dillon-Capps's suspension and subsequent termination during ongoing litigation.
  - 1.4 Attempts to misrepresent Dillon-Capps's requests for ADA and FMLA accommodations, thereby undermining legally protected rights in a way that could foreseeably cause extreme distress.
2. **Intent or Reckless Disregard:** The facts indicate that Ohana and M&S acted with intent or at least reckless disregard, aiming to use litigation to harass Dillon-Capps, obstruct rights, and intimidate them into submission. These actions show clear disregard for Dillon-Capps's mental well-being, as the escalating litigation pressures and employment actions were likely to cause severe distress.
3. **Severe Emotional Distress:** Dillon-Capps has experienced significant emotional harm, evidenced by severe memory issues, catatonic episodes, and exacerbation of

PTSD. The cumulative effects of employment-related harassment and litigation-induced stress reflect the depth of emotional trauma inflicted, meeting the severe distress requirement as seen in *Lasater v. Guttman*.

4. **Causal Connection:** The actions by Ohana and M&S—beginning with the employment-related harassment and culminating in a protracted, malicious lawsuit—directly caused Dillon-Capps’s emotional and psychological suffering. The escalation of harassment and retaliatory actions underscores a causal link, aligning with standards in *Batson v. Shiflett*.

532 Ohana and M&S’s conduct in Dillon-Capps’s case demonstrates a pattern of extreme and outrageous behavior that justifies a claim for IIED under Maryland law. Through retaliatory litigation, hostile employment actions, and the misuse of legal processes to intimidate Dillon-Capps, Ohana and M&S inflicted severe emotional harm in a manner consistent with *Harris v. Jones* and *Batson v. Shiflett*. The court should recognize these actions as intentional infliction of emotional distress, warranting sanctions and remedial measures to address the harm Dillon-Capps has suffered.

## CC Negligence

### 1 Foundations of Negligence and Individual Liability

533 Under Maryland law, negligence involves the failure to exercise a reasonable standard of care that results in harm to another party. To establish liability in this context, Maryland law holds individuals and entities responsible for the negligent actions that breach their duty of care and cause foreseeable harm. Maryland’s statutes and common law incorporate liability principles that hold corporate owners, agents, and even government actors accountable for negligence.

534 The four primary elements required to establish negligence are:

1. **Duty of Care:** The legal obligation to act in a manner that prevents foreseeable harm to others.
2. **Breach of Duty:** A failure to uphold this duty, whether through action or omission.
3. **Causation:** A direct link between the breach of duty and the harm caused.
4. **Damages:** Demonstrable harm or loss suffered by the plaintiff.

## 2 General Negligence and Corporate Liability

### III. DUTY OF CARE AND CORPORATE ENTITIES

535 Maryland's case law and statutory framework recognize that corporate entities, such as Ohana and M&S, owe a duty of care not only to their clients but also to others who may be foreseeably affected by their actions. This duty extends to protecting employees, clients, and, in cases of legal firms, ensuring compliance with ethical standards that safeguard the judicial system's integrity.

### IV. RELEVANT STATUTES FOR CORPORATE LIABILITY:

536 **Md. Code, Cts. & Jud. Proc. § 5-522:** Limits liability protections for government actors when actions fall outside their official capacity or involve gross negligence, applying similarly to corporate actors in situations of abuse or extreme neglect.

537 **Md. Code, Corp. & Ass'ns § 4A-302:** Defines liability for members of an LLC, allowing for individual responsibility for members who act negligently or outside the scope of their professional duties.

538 **Section 4A-301.1:** Establishes liability for members who provide professional services, including legal and advisory services, with gross negligence or bad faith. This includes M&S's obligations to act in good faith while protecting the court's integrity.

### 3 Application of Duty and Breach to Ohana and M&S

539 Both Ohana and M&S owed Dillon-Capps a duty of care, given the employment relationship with Ohana and M&S's involvement in legal proceedings. By engaging in intentional acts to harm Dillon-Capps's reputation, rights, and financial security, both entities breached this duty:

1. **Ohana** breached its duty by ignoring FMLA rights, creating a hostile work environment, and engaging in a lawsuit based on perjured statements and unsupported claims.
2. **M&S** breached its duty by failing to exercise reasonable care in filing motions and affidavits, presenting perjured testimony, and pursuing injunctive relief without legitimate grounds.

540 These breaches directly impacted Dillon-Capps's financial, emotional, and physical well-being, establishing causation and resulting damages.

### 4 Professional Negligence and Judicial Accountability

#### V. DUTY OF CARE FOR JUDICIAL OFFICIALS

541 Maryland law recognizes that judicial officers, while generally immune from liability, may face liability for actions performed with gross negligence or outside the bounds of judicial discretion. Judge Barranco's actions, if found to be reckless or negligent, could expose the Maryland judiciary to liability for failing to protect the due process rights of Dillon-Capps.

## VI. RELEVANT STATUTES FOR JUDICIAL ACCOUNTABILITY:

542 **Md. Code, Cts. & Jud. Proc. § 5-507:** Establishes that government employees are immune from liability unless their actions involve malice, gross negligence, or are outside the scope of their employment.

543 **Md. Code, Cts. & Jud. Proc. § 5-522(b):** Clarifies that government employees are not shielded from liability in cases of gross negligence, highlighting situations where judges or other officials violate fundamental rights or act outside judicial bounds.

## VII. APPLICATION TO JUDGE BARRANCO AND THE MARYLAND JUDICIARY

544 Judge Barranco's repeated dismissals of critical evidence, including FMLA and ADA documentation, and refusal to hear relevant motions despite Dillon-Capps's documented health conditions, constitute reckless disregard for judicial responsibilities. By acting in a biased, dismissive, or discriminatory manner, Judge Barranco breached the duty of care owed to Dillon-Capps and exacerbated the harm caused by Ohana and M&S:

1. The judge's refusal to hear or acknowledge FMLA claims and attempts to invalidate due process arguments deprived Dillon-Capps of a fair hearing, contravening the duty to uphold justice impartially.
2. Judge Barranco's dismissive and potentially biased statements damaged Dillon-Capps's credibility, reinforcing the baseless claims advanced by Ohana and M&S.

545 These actions, if shown to exceed judicial discretion, justify holding both Judge Barranco and the Maryland government accountable for negligence under § 5-507 and § 5-522(b).

## 5 Individual Liability of Corporate Members and Associates

### I. INDIVIDUAL ACCOUNTABILITY FOR MEMBERS OF OHANA AND M&S

546 Maryland law allows for the personal liability of LLC members and associates of professional corporations in cases of gross negligence, fraud, or when actions exceed the scope of their professional duties. Each member who played a role in filing fraudulent affidavits or supporting perjured claims may be individually liable for the resulting harm.

### II. RELEVANT STATUTES FOR INDIVIDUAL LIABILITY:

547 **Md. Code, Corp. & Ass'ns § 4A-303:** Establishes liability for LLC members who engage in negligent or unlawful acts, allowing injured parties to seek damages directly from responsible individuals.

548 **Section 4A-301.1:** Imposes a duty on members providing professional services, holding them accountable for actions taken with negligence or bad faith, particularly where such actions harm others.

### III. APPLICATION TO INDIVIDUAL MEMBERS OF OHANA AND M&S

549 Each associate or principal within M&S and each member of Ohana who actively participated in filing baseless claims, presenting fraudulent evidence, or dismissing Dillon-Capps's statutory rights may face individual liability:

1. **Ohana Executives and Agents:** By supporting the baseless lawsuit and ignoring Dillon-Capps's legal protections, individual members acted negligently and recklessly, directly harming Dillon-Capps.

2. **M&S Attorneys:** Attorneys from M&S who knowingly submitted false affidavits, perjured statements, or omitted material facts engaged in negligent and possibly malicious conduct, exposing themselves to individual liability.

3. Each member and associate's involvement establishes grounds for individual liability and reciprocity-based relief against Ohana and M&S members.

### CONCLUSION OF NEGLIGENCE

550 Maryland law, under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** and other statutes, supports a comprehensive liability framework for negligence against Ohana, M&S, and the Maryland judiciary. The cumulative failures of these parties to exercise reasonable care led to substantial and foreseeable harm to Dillon-Capps. Additionally, individual liability applies to each principal and associate who participated in these negligent and reckless actions, particularly those at Ohana and M&S who enabled this conduct. The court should impose reciprocal relief, compensatory damages, and sanctions to deter future negligence and to hold each responsible party accountable.

### DD Reckless Endangerment

#### 1 Foundations of Reckless Endangerment

551 Maryland law, supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, incorporates the doctrine of reckless endangerment from English common law principles.

Reckless endangerment is defined as actions that create a substantial risk of harm to another's health or safety, even if harm does not actually occur. Under **Md. Code Ann., Crim. Law § 3-204**, reckless endangerment encompasses actions taken with wanton disregard for the safety or well-being of others, often without considering the potential consequences. In a civil context,



reckless endangerment may justify claims for damages or equitable relief when one party's conduct poses a serious and foreseeable risk to another's health, safety, or livelihood.

552 Key elements of reckless endangerment in Maryland include:

1. **Substantial Risk of Harm:** The actions must create a significant risk of harm or injury to another party.
2. **Recklessness or Wanton Disregard:** Reckless endangerment requires conduct that shows a conscious disregard for the potential harm that may result.
3. **Foreseeability of Harm:** The risk posed by the conduct must be reasonably foreseeable, such that a reasonable person would recognize the likelihood of harm.

## 2 Judicial Standards for Applying Reckless Endangerment

553 Maryland courts evaluate reckless endangerment based on:

1. **Existence of Substantial Risk:** The court assesses whether the conduct created a substantial likelihood of harm to the affected party.
2. **Conscious Disregard of Harm:** Reckless endangerment involves a clear awareness of the risk and a decision to proceed regardless, showing wanton disregard for others' safety or well-being.
3. **Foreseeable Consequences:** Courts consider whether the harm resulting from the conduct was foreseeable, given the nature of the actions and their impact on the targeted individual.

## 3 Maryland Case Law and Statutory Basis

554 **Md. Code Ann., Crim. Law § 3-204:** Defines reckless endangerment as actions that create a substantial risk of death or serious physical injury to another person. While primarily a

criminal statute, this definition provides guidance for evaluating reckless endangerment in civil cases, particularly when actions create substantial non-physical risks to an individual's well-being.

555 **Williams v. State**, 100 Md. App. 468, 641 A.2d 990 (1994): The Maryland Court of Special Appeals affirmed that reckless endangerment includes conduct that shows a gross disregard for safety. The court held that actions posing a foreseeable risk to others meet the standard for reckless endangerment, whether physical or psychological harm is involved.

556 **Minor v. State**, 326 Md. 436, 605 A.2d 138 (1992): Maryland's highest court emphasized that reckless endangerment involves a wanton disregard for the likelihood of harm, stating that individuals are responsible for foreseeable consequences of their reckless actions, even if actual harm does not occur.

#### 4 Application to Dillon-Capps's Case

557 In Dillon-Capps's case, Ohana and M&S engaged in reckless endangerment by creating a foreseeable risk of harm to Dillon-Capps's health, safety, and well-being. Their collective actions, including psychological coercion, threats of adverse employment action, and unfounded legal actions, show a clear disregard for Dillon-Capps's safety and mental health:

1. **Substantial Risk of Harm through Adverse Actions:** The threats, suspension, and subsequent termination created a substantial risk of harm to Dillon-Capps's financial and mental well-being. The escalating legal actions and repeated attempts to intimidate further contributed to this risk, aligning with *Williams v. State*.
2. **Wanton Disregard for Dillon-Capps's Health and Safety:** Ohana and M&S's actions showed a clear disregard for the consequences of their behavior, particularly with

regard to Dillon-Capps's documented mental health conditions and protected leave under FMLA. The repeated adverse actions, including the pursuit of incarceration through the show cause order, demonstrate reckless endangerment by showing a disregard for Dillon-Capps's health and security, as defined in *Minor v. State*.

3. **Foreseeable Harm to Dillon-Capps's Mental and Physical Health:** The cumulative impact of the threats, coercion, and unfounded legal actions had foreseeable consequences on Dillon-Capps's health, exacerbating their PTSD and causing physical manifestations such as catatonia. Given Dillon-Capps's known health conditions, the risks were foreseeable and ignored by Ohana and M&S, meeting Maryland's standard for reckless endangerment.

558 Ohana and M&S's conduct demonstrates reckless endangerment by creating substantial and foreseeable harm to Dillon-Capps's health and livelihood. The intentional disregard for the consequences of their actions, particularly in light of Dillon-Capps's documented health conditions, warrants remedies under Maryland law to prevent further harm and protect Dillon-Capps's rights.

559 Maryland law, supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** and **Md. Code Ann., Crim. Law § 3-204**, prohibits reckless endangerment, including conduct that poses a substantial and foreseeable risk to another's safety and well-being. In Dillon-Capps's case, the pattern of threats, coercion, and abusive litigation represents reckless endangerment, as Ohana and M&S disregarded foreseeable harm to Dillon-Capps's mental and physical health. The court should impose sanctions to deter future reckless conduct and provide equitable relief to

address the harm caused, consistent with the standards established in *Williams v. State* and *Minor v. State*.

## EE Judicial Economy

### 1 Foundations of Judicial Economy

560 **Judicial economy** is a principle guiding courts to resolve disputes efficiently, conserve resources, and reduce unnecessary litigation burdens. Under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, Maryland courts incorporate doctrines from common law that emphasize the importance of expediting proceedings to minimize risk, prevent ongoing harm, and address serious legal violations promptly. Judicial economy not only protects litigants from undue harm but also preserves public confidence in the court's ability to deliver timely and effective justice.

561 Judicial economy is achieved by:

562 **Expediting Matters with Significant Risk or Harm:** When cases involve urgent issues, such as fraud or violations of protected rights, prompt judicial action minimizes harm to parties and safeguards their interests.

563 **Avoiding Redundant or Prolonged Proceedings:** Courts streamline processes to prevent duplicative efforts, conserve resources, and avoid unnecessary delays that prolong risk or uncertainty for litigants.

564 **Addressing Core Issues Directly:** Judicial economy prioritizes addressing material issues and resolving disputes at the earliest opportunity to prevent extended or repetitive litigation that burdens both the court and the parties involved.

565 Maryland law thus aligns with the principle of judicial economy to facilitate efficient case management, reduce judicial workload, and ensure that significant issues are promptly resolved.

## 2 Judicial Standards for Applying Judicial Economy

566 Maryland courts advance judicial economy by:

567 **Prioritizing Cases Involving Urgent or Ongoing Harm:** Judicial resources are directed toward cases where timely intervention is essential to prevent irreparable harm or secure protected rights.

568 **Consolidating and Expediting Proceedings:** Courts employ expedited hearings, consolidated rulings, and streamlined procedures to eliminate redundant filings and procedural delays.

569 **Minimizing Procedural Barriers to Address Core Issues:** Courts reduce procedural obstacles to reach substantive matters directly, thus avoiding delays that may impede justice.

570 These standards allow Maryland courts to uphold judicial economy in cases where quick and effective resolution is essential, particularly when parties face ongoing harm or legal rights are at risk.

## 3 Maryland Case Law

571 **Board of License Commissioners for Prince George's County v. Towe**, 354 Md. 116, 729 A.2d 407 (1999): The Maryland Court of Appeals highlighted the importance of judicial economy, noting that cases involving immediate harm or public interest require expedited handling to prevent extended legal uncertainty. The court emphasized that prompt judicial intervention protects both parties and court resources.

572 **County Commissioners of Carroll County v. Carroll Craft Retail, Inc.**, 384 Md. 23,  
862 A.2d 404 (2004): This case underscored that judicial economy favors resolving cases  
without unnecessary delays, especially when postponement risks further harm or imposes undue  
burdens on the parties and the judiciary.

#### 4 [Application to Judicial Economy in Dillon-Capps' Case](#)

573 In Dillon-Capps's case, the principles of judicial economy directly support an expedited  
resolution to prevent ongoing harm, address fraud, and protect rights that are at risk. The pattern  
of procedural abuses, fraud allegations, and substantive rights violations emphasize the urgency  
of judicial intervention, as delayed resolution compounds harm to Dillon-Capps. Key instances  
of judicial economy include:

574 **Expedited Hearings to Minimize Ongoing Harm and Fraud Risks:** In previous  
rulings, Dillon-Capps has consistently argued that urgent hearings are needed to prevent further  
harm and address fraud, ADA, and FMLA violations. Despite Plaintiff's procedural tactics to  
delay accountability, judicial economy calls for a prompt resolution that addresses the serious  
risks and repeated procedural abuses Dillon-Capps has endured. By prioritizing these issues, the  
court not only protects Dillon-Capps but also limits unnecessary prolongation of a baseless  
lawsuit.

575 **Consolidated Rulings to Prevent Redundant Proceedings:** Given the significant  
overlap in Dillon-Capps's motions—addressing fraud, rights violations, and procedural abuses—  
judicial economy supports consolidating these matters for a unified hearing and ruling.  
Addressing the fraud claims, federal protections under ADA and FMLA, and procedural abuses

together would streamline the case, providing a single, comprehensive resolution that respects Dillon-Capps's rights and reduces procedural redundancies.

576 **Addressing Core Issues to Protect Judicial Resources and Avoid Delays:** Judicial economy demands that core issues be addressed swiftly to prevent undue harm and conserve resources. In this case, the court's ability to directly address fraud, collusion, and rights violations mitigates ongoing risk to Dillon-Capps, while judicially economizing by resolving all connected claims simultaneously. This approach avoids piecemeal litigation that prolongs Dillon-Capps's harm and adds unnecessary complexity to the court's docket.

577 **Minimizing Delays Caused by Plaintiff's Procedural Abuses:** Plaintiff and M&S have repeatedly employed tactics that evade accountability, including a voluntary dismissal filed to avoid scrutiny of procedural abuses and a no-notice TRO obtained without due process. Judicial economy dictates that such tactics be promptly addressed to prevent further waste of judicial resources and protect Dillon-Capps from undue harm. A decisive ruling on these issues would prevent additional delays and safeguard Dillon-Capps's rights from further procedural exploitation.

578 By addressing these issues in line with judicial economy principles, the court can protect Dillon-Capps from ongoing harm, prevent resource strain, and efficiently address the central matters that have prolonged this case.

579 Judicial economy supports prompt and effective resolution of disputes, especially in cases where procedural abuses, rights violations, and serious harm are at stake. In Dillon-Capps's case, the principles of judicial economy demand a swift resolution that consolidates issues, addresses core matters, and limits procedural delays caused by Plaintiff's and M&S's tactics. By upholding

judicial economy, Maryland courts can ensure that Dillon-Capps's rights are protected, judicial resources are preserved, and the integrity of judicial proceedings is maintained.

FF Rules of Evidence, Adjudication of Fact, and Conflicting Statements

1 Foundations of Evidence, Trier of Fact, and Conflicting Statements

580 In Maryland, the **rules of evidence** and principles of adjudication of fact are essential in preserving the integrity of judicial findings. Maryland's common law, under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, alongside **Md. Code Ann., Cts. & Jud. Proc. § 5-401** (admissibility of evidence) and **Md. Code Ann., Cts. & Jud. Proc. § 10-101** (authenticity requirements), establishes that once a fact is adjudicated, it stands unless rebutted by clear, credible evidence. The **trier of fact** is responsible for evaluating the credibility, consistency, and reliability of submissions, and once a fact is adjudicated, it is presumed accurate unless a party presents superior evidence.

581 When a party engages in dishonest conduct or pursues an illegitimate lawsuit by submitting self-contradictory evidence or false statements, Maryland courts generally:

1. **View Conflicting Statements as Indicative of Dishonesty:** Internal contradictions in a party's own evidence are presumed to lack credibility, and deliberate inconsistencies are particularly damaging, suggesting an intent to mislead.
2. **Strengthen Opposing Claims in Light of Dishonest Conduct:** When a party's contradictions expose attempts to manipulate judicial findings, the opposing party's claims are often viewed as bolstered by comparison, gaining credibility from the contrasting reliability.



3. **Impose Sanctions for Abuse of Process and Malicious Prosecution:** In cases where a party knowingly pursues unsupported claims or contradicts material facts, Maryland courts may sanction such conduct to prevent abuse of judicial resources and deter future dishonest litigation.

582 Maryland law holds that factual findings are binding unless substantively challenged, ensuring accountability for dishonesty and strengthening the credibility of the opposing party's claims.

## 2 Judicial Standards for Evaluating Evidence, Conflicting Statements, and Dishonest Conduct

583 Maryland courts maintain standards to ensure that:

1. **Evidence is Credible, Consistent, and Substantiated:** Submissions must avoid internal contradictions, especially where dishonesty or manipulation appears to be the intent.

2. **Conflicting Statements or Material Misrepresentations Are Penalized:** Maryland courts uphold the integrity of judicial findings by imposing sanctions when evidence or statements indicate an intentional effort to mislead.

3. **Adjudicated Facts Favor the Opposing Party in Cases of Manipulation:** Where one party relies on dishonest conduct or procedural abuses, Maryland law supports viewing the opposing party's claims as strengthened by the contrast in reliability.

584 These standards safeguard judicial integrity and uphold the principles of fairness and honesty within Maryland's legal system.

### 3 Maryland Case Law

1. **Owens-Illinois, Inc. v. Armstrong**, 326 Md. 107, 604 A.2d 47 (1992): The Maryland Court of Appeals reinforced that conclusions reached by the trier of fact are presumed valid unless directly challenged by superior evidence. This case established that contradictions or dishonest submissions reflect unreliability and may favor the opposing party's claims.
2. **Meyers v. Montgomery County Police Department**, 96 Md. App. 668, 626 A.2d 1010 (1993): This case confirmed that internal inconsistencies weaken credibility, especially when they suggest dishonest conduct. Maryland courts may discount such evidence or view the contradictions as strengthening the reliability of the opposing party's case.
3. **Bradshaw v. Prince George's County**, 284 Md. 294, 396 A.2d 255 (1979): The Maryland Court of Appeals held that substantial contradictions within a party's evidence signal unreliability, and courts may impose consequences, including sanctions, for dishonest submissions intended to mislead the court.

### 4 Cross-Argument Supporting Case Law

- 585 **Klinck v. H & B Marine, Inc.**, 395 Md. 649, 911 A.2d 500 (2006): This case held that evidence must be consistent and credible to support factual findings. The Maryland Court of Appeals stated that inconsistencies within a party's submissions compromise the integrity of their claims, as conflicting evidence suggests unreliability. Courts have discretion to disregard unreliable evidence, especially when contradictions appear deliberate.

586 **Garrity v. Maryland State Board of Plumbing**, 447 Md. 359, 135 A.3d 452 (2016):

The Maryland Court of Appeals emphasized that factual determinations by the trier of fact should remain unchallenged unless contradicted by more persuasive evidence. The court also recognized that persistent procedural irregularities by a party undermine judicial efficiency and may constitute abuse of process, supporting sanctions if the conduct is intended to obstruct or delay justice.

587 **Hall v. State**, 225 Md. App. 72, 123 A.3d 1004 (2015): This case confirmed that contradictory or false statements submitted to the court can be grounds for sanctions and other corrective actions. Maryland's Court of Special Appeals held that deliberate inconsistencies can be considered attempts to mislead the court and are grounds for strengthening the opposing party's position, as courts rely on consistent, truthful submissions for accurate adjudication.

588 **First Union National Bank v. Steele Software Systems Corp.**, 154 Md. App. 97, 838 A.2d 404 (2003): The Maryland Court of Special Appeals held that knowingly pursuing baseless claims or making false statements can amount to malicious prosecution and abuse of process. The court recognized that litigants who abuse procedural mechanisms for purposes unrelated to legitimate legal claims are subject to sanctions, as such actions compromise the fairness and efficiency of judicial proceedings.

589 **Klupt v. Krongard**, 126 Md. App. 179, 728 A.2d 727 (1999): This case established that inconsistent or self-contradictory testimony submitted by a party weakens its claims, as Maryland courts prioritize evidence that is consistent and reliable. The court ruled that parties cannot expect favorable judgments when they attempt to manipulate the factual record with conflicting statements, as such behavior constitutes abuse of the judicial process.

590 **Beery v. Maryland Medical Laboratory, Inc.**, 89 Md. App. 81, 597 A.2d 516 (1991):

The Maryland Court of Special Appeals emphasized that false or misleading statements used to justify procedural advantages, especially to delay or evade accountability, can justify the imposition of sanctions and strengthen the opposing party's claims. The court held that such conduct undermines the judicial system and imposes unnecessary burdens on the court, warranting sanctions and, in some cases, dismissal.

591 **Needle v. White**, 81 Md. App. 463, 568 A.2d 856 (1990): This case confirmed that engaging in a lawsuit without legitimate purpose or presenting conflicting statements to prolong litigation constitutes malicious prosecution. The court ruled that sanctions, including disqualification, may be imposed to protect judicial resources and deter parties from abusing the judicial process.

592 **Imperial v. Drapeau**, 351 Md. 38, 716 A.2d 244 (1998): The Maryland Court of Appeals held that any inconsistency in a party's submissions that suggests dishonesty or intent to deceive the court warrants careful scrutiny. Such conduct, when intentional, not only undermines the offending party's claims but also may strengthen the opposing party's position, as Maryland law favors credible and straightforward litigation practices to ensure fairness.

##### 5 Application to Rules of Evidence, Conflicting Statements, and Judicial Discretion in Dillon-Capps' Case

593 In Dillon-Capps's case, the Plaintiff's reliance on conflicting evidence, combined with procedural tactics that conceal or contradict material facts, reveals a pattern of dishonesty and abuse of judicial resources. Plaintiff's actions, supported by Judge Barranco's rulings that dismissed key evidence and prevented cross-examination, demonstrate a calculated attempt to

subvert factual findings, support an illegitimate lawsuit, and evade accountability. Key instances include:

1. **Admissions of FMLA Violations Contradicted by Denials:** Plaintiff's counsel admitted in open court that Plaintiff violated Dillon-Capps's FMLA rights. Despite this admission, subsequent filings by Plaintiff denied liability under FMLA, revealing a direct contradiction. Maryland's standards require such conflicts to be reconciled or dismissed, as they indicate an intent to mislead the court and shield Plaintiff from liability. These contradictions enhance Dillon-Capps's FMLA claims, supporting allegations of abuse of process and malicious prosecution.
2. **False Statements on Procedural and Substantive Compliance:** Plaintiff and M&S submitted affidavits alleging Dillon-Capps's procedural non-compliance, while records show Plaintiff delayed responses and failed to adhere to procedural obligations. This internal contradiction undermines Plaintiff's credibility, suggesting that Plaintiff's and M&S's reliance on these statements was intended to obstruct justice and portray Dillon-Capps negatively. Maryland courts recognize that such conduct supports allegations of sanctionable abuse of process, disqualification, and malicious prosecution, further validating Dillon-Capps's arguments.
3. **Judicial Discretion Exceeded to Support Plaintiff's Misrepresentations:** Judge Barranco's refusal to consider ADA and FMLA evidence, despite Plaintiff's admission of violating FMLA, reflects a misuse of discretion that favors Plaintiff's procedural abuses. Such discretionary overreach, when combined with Plaintiff's conflicting statements, suggests judicial bias or manipulation, aligning with Dillon-Capps's claims that Plaintiff

and M&S manipulated judicial processes to evade accountability. These actions cumulatively support Dillon-Capps's claims of malicious prosecution, as they indicate a pattern of conduct that misused judicial authority for improper purposes.

4. **Strengthening of Defendant's Claims Through Plaintiff's Misconduct:**

Plaintiff's reliance on favorable but procedurally flawed rulings to defend against Dillon-Capps's counterclaims further supports allegations of sanctionable conduct. Judge Barranco's "moot" ruling after issuing discriminatory comments against Dillon-Capps reinforces the impression of bias. Maryland law supports the conclusion that Plaintiff's reliance on procedurally improper rulings to justify their claims strengthens Dillon-Capps's assertions of abuse of process and warrants sanctions.

5. **Procedural Evasions as Evidence of Malicious Prosecution:** Plaintiff's tactics—including misuse of hyperlinks to non-court records, reliance on a no-notice TRO, and false statements to secure contempt orders—demonstrate procedural evasion that conflicts with Maryland's evidentiary standards. **Md. Code Ann., Cts. & Jud. Proc. § 5-401** prohibits such practices, especially where hyperlinks are used to reference external, inadmissible evidence. Plaintiff's procedural tactics align with Dillon-Capps's claims of malicious prosecution, as they demonstrate a calculated abuse of process intended to mislead the court.

6. **Rulings Supporting Plaintiff's Conflicting Evidence and Evasive Tactics:**

Plaintiff's reliance on Judge Barranco's discriminatory remarks and subsequent "moot" ruling reflects an ongoing misuse of judicial discretion to delay substantive findings. Maryland's standards view reliance on flawed rulings to justify an otherwise illegitimate

case as evidence of abuse of process, supporting disqualification and sanctions against Plaintiff and M&S for pursuing unsupported claims with dishonest intent.

594 Maryland's evidentiary standards, when applied to Dillon-Capps's case, reveal Plaintiff's reliance on contradictory evidence, procedural misrepresentations, and rulings that exceeded judicial discretion. The pattern of dishonest submissions directly supports Dillon-Capps's claims of malicious prosecution, abuse of process, and sanctionable conduct by Plaintiff and M&S. The cumulative impact of these contradictions and evasions strengthens Dillon-Capps's position, as Maryland courts require parties to present credible, consistent evidence to sustain legitimate claims.

595 Maryland's rules of evidence and principles of factual adjudication uphold that once a fact is adjudicated, it stands unless convincingly rebutted with consistent, credible evidence. In Dillon-Capps's case, Plaintiff's reliance on contradictory admissions, evasive procedural tactics, and rulings exceeding judicial discretion reflect a calculated effort to pursue an illegitimate lawsuit. These actions violate Maryland's evidentiary standards, support Dillon-Capps's claims of malicious prosecution and abuse of process, and warrant sanctions and disqualification to restore judicial integrity and prevent further abuse.

## GG Judicial Referral for Criminal and Ethical Violations

### 1 Foundations of Judicial Referral for Criminal and Ethical Violations

596 Maryland law empowers courts to uphold the ethical standards of the legal profession and to refer instances of misconduct that undermine judicial integrity. The Maryland statutes under **Md. Code Ann., Business Occupations & Professions § 10-306** and **Maryland Rules 19-303.3** and **19-308.3** establish that attorneys have a duty to the court, opposing parties, and the

public to uphold honesty and candor in all proceedings. These statutes align with the principles embedded in **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, which authorize Maryland courts to incorporate equitable doctrines from common law, including the inherent power to report and address violations that compromise justice.

597 The foundation of judicial referral includes:

1. **Duty to Report Ethical Violations:** Maryland attorneys are required to report significant violations of the rules of professional conduct under **Rule 19-308.3**, ensuring that breaches of integrity do not go unchecked.
2. **Court's Inherent Power to Protect Integrity:** Maryland courts have an inherent power to safeguard the integrity of the judicial system, which includes referring matters involving deceit, perjury, or fraud for criminal or ethical investigation.
3. **Prohibition of Misrepresentation and Deceit:** Attorneys are strictly prohibited from making false representations or misleading the court under § 10-306 and **Rule 19-303.3**, which mandates candor toward the tribunal.

598 This foundation ensures that Maryland courts can respond decisively to protect judicial integrity, deter abuse, and uphold public trust in the judicial process.

## 2 Judicial Standards for Referral and Addressing Ethical Violations

599 Maryland courts assess criminal and ethical referral requirements by examining:

1. **Materiality of the Misconduct:** Courts refer violations where the conduct has materially impacted judicial fairness or credibility.
2. **Intent and Repetition of Violations:** Referral is appropriate where misconduct demonstrates intentional deceit, especially if it constitutes a pattern of unethical behavior.



3. **Effect on Judicial Proceedings and Public Trust:** Courts consider whether the misconduct has undermined public confidence or judicial efficiency, making referral necessary to restore integrity.

600 These standards help Maryland courts determine when to refer violations to uphold fairness, honesty, and accountability in legal proceedings.

### 3 Maryland Case Law

1. **Attorney Grievance Commission of Maryland v. Blair**, 440 Md. 387, 102 A.3d 786 (2014): The Maryland Court of Appeals held that attorneys are obligated to uphold candor toward the tribunal, and significant breaches of this duty warrant disciplinary actions, including referral for ethical violations. The court emphasized that misrepresentations are grounds for referral to maintain judicial integrity.

2. **Attorney Grievance Commission of Maryland v. Harris**, 403 Md. 142, 939 A.2d 732 (2008): The court reaffirmed that attorneys who intentionally mislead or deceive the court undermine the legal process and are subject to referral for disciplinary action. The court underscored the responsibility of the judiciary to protect public trust by addressing ethical violations.

3. **In re Application of Kimmer**, 392 Md. 251, 896 A.2d 1006 (2006): The Maryland Court of Appeals confirmed the court's inherent authority to refer matters involving professional misconduct to the appropriate bodies, establishing that courts have both statutory and inherent powers to uphold the integrity of the legal profession.

#### 4 Application to Judicial Referral in Dillon-Capps's Case

601 In Dillon-Capps's case, the actions of Plaintiff's counsel, Miles & Stockbridge (M&S), involve repeated instances of misrepresentation, procedural abuse, and behavior intended to mislead the court, all of which meet Maryland's standards for ethical referral. The cumulative effect of these actions has harmed judicial proceedings and undermined the fairness of the litigation, making judicial referral not only justified but necessary to protect public confidence. Key examples supporting referral include:

1. **Intentional Misrepresentation and Misleading Statements:** M&S submitted contradictory affidavits and procedural filings that contradict Plaintiff's admissions regarding FMLA violations. These misrepresentations, compounded by M&S's submission of misleading affidavits and procedural statements, demonstrate a repeated pattern of unethical behavior that Maryland law views as referral-worthy. **Rule 19-303.3** requires attorneys to be candid with the court, and M&S's actions have clearly breached this duty, warranting referral to protect judicial integrity.
2. **Pattern of Procedural Abuse with Intent to Mislead:** M&S secured a no-notice TRO and a contempt hearing on a two-day notice, circumventing normal procedural protections and denying Dillon-Capps due process. **Md. Rules, Rule 19-308.3** mandates reporting of ethical violations, and the court's reliance on M&S's misrepresentations directly impacted the fairness of the proceedings. The abuse of procedural rules to secure undue advantage underscores the necessity of referral, as it exemplifies bad faith and obstruction of justice.

3. **Failure to Address or Correct Misrepresentations and False Statements:**

Despite Dillon-Capps's repeated objections, M&S failed to correct misleading statements, such as hyperlinking to external, non-record materials and filing affidavits that contradict Plaintiff's known actions. The refusal to address contradictions is itself an ethical breach, and the consistent misrepresentations show that referral is essential to hold M&S accountable and to ensure such abuses are not repeated.

4. **Impact on Judicial Integrity and Public Trust:** The ongoing effect of M&S's actions on judicial integrity and public trust is profound. The law firm's procedural abuses, coupled with misleading statements and uncorrected misrepresentations, indicate an intent to evade judicial accountability and mislead the court. Referral in this context is vital to prevent further harm, restore confidence, and demonstrate that the judiciary will not condone unethical practices.

602 The cumulative conduct by M&S, including procedural evasions, misrepresentations, and refusal to correct known falsehoods, aligns with Maryland's standards for ethical and criminal referral. Such referral not only upholds the integrity of the judiciary but also acts as a deterrent to prevent similar misconduct in future cases.

603 Maryland's statutes and ethical rules require attorneys to maintain honesty and transparency, with violations warranting referral to uphold judicial integrity. In Dillon-Capps's case, M&S's repeated misrepresentations, procedural abuses, and failures to correct material falsehoods directly undermine the principles of fairness, honesty, and accountability central to Maryland's legal system. Judicial referral of M&S's conduct is necessary to address ethical and

potentially criminal violations, protect public confidence, and deter further abuse of the legal process.

## HH Preservation of Claims for Separate Adjudication

### 1 Foundations of Judicial Referral for Criminal and Ethical Violations

604 Maryland law empowers courts to uphold the ethical standards of the legal profession and to refer instances of misconduct that undermine judicial integrity. The Maryland statutes under **Md. Code Ann., Business Occupations & Professions § 10-306** and **Maryland Rules 19-303.3** and **19-308.3** establish that attorneys have a duty to the court, opposing parties, and the public to uphold honesty and candor in all proceedings. These statutes align with the principles embedded in **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, which authorize Maryland courts to incorporate equitable doctrines from common law, including the inherent power to report and address violations that compromise justice.

605 The foundation of judicial referral includes:

1. **Duty to Report Ethical Violations:** Maryland attorneys are required to report significant violations of the rules of professional conduct under **Rule 19-308.3**, ensuring that breaches of integrity do not go unchecked.
2. **Court's Inherent Power to Protect Integrity:** Maryland courts have an inherent power to safeguard the integrity of the judicial system, which includes referring matters involving deceit, perjury, or fraud for criminal or ethical investigation.
3. **Prohibition of Misrepresentation and Deceit:** Attorneys are strictly prohibited from making false representations or misleading the court under **§ 10-306** and **Rule 19-303.3**, which mandates candor toward the tribunal.

606 This foundation ensures that Maryland courts can respond decisively to protect judicial integrity, deter abuse, and uphold public trust in the judicial process.

## 2 Judicial Standards for Referral and Addressing Ethical Violations

607 Maryland courts assess criminal and ethical referral requirements by examining:

1. **Materiality of the Misconduct:** Courts refer violations where the conduct has materially impacted judicial fairness or credibility.
2. **Intent and Repetition of Violations:** Referral is appropriate where misconduct demonstrates intentional deceit, especially if it constitutes a pattern of unethical behavior.
3. **Effect on Judicial Proceedings and Public Trust:** Courts consider whether the misconduct has undermined public confidence or judicial efficiency, making referral necessary to restore integrity.

608 These standards help Maryland courts determine when to refer violations to uphold fairness, honesty, and accountability in legal proceedings.

## 3 Maryland Case Law

609 **Attorney Grievance Commission of Maryland v. Blair**, 440 Md. 387, 102 A.3d 786

(2014): The Maryland Court of Appeals held that attorneys are obligated to uphold candor toward the tribunal, and significant breaches of this duty warrant disciplinary actions, including referral for ethical violations. The court emphasized that misrepresentations are grounds for referral to maintain judicial integrity.

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underscored the responsibility of the judiciary to protect public trust by addressing ethical violations.

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#### 4 [Application to Judicial Referral in Dillon-Capps's Case](#)

612 In Dillon-Capps's case, the actions of Plaintiff's counsel, Miles & Stockbridge (M&S), involve repeated instances of misrepresentation, procedural abuse, and behavior intended to mislead the court, all of which meet Maryland's standards for ethical referral. The cumulative effect of these actions has harmed judicial proceedings and undermined the fairness of the litigation, making judicial referral not only justified but necessary to protect public confidence.

Key examples supporting referral include:

1. **Intentional Misrepresentation and Misleading Statements:** M&S submitted contradictory affidavits and procedural filings that contradict Plaintiff's admissions regarding FMLA violations. These misrepresentations, compounded by M&S's submission of misleading affidavits and procedural statements, demonstrate a repeated pattern of unethical behavior that Maryland law views as referral-worthy. **Rule 19-303.3** requires attorneys to be candid with the court, and M&S's actions have clearly breached this duty, warranting referral to protect judicial integrity.
2. **Pattern of Procedural Abuse with Intent to Mislead:** M&S secured a no-notice TRO and a contempt hearing on a two-day notice, circumventing normal procedural

protections and denying Dillon-Capps due process. **Md. Rules, Rule 19-308.3** mandates reporting of ethical violations, and the court's reliance on M&S's misrepresentations directly impacted the fairness of the proceedings. The abuse of procedural rules to secure undue advantage underscores the necessity of referral, as it exemplifies bad faith and obstruction of justice.

3. **Failure to Address or Correct Misrepresentations and False Statements:**

Despite Dillon-Capps's repeated objections, M&S failed to correct misleading statements, such as hyperlinking to external, non-record materials and filing affidavits that contradict Plaintiff's known actions. The refusal to address contradictions is itself an ethical breach, and the consistent misrepresentations show that referral is essential to hold M&S accountable and to ensure such abuses are not repeated.

4. **Impact on Judicial Integrity and Public Trust:** The ongoing effect of M&S's actions on judicial integrity and public trust is profound. The law firm's procedural abuses, coupled with misleading statements and uncorrected misrepresentations, indicate an intent to evade judicial accountability and mislead the court. Referral in this context is vital to prevent further harm, restore confidence, and demonstrate that the judiciary will not condone unethical practices.

613 The cumulative conduct by M&S, including procedural evasions, misrepresentations, and refusal to correct known falsehoods, aligns with Maryland's standards for ethical and criminal referral. Such referral not only upholds the integrity of the judiciary but also acts as a deterrent to prevent similar misconduct in future cases.

614 Maryland's statutes and ethical rules require attorneys to maintain honesty and transparency, with violations warranting referral to uphold judicial integrity. In Dillon-Capps's case, M&S's repeated misrepresentations, procedural abuses, and failures to correct material falsehoods directly undermine the principles of fairness, honesty, and accountability central to Maryland's legal system. Judicial referral of M&S's conduct is necessary to address ethical and potentially criminal violations, protect public confidence, and deter further abuse of the legal process.

## II Expedited Rulings and Hearings to Prevent Further Harm

### 1 Foundations of Expedited Rulings and Hearings

615 Maryland law provides for expedited rulings and hearings to protect parties from ongoing harm, particularly when a delay risks worsening harm, fraud, or procedural abuses. **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** empower Maryland courts to apply common law principles, including equitable doctrines that prioritize efficient case management in urgent matters. This aligns with the principle of judicial economy, where courts expedite proceedings to minimize risk and ensure prompt relief.

616 Key statutes and rules supporting expedited rulings include:

1. **Md. Code Ann., Cts. & Jud. Proc. § 3-409(f)**: Grants courts discretion to prioritize declaratory judgments in cases where delays could result in substantial harm or unresolved issues that affect parties' rights.
2. **Md. Rules, Rule 2-532.1 (Emergency Relief)**: Allows Maryland courts to expedite the consideration of motions where prompt judicial intervention is necessary to prevent harm or address urgent matters.



3. **Common Law Principles of Judicial Economy and Equitable Relief:**

Maryland courts adopt principles from English common law emphasizing that expediting proceedings is appropriate when immediate intervention is necessary to prevent harm, protect rights, and conserve judicial resources.

617 These foundations underscore Maryland courts' commitment to preventing further harm, particularly in cases involving fraud, illegitimate claims, or procedural abuses that risk ongoing damage.

2 **Judicial Standards for Expedited Hearings and Emergency Rulings**

618 Maryland courts determine the need for expedited hearings by evaluating:

1. **Urgency of Preventing Harm:** Courts consider if delays could lead to irreparable harm, particularly in cases where harm is ongoing or worsening.

2. **Likelihood of Procedural or Substantive Abuses:** Expedited hearings are warranted when delays could allow parties to exploit procedural loopholes or evade accountability, particularly in fraudulent cases.

3. **Necessity for Immediate Relief to Protect Rights:** Courts assess whether prompt action is essential to uphold the rights of one party, preventing an undue advantage to the opposing party.

619 These standards ensure that Maryland courts prioritize cases involving urgent issues, protecting litigants from prolonged harm and reducing risks associated with procedural delays.

3 **Maryland Case Law**

620 **E. L. Gardner, Inc. v. First State Bank**, 245 Md. 538, 226 A.2d 723 (1967): The

Maryland Court of Appeals affirmed that courts should expedite hearings in cases involving the

potential for irreparable harm. This case established that swift judicial intervention is necessary to prevent undue harm to parties when harm would worsen without immediate action.

621 **King v. Bankerd**, 303 Md. 98, 492 A.2d 608 (1985): Maryland's highest court held that expedited rulings are justified where procedural or substantive abuses risk harm to a party's rights. The court emphasized that prompt relief preserves fairness and prevents one party from gaining an undue advantage through procedural delays.

622 **Harbor Island Marina, Inc. v. Calvert County**, 286 Md. 303, 407 A.2d 738 (1979): The court ruled that judicial efficiency requires expedited proceedings in cases where delays risk further harm or where prompt rulings would prevent unnecessary litigation. Maryland courts recognize that judicial economy supports expediting hearings to address urgent or ongoing harm.

#### 4 Application to Expedited Rulings and Hearings in Dillon-Capps's Case

623 In Dillon-Capps's case, expedited rulings and hearings are essential to mitigate the ongoing harm and procedural abuses initiated by Plaintiff and counsel, Miles & Stockbridge (M&S). Maryland's standards strongly support expedited resolution in cases involving illegitimate claims and procedural abuses, as delay only intensifies the harm Dillon-Capps faces. Specific points include:

1. **Ongoing Financial, Reputational, and Physical Harm:** The Plaintiff's persistent procedural abuses, including contradictory statements and illegitimate claims, have inflicted ongoing financial and reputational harm on Dillon-Capps. Maryland's standards in *E. L. Gardner, Inc. v. First State Bank* support expedited relief to prevent further harm, especially where fraudulent or malicious actions compound existing damage.

2. **Risk of Procedural Manipulation by Plaintiff:** Plaintiff and M&S have repeatedly exploited procedural delays to avoid accountability and prolong harm, including filing a voluntary dismissal notice to evade a hearing and avoiding timely responses to counterclaims. This pattern aligns with Maryland's standards in *King v. Bankerd*, where expedited hearings were deemed necessary to prevent procedural abuses and uphold fairness. Expedited hearings would prevent Plaintiff from further delaying justice and would ensure a prompt review of the abuses.
3. **Immediate Relief Required to Protect Federal and State Rights:** Dillon-Capps's ADA, FMLA, and due process rights have been directly threatened by Plaintiff's actions and by procedural rulings that dismissed these claims as "immaterial." *Harbor Island Marina, Inc. v. Calvert County* affirms that expedited hearings are warranted where delays compromise fundamental rights. In this case, prompt intervention is necessary to safeguard Dillon-Capps's rights, ensure that ADA and FMLA protections are respected, and prevent further harm from the Plaintiff's procedural tactics.
4. **Judicial Economy in Resolving Ongoing Issues Efficiently:** Given the extensive pattern of procedural abuses by Plaintiff and M&S, judicial economy supports expedited hearings to streamline proceedings and prevent unnecessary litigation. Maryland's common law principles on judicial economy, as supported by *Harbor Island Marina*, dictate that courts prioritize cases involving ongoing harm to reduce judicial workload and provide prompt resolution. Expedited rulings would efficiently address all unresolved issues, including those related to fraud, misrepresentation, and abuse of process.

624 Maryland's statutory and case law support expedited rulings in Dillon-Capps's case to prevent ongoing harm, procedural manipulation, and the violation of Dillon-Capps's federal and state rights. Expedited hearings would serve the interests of justice, protect Dillon-Capps from continued abuse, and restore fairness to the proceedings.

625 Maryland law, rooted in statutory and common law principles, provides a strong foundation for expedited rulings and hearings to prevent further harm, particularly in cases involving fraud or procedural abuses. In Dillon-Capps's case, expedited hearings are essential to prevent ongoing harm, procedural manipulation, and threats to Dillon-Capps's rights. Maryland's judicial standards support prompt intervention to protect fairness, preserve judicial efficiency, and ensure that Dillon-Capps's legitimate claims receive timely and comprehensive consideration.

## JJ Judicial Correction of the Court Record

### 1 Foundations of Judicial Correction of the Court Record

626 Maryland law establishes the authority of courts to correct or revise the judicial record, particularly when errors, procedural violations, or evidence of fraud undermine prior rulings.

Statutory provisions under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**

incorporate principles from English common law, granting Maryland courts the authority to protect the accuracy and integrity of the court record. Additionally, **Md. Rules, Rule 2-535** and **Md. Code Ann., Cts. & Jud. Proc. § 6-408** enable courts to revise, vacate, or correct prior judgments to address mistakes or fraud.

627 Key statutes and common law principles supporting judicial correction include:

1. **Md. Rules, Rule 2-535 (Revisory Power):** Allows courts to revise judgments to correct errors, address fraud, or prevent injustice.
2. **Md. Code Ann., Cts. & Jud. Proc. § 6-408:** Grants courts authority to modify the record to reflect accurate findings, especially if a prior ruling was influenced by procedural missteps or fraudulent conduct.
3. **Common Law Duty to Preserve Judicial Integrity:** English common law, incorporated by Maryland, supports a court's inherent power to amend records tainted by fraud, error, or abuse to prevent judicial misuse and maintain an accurate account of proceedings.

628 These foundations empower Maryland courts to revise prior judgments, ensuring that the court record reflects truth and fairness without erasing evidence of procedural or ethical violations that may inform future litigation.

## 2 Judicial Standards for Correcting the Court Record

1. Maryland courts correct the judicial record by evaluating:
2. **Materiality of Errors or Fraud:** Courts consider whether errors or fraud materially affected prior rulings, warranting correction to prevent further injustice.
3. **Impact on Rights and Due Process:** Corrections are prioritized when errors have compromised a party's procedural or substantive rights, particularly if these errors resulted from misrepresentations or procedural abuse.
4. **Balance of Judicial Integrity and Transparency:** Courts ensure that records corrected for accuracy do not omit or obscure evidence of misconduct, preserving

documentation of any wrongdoing for accountability purposes in related or future litigation.

629 These standards guide Maryland courts in revising records without compromising transparency, safeguarding both accuracy and accountability within the judicial process.

### 3 Maryland Case Law

630 **Platt v. Platt**, 302 Md. 9, 485 A.2d 250 (1984): The Maryland Court of Appeals held that courts have inherent authority to correct their own records when errors or omissions affect the validity of prior rulings. This case established that judicial revision protects parties' rights to fair treatment and ensures the record's accuracy.

631 **Tandra S. v. Tyrone W.**, 336 Md. 303, 648 A.2d 439 (1994): The Maryland Court of Appeals ruled that courts may vacate or correct judgments when material errors or procedural violations have undermined the fairness of prior decisions. The court emphasized that correction is essential to uphold the integrity of judicial proceedings.

632 **Sieck v. Sieck**, 66 Md. App. 37, 502 A.2d 528 (1986): The court confirmed that revisory power under Rule 2-535 allows Maryland courts to correct records tainted by fraud or misrepresentation. Judicial integrity mandates that errors affecting substantive outcomes be corrected, even if those corrections highlight prior procedural abuse or ethical violations.

### 4 Application to Judicial Correction of the Court Record in Dillon-Capps's Case

633 In Dillon-Capps's case, judicial correction of the court record is crucial to address the harm caused by Plaintiff's procedural abuses, misrepresentations, and rulings exceeding judicial discretion. Maryland's standards support revising prior rulings to correct errors, vacate unjust

orders, and retain evidence of procedural abuses that inform Dillon-Capps's defense and related claims. Key aspects include:

1. **Revisory Power to Address Errors from Misleading and Contradictory**

**Statements:** Plaintiff's and M&S's submissions included numerous contradictions, procedural abuses, and misrepresentations that tainted the integrity of the court's prior rulings, such as the no-notice TRO and contempt orders. Under *Platt v. Platt* and Rule 2-535, the court has the authority to vacate these rulings to protect Dillon-Capps from ongoing harm caused by errors influenced by fraudulent or unethical conduct.

2. **Correction of Rulings Exceeding Judicial Discretion and Misrepresentations:**

Judge Barranco's rulings, including those issuing \$2,500 per day fines and conflicting contempt orders, disregarded Dillon-Capps's ADA and FMLA rights despite Plaintiff's own admissions of FMLA violations. Maryland's *Tandra S. v. Tyrone W.* precedent supports correction to ensure due process and remove unjust orders that penalize Dillon-Capps unfairly. Correction of these rulings would rectify previous overreaches and prevent further injustice.

3. **Transparency and Accountability in Preserving Evidence of Misconduct:**

Correcting the record should retain evidence of prior procedural and ethical violations by Plaintiff and M&S, as this documentation is integral to Dillon-Capps's claims of abuse of process, malicious prosecution, and fraud upon the court. Under *Sieck v. Sieck*, Maryland courts recognize that revising judgments for accuracy does not equate to omitting evidence of misconduct. Correcting prior rulings without erasing instances of procedural abuse preserves the integrity of the record for related claims and future proceedings.

4. **Protecting Dillon-Capps's Rights and Due Process:** The cumulative procedural abuses and misrepresentations in this case have compromised Dillon-Capps's right to a fair defense and due process. Judicial correction, consistent with Maryland's revisory power under Rule 2-535, allows the court to correct rulings that were influenced by procedural errors or deceptive practices. Ensuring an accurate record upholds Dillon-Capps's rights, reduces harm, and affirms the court's commitment to maintaining fair proceedings.

634 Maryland's revisory power and judicial precedents support correcting the record in Dillon-Capps's case to address rulings influenced by misrepresentation, procedural abuse, and rulings that exceeded judicial discretion. These corrections would restore fairness to the proceedings, prevent further harm to Dillon-Capps, and preserve evidence of misconduct critical to related and future claims.

635 Maryland law, grounded in statutory and common law authority, provides a clear foundation for judicial correction of the court record when errors, procedural abuses, or fraudulent conduct have tainted prior rulings. In Dillon-Capps's case, the court's revisory power is essential to correct errors, vacate unjust orders, and ensure that the record accurately reflects the substance of procedural violations without omitting evidence of prior misconduct. Correcting the record in this context upholds judicial integrity, protects Dillon-Capps's rights, and maintains accountability within the judicial process.

#### KK Ruling in Favor of the Party with a Legitimate Claim



1     Foundations for Ruling in Favor of the Legitimate Claim in Maryland Law

636     Maryland law emphasizes the court's obligation to rule in favor of parties presenting credible and legitimate claims, particularly where one party's conduct demonstrates bad faith, abuse of process, or failure to substantiate their assertions. **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** incorporate principles of common law equity, mandating fairness and integrity in adjudication. The common law doctrine of **unclean hands** prevents a party from obtaining relief if they have engaged in unethical behavior that undermines the justice process, reinforcing the principle that courts should favor legitimate claims over procedurally or substantively abusive conduct.

637     Key statutes and doctrines supporting rulings favoring legitimate claims include:

1.     **Md. Code Ann., Cts. & Jud. Proc. § 3-409(e)**: Permits courts to declare rights and resolve claims in favor of the party with a substantiated and legitimate position, particularly in cases involving declaratory or equitable relief.
2.     **Common Law Principle of "Clean Hands"**: Maryland courts consistently apply the doctrine of unclean hands, denying relief to parties acting unethically or deceitfully. This principle supports rulings favoring the legitimate claims of the party who has acted in good faith.
3.     **Md. Rules, Rule 1-201 (Construction of Rules)**: Requires that court rules be interpreted to secure fairness, enabling courts to prioritize legitimate claims over those brought in bad faith or without factual or legal basis.

638     These foundations guide Maryland courts to favor parties with legitimate, credible claims, particularly when one party has demonstrated procedural abuses or fraudulent intent.

## 2 Judicial Standards for Ruling in Favor of a Legitimate Claim

639 Maryland courts evaluate the legitimacy of claims by assessing:

1. **Credibility and Good Faith of the Claimant:** Courts favor claims where the claimant demonstrates integrity, consistency, and adherence to legal standards.
2. **Absence of Procedural or Substantive Abuse:** Courts are inclined to favor the legitimate claims of parties who have not engaged in tactics that obstruct or manipulate the judicial process.
3. **Reliability and Sufficiency of Evidence:** Maryland courts favor claims that are supported by credible, consistent, and substantial evidence, aligning with principles of fairness and efficiency in adjudication.

640 These standards help Maryland courts identify and rule in favor of legitimate claims, protecting parties from unfounded or abusive litigation tactics that lack substantive justification.

## 3 Maryland Case Law

641 **Stuart Kitchens, Inc. v. Stevens**, 248 Md. 71, 234 A.2d 749 (1967): The Maryland Court of Appeals held that courts should favor claims based on reliable evidence and consistent testimony, particularly where the opposing party's conduct suggests unethical behavior or procedural abuse. The court emphasized that judgments must reflect fairness and truthfulness in submissions.

642 **Manown v. Adams**, 328 Md. 463, 615 A.2d 611 (1992): Maryland's highest court confirmed that the doctrine of unclean hands bars relief for parties who act in bad faith or engage in dishonest tactics. This doctrine reinforces the preference for ruling in favor of the party whose claim is presented with integrity and credibility.

643 **Ashcraft & Gerel v. Shaw**, 126 Md. App. 325, 728 A.2d 798 (1999): The court emphasized that courts should not reward litigants who use judicial processes improperly. The ruling reinforced that Maryland courts favor claims of parties acting in good faith, particularly when the opposing party's tactics are aimed at obstructing justice.

#### 4 Application to Ruling in Favor of Dillon-Capps's Legitimate Claims

644 In Dillon-Capps's case, Maryland's standards strongly favor ruling in favor of Dillon-Capps's legitimate claims, as the Plaintiff and M&S have demonstrated repeated procedural abuses, misrepresentations, and bad faith conduct. Maryland's doctrine of unclean hands and principles for favoring legitimate claims support Dillon-Capps's case, as Plaintiff's actions consistently indicate an attempt to mislead the court and evade accountability. Key factors include:

1. **Evidence of Good Faith and Consistent Claims by Dillon-Capps:** Dillon-Capps has presented credible evidence, including healthcare documentation, FMLA records, and ADA testimony, which collectively support Dillon-Capps's legitimate claims for relief. Maryland's standards in *Stuart Kitchens, Inc. v. Stevens* favor rulings based on reliable, consistent evidence. Dillon-Capps's submissions reflect integrity, substantiating a clear, credible basis for their claims, unlike the contradictory and evasive submissions from Plaintiff.
2. **Pattern of Procedural Abuses and Contradictory Statements by Plaintiff:** Plaintiff and M&S have engaged in multiple procedural abuses, including obtaining a no-notice TRO, filing contradictory affidavits, and submitting misleading statements regarding Dillon-Capps's FMLA entitlements. *Manown v. Adams* supports denying relief

to parties engaging in bad faith, as Plaintiff's procedural misconduct exemplifies unethical tactics intended to delay and manipulate the judicial process. Ruling in favor of Dillon-Capps aligns with Maryland's standards, as Plaintiff's conduct lacks credibility and ethical foundation.

3. **Failure of Plaintiff's Claims Due to Lack of Factual or Legal Basis:** Plaintiff's continued reliance on unsupported claims and misleading procedural tactics, particularly in light of Dillon-Capps's legitimate counterclaims, justifies a ruling in Dillon-Capps's favor. Maryland's standard in *Ashcraft & Gerel v. Shaw* indicates that courts should favor parties whose claims are grounded in good faith and reliable evidence, especially when the opposing party seeks advantage through procedural manipulation. Dillon-Capps's evidence meets Maryland's credibility standards, supporting an equitable resolution that favors legitimate claims over baseless accusations.

4. **Unclean Hands Doctrine as a Bar to Plaintiff's Relief:** Maryland's unclean hands doctrine supports ruling against Plaintiff's claims entirely, as their conduct demonstrates repeated instances of procedural abuse, deceit, and evasion of accountability. The doctrine bars parties from benefiting from dishonest tactics, and Plaintiff's reliance on these tactics to advance their case directly supports Dillon-Capps's claims of malicious prosecution and abuse of process. Applying the unclean hands doctrine justifies dismissing Plaintiff's claims and ruling in Dillon-Capps's favor, consistent with Maryland's principles of fairness and judicial integrity.

645 Maryland's legal standards, rooted in both statutory and case law, clearly favor ruling in Dillon-Capps's favor. The Plaintiff's and M&S's abuse of process, procedural manipulation, and

unethical conduct strengthen Dillon-Capps's claims under Maryland's preference for credible, good faith claimants and the application of the unclean hands doctrine.

646 Maryland law, grounded in both statutory and common law principles, provides a clear foundation for courts to rule in favor of the party presenting a legitimate claim. In Dillon-Capps's case, Plaintiff's bad faith conduct, procedural abuses, and misrepresentations undermine the validity of their claims, supporting a ruling in favor of Dillon-Capps under Maryland's standards for legitimate claims. Applying these standards ensures that Maryland courts uphold the principles of fairness, accountability, and justice by protecting the rights of credible parties and disfavoring claims advanced through deceitful or unethical tactics.

#### LL 6. Circuit Court Authority to Set Precedent of Reciprocal Relief

##### 1 Foundations for Circuit Court Authority to Set Precedent of Reciprocal Relief in Maryland Law

647 Maryland law provides circuit courts with broad authority to establish equitable remedies, including reciprocal relief, to address malicious litigation practices, prevent unjust enrichment, and uphold public policy. The statutory provisions under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** authorize Maryland courts to adopt and expand on common law principles, enabling them to address new issues that require equitable remedies. The doctrine of unjust enrichment, along with Maryland's public policy favoring fairness, justice, and deterrence against procedural abuse, reinforces the court's authority to craft remedies that address specific harms resulting from bad-faith litigation.

648 Key statutes and doctrines supporting reciprocal relief as an equitable remedy include:

1. **Md. Code Ann., Cts. & Jud. Proc. § 1-201:** Empowers Maryland courts to apply common law principles, which include doctrines such as unjust enrichment and restitution, particularly when one party has unfairly benefited at the expense of another.

2. **Maryland Doctrine of Unjust Enrichment and Restitution:** This doctrine allows courts to order equitable remedies when one party gains at the expense of another through wrongful or fraudulent conduct. Unjust enrichment supports reciprocal relief as a way to restore equity by denying the offending party any benefit derived from unethical or malicious actions.

3. **Public Policy Supporting Deterrence and Protection Against Abuse:**

Maryland's public policy endorses deterrence of malicious litigation and procedural abuses that harm parties and burden judicial resources. Circuit courts have the authority to establish remedies that discourage misconduct and protect the integrity of the legal system.

649 These foundations affirm Maryland circuit courts' ability to create reciprocal relief as a precedent-setting remedy in cases involving procedural abuse, unethical litigation practices, and unjust enrichment.

## 2 Judicial Standards for Establishing Precedent for Reciprocal Relief

650 Maryland courts use specific standards to justify the establishment of reciprocal relief:

1. **Preventing Unjust Enrichment:** Courts examine whether a party has benefited at another's expense through misconduct. In cases where one party's actions result in unjust gains, reciprocal relief is warranted to prevent the offender from profiting from their wrongful conduct.

2. **Deterrence as a Public Policy Objective:** Courts consider if reciprocal relief is necessary to deter similar abuses, safeguarding judicial resources and protecting future litigants from malicious practices.

3. **Alignment with Public Policy for Fair and Ethical Litigation:** Maryland courts weigh public policy considerations, including maintaining judicial integrity and upholding ethical litigation practices, in determining the appropriateness of reciprocal relief.

651 These standards ensure that reciprocal relief is not only an effective remedy for addressing harm but also aligns with Maryland's goals of preventing unjust enrichment, promoting fairness, and deterring procedural abuses.

### 3 Maryland Case Law

652 **Hammond v. Marketing Management, Inc.**, 445 Md. 310, 126 A.3d 1137 (2015): The Maryland Court of Appeals recognized that equitable remedies may evolve to address unique harms that threaten fairness and public policy. The court emphasized the importance of equitable relief in protecting against unjust enrichment and discouraging conduct that undermines judicial integrity.

653 **Wooldridge v. Price**, 184 Md. 443, 41 A.2d 61 (1945): This case affirmed that Maryland courts hold authority to address unjust enrichment through equitable remedies. The court held that parties should not benefit from wrongful actions at the expense of others, reinforcing that reciprocal relief is appropriate to prevent unjust enrichment.

654 **Standard Fire Ins. Co. v. Berrett**, 395 Md. 439, 910 A.2d 1072 (2006): The court ruled that circuit courts have discretion to provide equitable relief to prevent harm and deter

misconduct. The decision supports reciprocal relief as a way to protect against future harm and uphold judicial efficiency.

#### 4 Cross-Argument Supporting Case Law

655 **Everhart v. Miles**, 47 Md. App. 131, 422 A.2d 28 (1980): This case reinforced that Maryland courts may order restitution or reciprocal relief to prevent unjust enrichment and safeguard against abuse of judicial processes. The court held that equity requires remedial measures when one party has suffered due to another's wrongful actions.

656 **Attorney Grievance Comm'n v. Byrd**, 408 Md. 449, 970 A.2d 870 (2009): The Maryland Court of Appeals emphasized public policy considerations in determining sanctions, noting that deterrence is a valid and necessary judicial goal to prevent unethical practices. Reciprocal relief can serve as a similar deterrent against procedural misconduct in civil cases.

657 **Beery v. Maryland Medical Laboratory, Inc.**, 89 Md. App. 81, 597 A.2d 516 (1991): This case held that courts may impose corrective measures to address abuses of the judicial process, affirming that Maryland courts have broad discretion to craft remedies that protect against abusive litigation and uphold the public interest.

#### 5 Application to Reciprocal Relief in Dillon-Capps's Case

658 In Dillon-Capps's case, establishing reciprocal relief serves a dual purpose: preventing unjust enrichment by denying Plaintiff the benefits of their bad-faith conduct, and deterring future procedural abuses. Maryland's doctrine of unjust enrichment and public policy goals strongly support reciprocal relief, as Plaintiff's conduct has been harmful, unfairly advantageous, and against Maryland's judicial principles. Key points include:



1. **Preventing Plaintiff's Unjust Enrichment Through Malicious Litigation:**

Plaintiff and M&S have used procedural abuses to obtain undue advantage, including securing a no-notice TRO, evading counterclaims, and avoiding accountability through a voluntary dismissal. These actions indicate that Plaintiff's intention was to gain through deceit and procedural manipulation. Under *Wooldridge v. Price* and *Everhart v. Miles*, Maryland courts are justified in applying reciprocal relief to deny Plaintiff any benefit from these tactics and to restore equity to Dillon-Capps.

2. **Deterring Future Abuse and Protecting Judicial Integrity:** Plaintiff's and M&S's persistent bad-faith litigation practices suggest a need for deterrent measures to prevent similar conduct in future cases. Under *Attorney Grievance Comm'n v. Byrd*, Maryland courts recognize deterrence as a fundamental public policy objective. By setting a precedent for reciprocal relief, the court sends a clear message that procedural abuse and malicious litigation tactics will not go unpunished, deterring other litigants from attempting similar conduct.

3. **Alignment with Public Policy Favoring Fair and Ethical Litigation:**

Maryland's legal framework prioritizes fairness and public trust in judicial processes. The Plaintiff's actions—contradictory statements, procedural evasions, and exploitation of judicial rulings—undermine these values. Reciprocal relief, as supported by *Standard Fire Ins. Co. v. Berrett* and *Beery v. Maryland Medical Laboratory, Inc.*, aligns with Maryland's public policy goals by holding parties accountable for actions that compromise the fairness of proceedings. This remedy ensures that Dillon-Capps's rights are protected and that public confidence in the court is restored.

4. **Equitable Remedy to Address Harm and Promote Justice:** The Plaintiff's procedural abuses have inflicted ongoing harm to Dillon-Capps, including reputational, financial, and emotional damage. Under *Hammond v. Marketing Management, Inc.*, Maryland courts are empowered to provide equitable relief that directly addresses the harm endured by litigants facing malicious actions. Reciprocal relief would allow the court to remedy these injuries effectively, restoring balance to the proceedings and protecting Dillon-Capps from further harm.

659 Establishing reciprocal relief as a precedent in this case upholds Maryland's commitment to preventing unjust enrichment, deterring malicious litigation, and promoting public trust. The cumulative effect of Plaintiff's procedural abuses, combined with the need to protect future litigants, strongly supports reciprocal relief as a remedy that aligns with Maryland's equitable principles and public policy.

660 Maryland law, grounded in statutory authority, common law principles, and public policy considerations, provides a robust foundation for circuit courts to establish reciprocal relief as a precedent-setting remedy. In Dillon-Capps's case, the Plaintiff's persistent procedural abuses, bad-faith conduct, and unjust enrichment justify reciprocal relief. This remedy not only compensates Dillon-Capps for the harm suffered but also deters similar conduct and promotes fairness, transparency, and ethical standards within Maryland's judiciary. By setting this precedent, the court reinforces Maryland's commitment to justice, ensuring that bad-faith litigants are held accountable and that Maryland's legal system remains a protector against abuse and exploitation.

## VIII SANCTIONS

## A Introduction

661 The case against Dillon-Capps rests on unfounded allegations that fail to establish a legitimate claim for relief, grounded instead in conduct that violates Dillon-Capps's rights under the Family and Medical Leave Act (FMLA) and Americans with Disabilities Act (ADA), compounded by retaliatory actions, breach of a prior written accord, perjury, and procedural misconduct. Ohana and its counsel, Miles & Stockbridge, have engaged in a pattern of misconduct that invalidates any claim for relief, supporting sanctions under Maryland law.

662 Maryland's statutory and common law framework provides clear grounds for the court to assess the legitimacy of claims and impose sanctions for abuses, particularly where claims are retaliatory, rooted in bad faith, or brought without substantial justification. Specifically:

1. **Violation of Protected Rights:** The Plaintiff has engaged in actions that directly infringe on Dillon-Capps's rights under the FMLA and ADA, as confirmed in court filings and statements. These violations invalidate any legal basis for injunctive relief and constitute a fundamental breach of Dillon-Capps's protected rights.
2. **Estoppel and Breach of Accord:** Ohana and its counsel violated the terms of a June 7th accord agreed upon to resolve ongoing issues, creating an estoppel that bars them from bringing claims that contradict or breach the accord's terms. This includes Ohana's evasion of compliance on June 10th and 11th, coupled with its subsequent filing of misleading affidavits.
3. **Fraudulent and Retaliatory Conduct:** The Plaintiff's actions reflect not only a disregard for established legal rights but also malicious intent to harm and retaliate against Dillon-Capps. These actions support claims of malicious prosecution and abuse of

process, warranting sanctions for unjustified and frivolous litigation under **Md. Rules, Rule 1-341**.

4. **Perjury and False Claims:** The affidavits filed by Ohana executives, including Richard Hartman and Justin Drummond, and expert Randall Romes contain statements that are misleading or directly false, violating Maryland's **Md. Code Ann., Crim. Law § 9-101** against perjury and undermining judicial integrity.

663 Maryland courts hold that a party engaging in litigation without substantial justification, in bad faith, or for improper purposes must face consequences to deter future abuse and uphold judicial integrity. Under **Rule 1-341** and related common law doctrines on abuse of process and malicious prosecution, Ohana and its counsel should bear full accountability for the baseless and coercive litigation that they have pursued against Dillon-Capps.

664 To address the cumulative misconduct by Ohana and its counsel, the court is urged to impose sanctions that include compensatory relief, dismissal of the Plaintiff's claims, and a referral for ethical investigation under the Maryland Attorneys' Rules of Professional Conduct, **Rules 3.3(a), 4.1, and 8.4(c)**. These sanctions align with Maryland's objective of deterring frivolous and unethical litigation practices, preserving judicial resources, and protecting Dillon-Capps's rights from further harm.

#### **B General Sanctions under Md. Rule 1-341**

665 Foundation for Sanctions under Md. Rule 1-341

666 **Maryland Rule 1-341** provides that a court may impose sanctions, including attorneys' fees and costs, on any party or attorney who initiates or maintains proceedings in **bad faith, without substantial justification, or for improper purposes**. This rule deters misuse of judicial

resources and protects parties from groundless claims, harassment, and undue harm. Rule 1-341 embodies Maryland's commitment to maintaining judicial integrity by addressing and penalizing malicious, frivolous, or vexatious litigation practices, including spoliation, witness tampering, wrongful termination, and defamation.

1 Judicial Standards, Purpose, and Criteria for Imposing Sanctions under Md. Rule 1-341

667 Sanctions under Rule 1-341 serve several essential purposes:

1. **Deterrence of Improper Litigation Practices:** Prevents parties from filing claims or motions solely to harass, delay, coerce, or impose undue burden on the opposing party.
2. **Preservation of Judicial Integrity:** Ensures the court system remains a forum for legitimate disputes, not a tool for vindictive or baseless actions.
3. **Promotion of Accountability:** Holds parties and attorneys responsible for engaging in litigation without proper basis or with malicious intent.
4. **Protection of Defendants' Rights:** Shields individuals from enduring financial and emotional harm caused by frivolous or unfounded claims, particularly when actions are maintained purely for harassment.

2 Criteria for Imposing Sanctions:

668 **Lack of Substantial Justification:** Claims are clearly without merit or legal grounds, indicating they were filed without reasonable belief in their success.

669 **Improper Purpose:** Filings were intended to harass, coerce, delay, or cause harm rather than resolve a legitimate legal dispute.

670 **Bad Faith:** Litigants acted with malicious intent or a reckless disregard for the truth,  
often indicated by perjured statements, abuse of process, or manipulation of court procedures.

### 3 Maryland Case Law

671 **Inlet Assocs. v. Assateague House Condo. Ass'n**, 313 Md. 413, 545 A.2d 1296 (1988):

The Maryland Court of Appeals held that sanctions under Rule 1-341 are appropriate when a party's actions lack substantial justification and demonstrate improper motive. This case established that bad-faith litigation warrants sanctions to deter future misuse of the judicial system.

672 **Majority Properties, Inc. v. Town of Hancock**, 333 Md. 3, 633 A.2d 392 (1993): This case clarified that sanctions are warranted when actions are taken without substantial justification or are filed to delay or harass. Sanctions were imposed to uphold judicial integrity and ensure accountability in cases involving improper use of litigation.

673 **Needle v. White**, 81 Md. App. 463, 568 A.2d 856 (1990): The Maryland Court of Special Appeals affirmed that frivolous claims lacking legal or factual basis warrant sanctions, especially when they reveal a pattern of abuse or intent to harm the opposing party.

### 4 Supporting Case Law Beyond Maryland

674 **Christianburg Garment Co. v. EEOC**, 434 U.S. 412 (1978): The U.S. Supreme Court upheld sanctions for frivolous litigation, finding that suits filed without legal merit justify financial penalties, which serve to deter abuse of judicial resources.

675 **Roadway Express, Inc. v. Piper**, 447 U.S. 752 (1980): This case confirmed the authority of federal courts to impose sanctions for baseless claims pursued with improper intent, underscoring the judiciary's power to penalize frivolous conduct.

## 5 Cross Argument Case Law

676 **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991): The U.S. Supreme Court reinforced the inherent power of courts to sanction litigants for vexatious or abusive conduct, highlighting the judiciary's duty to maintain fair proceedings free from harassment and bad-faith tactics.

677 **Miller v. Bittner**, 50 Md. App. 302, 437 A.2d 81 (1981): The Maryland Court of Special Appeals emphasized that courts may impose sanctions to prevent the abuse of legal processes, protecting the judicial system from baseless claims intended solely to harass or intimidate.

## 6 Application to Dillon-Capps's Case

678 In Dillon-Capps's case, the conduct of Ohana and M&S meets the criteria for sanctions under Rule 1-341 based on the following framework elements:

1. **Abuse of Process:** Ohana and M&S repeatedly misused procedural mechanisms, including show cause orders and coercive filings, to compel Dillon-Capps's compliance and intimidate them. This aligns with *Inlet Assocs. v. Assateague House Condo. Ass'n*, which imposed sanctions for procedural abuse lacking substantial justification.
2. **Perjury and Material Misstatements:** Numerous affidavits and filings from Ohana and M&S contained false or misleading information, which aimed to mislead the court and substantiate baseless claims. *Majority Properties, Inc. v. Town of Hancock* emphasized that sanctions should be imposed when submissions misrepresent facts and lack credibility.
3. **Spoliation of Evidence:** The refusal to provide key documents, including the June 26th hearing transcript needed for Dillon-Capps's defense, constitutes spoliation.

This obstruction hindered fair proceedings, fitting the criteria for sanctions in *Klupt v. Krongard*, where destruction or withholding of evidence was sanctionable.

4. **Witness Tampering:** Any actions by Ohana or M&S to influence or restrict witness statements—whether directly or indirectly—are sanctionable under Rule 1-341. Witness tampering impairs the truth-finding function of litigation, and sanctions prevent interference with the judicial process, as in *United States v. Fields*.

5. **Wrongful Termination:** Ohana's retaliatory suspension and termination of Dillon-Capps during protected FMLA leave reflect an abuse of legal process for improper motives. *Adler v. Am. Standard Corp.* recognized wrongful termination as actionable, warranting sanctions when driven by retaliatory intent.

6. **Defamation and Damage to Reputation:** Ohana and M&S's defamatory statements throughout litigation filings were designed to harm Dillon-Capps's reputation, demonstrating malicious intent. Sanctions are appropriate under Rule 1-341 for defamation as part of abuse of process, as supported in *Samuels v. Tschechtelin*.

7. **Obstruction of Evidence:** The refusal to provide the transcript Dillon-Capps required for defense reflects deliberate evidence obstruction, further compounding the lack of substantial justification in pursuing this case. This aligns with *Chambers v. NASCO, Inc.*, where obstruction and bad-faith litigation justified severe sanctions.

8. **Malicious Prosecution and Vexatious Litigation:** Ohana and M&S's conduct, including initiating litigation without legitimate purpose and continuing filings intended to harass, fits Maryland's standard for imposing sanctions under Rule 1-341 for vexatious



litigation. This misconduct aligns with *Needle v. White*, where repeated baseless claims warranted penalties to deter future abuse.

9. **Intentional Harassment:** The entire pattern of conduct by Ohana and M&S was aimed at imposing emotional, financial, and professional strain on Dillon-Capps, demonstrating a clear lack of justification and improper intent. This case parallels *Christianburg Garment Co. v. EEOC*, where sanctions were used to counter harassing litigation tactics.

## 7 Conclusion

679 Under **Md. Rule 1-341**, the conduct of Ohana and M&S in pursuing baseless claims and improper tactics against Dillon-Capps warrants sanctions to preserve judicial resources, deter abuse, and protect defendants from malicious litigation. Supported by Maryland and national precedents, the court should impose severe penalties to uphold judicial integrity and deter future misuse of the judicial system, as established in *Inlet Assocs. v. Assateague House Condo. Ass'n*, *Majority Properties, Inc. v. Town of Hancock*, and other cases.

### C Voluntary Dismissal under Md. Rule 2-506

#### 1 Foundation for Sanctions under Md. Rule 2-506

680 **Maryland Rule 2-506** governs voluntary dismissals in civil cases. While it generally allows plaintiffs to withdraw their claims without prejudice, **Rule 2-506(b)** provides that the court may impose conditions on such dismissals, particularly when there is evidence the dismissal is used to avoid accountability, evade a counterclaim, or manipulate the judicial process. Improperly using voluntary dismissal to escape sanctions or prevent judicial scrutiny undermines the integrity of the judicial process and warrants sanctions.

#### 2 Judicial Standards, Purpose, and Criteria for Imposing Sanctions under Md. Rule 2-506

681 Sanctions under Rule 2-506 are imposed to:

1. **Prevent Abuse of Voluntary Dismissal:** Sanctions deter parties from using dismissal as a tactical tool to avoid liability, accountability, or adverse rulings.
2. **Preserve the Integrity of the Judicial Process:** By penalizing misuse of voluntary dismissal, courts ensure that litigation serves its intended purpose—to resolve disputes based on the merits, not avoid them.
3. **Ensure Fair Adjudication of Counterclaims:** Courts sanction dismissals that interfere with an opposing party's legitimate right to pursue counterclaims or defenses.
4. **Prevent Procedural Manipulation and Delay:** Sanctions discourage plaintiffs from dismissing cases simply to delay proceedings or harass the defendant.

### 3 Criteria for Imposing Sanctions under Rule 2-506:

682 **Improper Purpose:** The dismissal is filed not to resolve a dispute but to evade judicial scrutiny, avoid sanctions, or manipulate procedural timing.

683 **Prejudice to the Opposing Party:** The opposing party faces undue harm or procedural disadvantage because of the dismissal, particularly if they have counterclaims or defenses that remain unresolved.

684 **Bad Faith or Evasion of Accountability:** The plaintiff seeks to dismiss with the intent to avoid repercussions from baseless or malicious claims.

### 4 Maryland Case Law

685 **Hossainkhail v. Gebrehiwot**, 143 Md. App. 716, 795 A.2d 816 (2002): The Maryland Court of Special Appeals held that voluntary dismissal under Rule 2-506 may be conditioned on payment of costs or fees when the dismissal prejudices the defendant or aims to evade liability.

The court emphasized that voluntary dismissal should not serve as a means to escape accountability.

686 **Merritt v. Mendelson**, 94 Md. App. 144, 616 A.2d 1023 (1992): The court held that plaintiffs could not use voluntary dismissal as a tactical maneuver to avoid pending counterclaims. When dismissals disrupt the equitable resolution of all claims, sanctions or conditions are warranted.

687 **Janusz v. Gilliam**, 404 Md. 524, 947 A.2d 560 (2008): The Maryland Court of Appeals confirmed that voluntary dismissal must not prejudice the opposing party's right to pursue legitimate claims. If a dismissal unfairly disadvantages the opposing party, sanctions or other conditions are justified.

## 5 Supporting Case Law Beyond Maryland

688 **Brockton Sav. Bank v. Peat, Marwick, Mitchell & Co.**, 771 F.2d 5 (1st Cir. 1985): The First Circuit held that courts may condition voluntary dismissals to prevent prejudice to the defendant, especially when there is evidence that dismissal was filed in bad faith to avoid liability.

689 **Ohlander v. Larson**, 114 F.3d 1531 (10th Cir. 1997): The Tenth Circuit ruled that courts may impose sanctions when a plaintiff dismisses a case to avoid an adverse ruling or sanctions, particularly if the dismissal prejudices the defendant.

## 6 Cross Argument Case Law

690 **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991): The U.S. Supreme Court upheld sanctions against a party who attempted to manipulate procedural rules, emphasizing that courts have inherent authority to penalize parties who misuse procedural tools to avoid accountability.

691 **Roadway Express, Inc. v. Piper**, 447 U.S. 752 (1980): The Court underscored that  
judicial authority extends to imposing sanctions for actions intended to disrupt or evade the fair  
administration of justice, reinforcing the deterrence of tactical dismissals.

7 [Application to Dillon-Capps's Case](#)

692 In Dillon-Capps's case, Ohana and M&S's voluntary dismissal reflects an improper  
attempt to evade accountability and avoid judicial scrutiny of counterclaims:

1. **Improper Purpose to Evade Accountability:** Ohana and M&S's voluntary  
dismissal was filed after Dillon-Capps presented counterclaims and requested a hearing  
to address the plaintiff's misconduct, indicating that the dismissal was not intended to  
resolve the dispute but to avoid an adverse ruling. This aligns with *Hossainkhail v.*  
*Gebrehiwot*, where sanctions were imposed to deter evasive dismissal tactics.
2. **Prejudice to the Defendant's Counterclaims:** By dismissing the case, Ohana  
and M&S sought to deprive Dillon-Capps of the opportunity to litigate counterclaims,  
undermining their right to pursue legal redress. This tactic parallels *Merritt v. Mendelson*,  
where courts rejected dismissals that disrupted fair adjudication of both parties' claims.
3. **Bad Faith Evasion of Sanctions:** The timing of the voluntary dismissal, filed  
shortly before proceedings that would scrutinize Ohana and M&S's conduct, indicates an  
attempt to avoid sanctions. This behavior fits the criteria set in *Janusz v. Gilliam*, where  
dismissals filed to evade scrutiny were penalized to preserve judicial integrity.
4. **Intentional Manipulation of Court Procedures:** The filing of a voluntary  
dismissal as a last-minute tactic to evade ongoing proceedings constitutes procedural

manipulation, as discussed in *Brockton Sav. Bank v. Peat, Marwick, Mitchell & Co.*, supporting sanctions for this abuse of judicial resources.

## 8 Conclusion

693 Ohana and M&S's use of voluntary dismissal to evade accountability and hinder Dillon-Capps's counterclaims constitutes an abuse of **Md. Rule 2-506**. Maryland case law and broader legal precedents support imposing sanctions to deter misuse of voluntary dismissals, protect defendants' rights, and ensure that dismissals are not filed in bad faith to evade repercussions. The court should condition this dismissal by imposing sanctions on Ohana and M&S, consistent with the principles established in *Hossainkhail v. Gebrehiwot*, *Merritt v. Mendelson*, and *Janusz v. Gilliam*.

### D Rule 4.1 - Truthfulness in Statements to Others

#### 1 Foundational Principles and Purpose of Rule 4.1

694 **Rule 4.1** of the Maryland Attorneys' Rules of Professional Conduct mandates that attorneys remain truthful in all statements related to litigation, including pre-trial communications with opposing parties, witnesses, and other involved parties. Rule 4.1 prohibits attorneys from knowingly concealing or distorting material facts to gain an advantage, ensuring that fair dealing is upheld throughout all stages of litigation. This rule extends beyond direct statements to cover intentional omissions or manipulations of material facts that would mislead others.

695 Key components of Rule 4.1 include:

1. **Duty of Honesty and Integrity in All Interactions:** Attorneys are obligated to provide truthful information and refrain from deceptive tactics, ensuring the accuracy and reliability of information shared with others.
2. **Prohibition of Concealment:** Rule 4.1 bars attorneys from omitting material facts with the intent to deceive, preserving fairness in all statements related to the case.
3. **Promotion of Fair Dealing and Transparency:** The rule protects the integrity of the legal process by ensuring that opposing parties and witnesses are not misled by misinformation or concealed facts.

## 2 Judicial Standards and Purpose from Maryland Precedent

696 Maryland courts uphold Rule 4.1 to ensure that:

1. **Pre-Trial Integrity is Preserved:** Attorneys are held to a standard of truthfulness that extends to pre-trial interactions, preventing unethical tactics that could mislead or prejudice the opposing party.
2. **Accountability for Deceptive Practices:** Sanctions for breaches of Rule 4.1 reinforce that attorneys must engage in honest dealings, creating a fair and equitable pre-trial environment.
3. **Deterrence of Dishonest Tactics:** Sanctions serve as a deterrent against the use of misleading statements or concealment of facts that could distort case proceedings or disadvantage the opposing party.

## 3 Criteria for Establishing a Breach of Rule 4.1

697 Maryland courts impose sanctions for breaches of Rule 4.1 when the following criteria are met:

1. **Intentional Concealment or Misrepresentation:** The attorney must have knowingly concealed or distorted material facts, either by direct misrepresentation or by omission, with the intent to mislead others involved in the case.
2. **Materiality of the Information:** The concealed or distorted facts must be material, meaning they could reasonably affect the decisions or actions of the opposing party, witnesses, or the tribunal.
3. **Intent to Mislead:** The attorney's actions must demonstrate an intent to mislead, either through false statements or by withholding information that is necessary for fair dealing and transparency.

#### 4 Maryland Case Law on Rule 4.1

698 **Attorney Grievance Commission v. Hodes**, 441 Md. 136, 105 A.3d 533 (2014): The Maryland Court of Appeals sanctioned an attorney for intentional deception, ruling that the concealment or misrepresentation of material facts in pre-trial interactions violates Rule 4.1. The court held that pre-trial integrity requires full disclosure of material facts and that deceptive tactics are subject to sanctions.

699 **Klupt v. Krongard**, 126 Md. App. 179, 728 A.2d 727 (1999): The Maryland Court of Special Appeals found that intentionally misrepresenting facts to gain a litigation advantage constitutes a violation of both ethical and procedural standards, underscoring that Rule 4.1 prohibits attorneys from concealing information necessary to prevent deception.

#### 5 Supporting Case Law Beyond Maryland

700 **In re Sealed Case**, 890 F.2d 451 (D.C. Cir. 1989): The D.C. Circuit ruled that attorneys must act honestly in all statements related to litigation, prohibiting omissions or

misrepresentations of material facts. The case reinforces the standard that pre-trial integrity requires full disclosure and sanctions for any deceptive practices.

701 **United States v. Shaffer Equipment Co.**, 11 F.3d 450 (4th Cir. 1993): The Fourth Circuit held that attorneys' duty of candor and transparency extends to all aspects of litigation, including pre-trial statements. The case supports sanctions where attorneys knowingly mislead opposing parties or the court through omissions.

6 [Cross-Argument Case Law: Rule 4.1 and Misconduct](#)

702 **Attorney Grievance Commission v. Agbaje**, 438 Md. 695, 93 A.3d 262 (2014): The Maryland Court of Appeals found that intentionally misleading statements during litigation violate Rule 4.1, supporting sanctions to uphold integrity in both pre-trial and trial interactions.

703 **Attorney Grievance Commission v. Vanderlinde**, 364 Md. 376, 773 A.2d 463 (2001): The court reinforced that misrepresentation or deceit in statements made to others constitutes a serious breach of professional ethics, warranting sanctions under Rule 4.1 to deter dishonest practices.

7 [Application to Dillon-Capps's Case](#)

704 In Dillon-Capps's case, Miles & Stockbridge (M&S) breached Rule 4.1 by manipulating material facts and omitting key information in affidavits and pre-trial statements, intending to distort the court's understanding of Dillon-Capps's employment, FMLA rights, and interactions with HEA. These breaches directly impacted Dillon-Capps's ability to respond accurately and defend against the claims.

1. **Intentional Misrepresentation of Material Facts:** M&S presented affidavits that selectively omitted key facts regarding Dillon-Capps's FMLA rights and the events on



June 13th. The exclusion of relevant details about HEA's involvement and the pre-trial written accord on June 7th reflects a deliberate attempt to mislead. This conduct aligns with *Attorney Grievance Commission v. Hodes*, where intentional concealment warranted sanctions for violating Rule 4.1.

2. **Materiality of the Omitted Information:** The withheld information, particularly regarding the June 7th accord and Dillon-Capps's communications about FMLA leave, significantly influenced the court's perception of the facts. The material omissions meet the criteria established in *Klupt v. Krongard*, demonstrating that M&S's omissions were relevant to Dillon-Capps's defense.

3. **Intent to Mislead and Conceal:** M&S's actions indicate an intent to mislead Dillon-Capps and the court by selectively presenting only facts that supported Ohana's narrative while omitting evidence that would undermine their claims. This pattern of concealment and distortion reflects a deliberate strategy to obstruct a fair and complete understanding of the case, warranting sanctions under Rule 4.1.

705 M&S's actions meet the Maryland criteria for a breach of Rule 4.1, as their selective omissions and distortions misrepresented key aspects of Dillon-Capps's case. The concealment of critical facts in pre-trial statements and affidavits violates Maryland's ethical standards, justifying sanctions to protect fairness and transparency in judicial proceedings.

## 8 Conclusion

706 Maryland law treats violations of Rule 4.1 as serious breaches of professional ethics that compromise pre-trial integrity and obstruct fair litigation. In Dillon-Capps's case, M&S's intentional concealment of material facts demonstrates a clear violation of Rule 4.1, warranting

sanctions to hold M&S accountable, restore pre-trial fairness, and prevent similar misconduct. The court should impose compensatory relief, fines, and a referral for disciplinary review to reinforce Maryland's standards of honesty and fair dealing in legal practice.

E Rule 8.4(c) - Misconduct (Dishonesty, Fraud, Deceit, or Misrepresentation)

1 Foundational Principles and Purpose of Rule 8.4(c)

707 **Rule 8.4(c)** of the Maryland Attorneys' Rules of Professional Conduct prohibits attorneys from engaging in dishonesty, fraud, deceit, or misrepresentation, categorizing such actions as professional misconduct. This rule underscores the ethical duty of attorneys to maintain honesty, not only in their direct dealings with the court but also in interactions with opposing parties, witnesses, and other individuals involved in litigation. By classifying deceit and misrepresentation as serious ethical violations, Rule 8.4(c) reinforces the integrity and fairness central to Maryland's judicial system.

708 Key elements of Rule 8.4(c) include:

1. **Commitment to Honesty and Transparency:** Attorneys are required to avoid all forms of dishonesty, including selective omission, misrepresentation, and outright falsehoods.
2. **Protection of Judicial Integrity:** Rule 8.4(c) safeguards the administration of justice by holding attorneys to the highest standards of honesty and transparency, ensuring that all participants in a case are acting in good faith.
3. **Prohibition of Manipulative Tactics:** Rule 8.4(c) addresses any conduct intended to deceive or gain an unfair advantage, ensuring that litigation remains fair and equitable.

## 2 Judicial Standards and Purpose from Maryland Precedent

709 Maryland courts uphold Rule 8.4(c) to ensure that:

1. **Fair Administration of Justice is Preserved:** By enforcing sanctions for dishonesty and deceit, courts protect the integrity of judicial proceedings from manipulation.
2. **Accountability for Unethical Conduct:** Maryland courts rely on Rule 8.4(c) to deter attorneys from engaging in unethical behavior, holding them accountable for any dishonest tactics or misrepresentations.
3. **Deterrence of Misconduct in Litigation:** Sanctions under Rule 8.4(c) are intended to discourage deceptive conduct that could compromise fair adjudication and undermine public confidence in the legal profession.

## 3 Criteria for Establishing a Breach of Rule 8.4(c)

710 Sanctions for violations of Rule 8.4(c) are typically warranted when the following criteria are met:

1. **Intentional Dishonesty, Fraud, or Misrepresentation:** The attorney's conduct must involve intentional dishonesty, fraudulent actions, or misrepresentation, with the intent to deceive or manipulate.
2. **Materiality of the Misconduct:** The dishonest actions must be material to the proceedings, meaning they could reasonably affect the court's findings or the opposing party's ability to defend against the claims.

3. **Purpose of Gaining Unfair Advantage:** The attorney's conduct must show a motive to gain an unfair advantage in the litigation, rather than to address legitimate legal claims or defenses.

4 [Maryland Case Law on Rule 8.4\(c\)](#)

711 **Attorney Grievance Commission v. Agbaje**, 438 Md. 695, 93 A.3d 262 (2014): The Maryland Court of Appeals imposed sanctions on an attorney for repeated dishonesty in legal matters, affirming that violations of Rule 8.4(c) undermine the legal profession's integrity. The court ruled that repeated deceit warrants severe sanctions to deter similar conduct.

712 **Attorney Grievance Commission v. Vanderlinde**, 364 Md. 376, 773 A.2d 463 (2001): The court imposed strict sanctions for egregious dishonesty, holding that intentional deception and fraud in litigation are severe violations of ethical duties, necessitating punitive measures to uphold the fairness of judicial proceedings.

5 [Supporting Case Law Beyond Maryland](#)

713 **In re Sealed Case**, 890 F.2d 451 (D.C. Cir. 1989): The D.C. Circuit emphasized the necessity for transparency and truthfulness in all legal dealings, imposing sanctions for deceit and misrepresentation that compromised the fairness of the proceedings.

714 **United States v. Shaffer Equipment Co.**, 11 F.3d 450 (4th Cir. 1993): The Fourth Circuit reinforced that all participants in litigation must uphold honesty and candor, imposing sanctions on attorneys whose dishonest tactics distorted the judicial process.

6 [Cross-Argument Case Law: Rule 8.4\(c\) and Professional Misconduct](#)

715 **Attorney Grievance Commission v. Mixer**, 441 Md. 416, 109 A.3d 1 (2015): The Maryland Court of Appeals sanctioned an attorney for dishonesty and manipulation of

procedural rules, finding that conduct intended to mislead or obstruct justice warrants severe sanctions under Rule 8.4(c).

716 **Attorney Grievance Commission v. Hodes**, 441 Md. 136, 105 A.3d 533 (2014):

Maryland's highest court held that intentional misrepresentation during litigation violates Rule 8.4(c), underscoring that dishonesty in any form constitutes serious ethical misconduct deserving of punitive measures.

7 [Application to Dillon-Capps's Case](#)

717 In Dillon-Capps's case, Miles & Stockbridge (M&S) committed multiple breaches of Rule 8.4(c) through repeated misrepresentations, selective omissions, and deceitful portrayals of key facts. These actions were intended to gain an unfair advantage by distorting the court's understanding of Dillon-Capps's FMLA rights, employment status, and other relevant matters, materially affecting Dillon-Capps's defense.

1. **Intentional Misrepresentation and Dishonesty:** M&S's affidavits and statements selectively omitted crucial details about the June 7th accord, Dillon-Capps's protected FMLA rights, and their interactions with HEA. These omissions and distortions constitute intentional misrepresentation, as they were calculated to mislead the court and impair Dillon-Capps's defense, consistent with the conduct sanctioned in *Attorney Grievance Commission v. Agbaje*.

2. **Materiality of the Misrepresentations:** The facts misrepresented by M&S were directly relevant to Dillon-Capps's defenses and to the court's perception of the case. This conduct meets the standard outlined in *Attorney Grievance Commission v.*

*Vanderlinde*, as the omissions had significant implications for the court's findings and materially prejudiced Dillon-Capps's ability to respond.

3. **Intent to Gain an Unfair Advantage:** M&S's actions reflect a strategy to gain an advantage by concealing critical information, which would have clarified Dillon-Capps's position. The selective presentation of facts shows a motive to mislead, constituting an abuse of Rule 8.4(c) and violating ethical obligations. This dishonest conduct is in alignment with the findings in *Mixter* and *Hodes*, where intent to gain an unfair advantage was held as a basis for strict sanctions.

718 M&S's repeated misrepresentations and intentional omissions demonstrate clear breaches of Rule 8.4(c), justifying significant sanctions to protect the fairness and integrity of the judicial process.

## 8 Conclusion

719 Violations of Rule 8.4(c) are serious breaches that threaten the fair administration of justice, as they compromise the honesty and transparency essential to judicial proceedings. In Dillon-Capps's case, M&S's deceptive conduct demonstrates a consistent pattern of unethical behavior, warranting sanctions to correct the court record, deter future misconduct, and uphold Maryland's standards of ethical legal practice. Recommended sanctions include compensatory relief, fines, and a referral for disciplinary review to reinforce Maryland's commitment to honesty and integrity in the legal profession.

## F Maryland Criminal Law § 9-101: Perjury

## 1 Foundational Principles and Purpose of § 9-101

720 **Maryland Criminal Law § 9-101** criminalizes perjury as any willfully false or misleading statement made under oath in a judicial proceeding. This statute is central to Maryland's commitment to judicial integrity, ensuring that all statements under oath are truthful and complete, as even partial truths or omissions can undermine the fairness of the proceedings. Perjury applies not only to outright falsehoods but also to statements crafted to mislead the court, especially when intended to alter judicial findings or interfere with a fair trial.

721 Key elements of Maryland's perjury statute include:

1. **Commitment to Honesty Under Oath:** Maryland law mandates that all statements under oath are not only factually accurate but also presented with full transparency, free from intent to mislead or distort.
2. **Protection of Judicial Integrity:** § 9-101 upholds the court's role as a venue for fair and unbiased adjudication, prohibiting statements that would impair its truth-seeking function.
3. **Prevention of Manipulative Tactics:** The statute deters litigants and witnesses from using deceptive statements to gain an unfair advantage or influence judicial outcomes.

## 2 Judicial Standards and Purpose from Maryland Precedent

722 Maryland courts enforce § 9-101 rigorously to:

1. **Uphold the Sanctity of Oath:** Courts impose penalties for perjury to emphasize the importance of truthful testimony and the serious commitment entailed in taking an oath.

2. **Ensure Accurate Judicial Findings:** By penalizing perjury, Maryland courts protect against distortions of the record, ensuring that judicial findings are based on reliable, truthful information.

3. **Deterrence of Deceptive Practices:** Sanctions for perjury serve as a deterrent against willful deception in judicial proceedings, reinforcing that honesty is non-negotiable.

### 3 Criteria for Establishing Perjury under § 9-101

723 Maryland law requires the following criteria for a perjury charge under § 9-101:

1. **Knowingly False Statement:** The statement must be knowingly false or misleading, made with the awareness that it misrepresents the facts.

2. **Intent to Deceive:** The person making the statement must intend to deceive or mislead the court, deliberately omitting or distorting material facts to affect the outcome.

3. **Material Relevance to Proceedings:** The falsehood must relate to a material fact relevant to the court's findings or the proceedings' outcome, with the potential to alter the court's understanding or judgment.

### 4 Maryland Case Law on Perjury

724 **Shifflett v. State**, 245 Md. 169, 225 A.2d 440 (1967): The Maryland Court of Appeals held that perjury encompasses both outright falsehoods and selective omissions intended to mislead. The court reinforced that perjury includes not only factual inaccuracies but also omissions designed to distort judicial findings.

725 **Smith v. State**, 7 Md. App. 384, 256 A.2d 357 (1969): Maryland's Court of Special Appeals clarified that perjury must relate to material facts, meaning facts central to the court's



findings. This case emphasizes that falsehoods affecting essential aspects of the case distort judicial outcomes and are grounds for sanctions.

## 5 Supporting Case Law Beyond Maryland

726 **United States v. Dunnigan**, 507 U.S. 87 (1993): The U.S. Supreme Court affirmed that perjury includes both direct falsehoods and misleading statements intended to deceive, aligning with Maryland's view that perjury disrupts the court's truth-seeking mission.

727 **Bronston v. United States**, 409 U.S. 352 (1973): The Supreme Court held that even technically truthful statements may constitute perjury if crafted to mislead, supporting Maryland's interpretation that perjury includes selective omissions and half-truths.

## 6 Cross-Argument Case Law: Perjury, Material Misrepresentation, and Procedural Fairness

728 **Attorney Grievance Commission v. Mixer**, 441 Md. 416, 109 A.3d 1 (2015): The Maryland Court of Appeals found that deceptive statements intended to influence court proceedings constitute grounds for sanctions. The case supports the notion that perjury impacts procedural fairness and must be penalized to preserve judicial integrity.

729 **Attorney Grievance Commission v. Vanderlinde**, 364 Md. 376, 773 A.2d 463 (2001): This case highlighted that dishonest conduct in court proceedings is a serious ethical violation, warranting penalties to uphold truthfulness and prevent manipulative tactics in litigation.

## 7 Application to Dillon-Capps's Case

730 In Dillon-Capps's case, perjury under § 9-101 is evident in the affidavits submitted by Ohana executives, including Richard Hartman, Justin Drummond, and Randall Romes. These affidavits contained false or misleading statements crafted to distort the court's understanding of Dillon-Capps's employment, FMLA rights, and events leading up to the litigation. The

perjurious statements have obstructed Dillon-Capps's defense and damaged the court's capacity for fair adjudication.

1.     **Knowingly False Statements:** The affidavits contain knowingly false statements and omissions, particularly regarding Dillon-Capps's June 7th accord, communications about FMLA leave, and employment obligations. These statements mirror the conduct described in *Shifflett v. State*, as they selectively omitted critical facts to mislead the court.

2.     **Intent to Deceive:** The evidence indicates a clear intent to deceive, as M&S's presentation of facts was designed to favor Ohana's position, obscuring evidence that would support Dillon-Capps's defense. This intent aligns with Maryland's perjury standard as seen in *Smith v. State*, warranting sanctions for perjury and other deceptive practices.

3.     **Material Relevance to the Case:** The misstatements directly impacted Dillon-Capps's defenses, affecting the court's perception of core elements in the case. The perjurious statements are materially relevant, affecting not only Dillon-Capps's rights under FMLA but also the legitimacy of Ohana's claims.

731     M&S's facilitation of perjury through misleading affidavits materially altered the proceedings, creating an unfair disadvantage for Dillon-Capps and obstructing the fair administration of justice. Sanctions are warranted under § 9-101 to penalize this misconduct, deter similar future behavior, and preserve the integrity of the judicial process.

## 8 Conclusion

732 Violations of Maryland's perjury statute, § 9-101, undermine the fundamental requirement of honesty in judicial proceedings and compromise the court's truth-seeking role. In Dillon-Capps's case, the intentional misrepresentations and omissions in M&S's affidavits constitute perjury, directly impacting Dillon-Capps's defense and warranting substantial sanctions. The court should impose fines, compensatory relief, and a referral for criminal and ethical investigation to address the serious breach of judicial integrity and deter further misconduct.

## G Abuse of Process

### 1 Foundational Principles and Purpose of Abuse of Process

733 The doctrine of abuse of process in Maryland prohibits the misuse of legal proceedings for purposes other than the fair resolution of legitimate claims. Rooted in common law, abuse of process protects litigants from retaliatory and coercive litigation, ensuring that judicial resources are not weaponized. Under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, Maryland courts apply this equitable doctrine to prevent litigants from leveraging court procedures for improper purposes, underscoring that litigation must serve a genuine legal purpose.

734 Key elements of Maryland's abuse of process doctrine include:

1. **Protecting Procedural Integrity:** Abuse of process addresses litigation conducted with a hidden agenda, prioritizing fairness and the court's role as a venue for legitimate dispute resolution.

2. **Deterring Retaliation and Coercion:** Maryland courts have made clear that legal proceedings are not tools for retaliating against, intimidating, or punishing an opposing party but must be used to pursue bona fide legal claims.

3. **Judicial Standards and Purpose from Maryland Precedent**

4. Maryland courts have emphasized that abuse of process disrupts the fair administration of justice and thus warrants sanctions to:

5. **Deter Misuse of Court Processes:** Sanctions for abuse of process prevent litigants from exploiting legal proceedings for ulterior motives.

6. **Protect Against Procedural Manipulation:** Maryland's courts hold that procedural integrity must be safeguarded, with sanctions ensuring that litigation is pursued in good faith.

7. **Uphold Fairness and Equitable Relief:** Abuse of process sanctions restore balance in litigation and protect defendants from being harmed by groundless or malicious claims.

2 [Judicial Standards and Purpose from Precedent for Abuse of Process](#)

735 Maryland courts recognize that abuse of process occurs when judicial procedures are manipulated to achieve goals unrelated to the legitimate resolution of claims. Imposing sanctions for abuse of process serves essential functions:

1. **Deterring Improper Litigation Tactics:** Sanctions prevent parties from misusing court procedures for illegitimate aims, such as harassment, coercion, or pressure tactics, which distort the justice system and waste judicial resources.

2. **Upholding Judicial Integrity:** Sanctions reinforce the principle that the judicial process must be used solely for the resolution of legitimate claims. Courts are committed to maintaining a forum where rights are adjudicated based on truth and law, free from procedural abuse.

3. **Protecting Parties from Harassment and Coercion:** Sanctions provide relief and protection for parties harmed by abuse of process, addressing financial, reputational, or psychological harm caused by malicious or frivolous claims.

4. **Accountability for Legal Misconduct:** Sanctions ensure that litigants who engage in abuse of process are held accountable, reinforcing the notion that judicial processes are not tools for harassment or intimidation.

### 3 Criteria for Imposing Sanctions for Abuse of Process

736 To impose sanctions for abuse of process in litigation, Maryland courts typically require these elements:

1. **Ulterior Purpose or Improper Intent:** There must be evidence that the party's use of court procedures was driven by an ulterior motive, such as harassment, coercion, or to exert undue pressure on the opposing party, rather than a genuine effort to resolve the dispute.

2. **Improper Manipulation of Judicial Procedure:** The process must be used in an improper or distorted way, demonstrating a misuse of the court's mechanisms to achieve outcomes beyond the legitimate scope of litigation, such as filing baseless motions to delay or intimidate.

3. **Prejudice or Harm to the Opposing Party:** The abuse must result in harm to the opposing party, either by impairing their ability to present a defense or by causing unnecessary financial, reputational, or emotional damage.

737 By establishing these criteria, Maryland courts can impose sanctions to deter abuse of process, protect the integrity of judicial proceedings, and provide recourse for parties harmed by procedural misconduct.

#### 4 [Maryland Case Law on Abuse of Process](#)

738 **One Thousand Fleet Ltd. Partnership v. Guerriero**, 346 Md. 29, 694 A.2d 952 (1997):

The Maryland Court of Appeals held that abuse of process arises when judicial procedures are used to achieve an improper objective. The court stressed that judicial proceedings should not be exploited as tools of harassment or retaliation.

739 **Walker v. American Ass’n of Professional Eye Care Specialists, Inc.**, 145 Md. App. 397, 805 A.2d 1127 (2002): Maryland’s Court of Special Appeals found that using judicial proceedings for coercive purposes, such as pressuring or intimidating the opposing party, constitutes abuse of process. Sanctions are warranted when legal procedures are inappropriately leveraged.

#### 5 [Supporting Case Law Beyond Maryland](#)

740 **Bell Atlantic Corp. v. Twombly**, 550 U.S. 544 (2007): The U.S. Supreme Court ruled that legal claims must have a legitimate basis rather than be used as a strategy for achieving an unrelated or collateral purpose, aligning with Maryland’s prohibition against abuse of process.

741 **Younger v. Harris**, 401 U.S. 37 (1971): The Supreme Court emphasized the duty of  
courts to prevent abuse of judicial processes, underscoring that litigation should not be  
weaponized to harm or unduly burden opposing parties.

6 **Cross-Argument Case Law: Abuse of Process and Retaliation**

742 **Attorney Grievance Commission v. Mixter**, 441 Md. 416, 109 A.3d 1 (2015): The  
Maryland Court of Appeals held that abuse of process is a form of procedural misconduct that  
harms judicial integrity and requires sanctions. The court found that intentional procedural  
manipulation disrupts justice and must be addressed to prevent similar abuses.

743 **Klupt v. Krongard**, 126 Md. App. 179, 728 A.2d 727 (1999): Maryland's Court of  
Special Appeals recognized abuse of process as an avenue for sanctioning parties who misuse  
court resources for improper purposes, reinforcing that courts must safeguard against such  
misconduct.

7 **Application to Dillon-Capps's Case**

744 In Dillon-Capps's case, Ohana and M&S coordinated an abuse of process by leveraging  
the court system to harass and coerce, rather than pursuing legitimate claims. From the no-notice  
TRO to the unwarranted contempt orders and misleading affidavits, the Plaintiff and its counsel  
engaged in procedural manipulation that harmed Dillon-Capps both financially and  
reputationally.

745 **Improper Purpose and Ulterior Motives**: Ohana's actions reflect a pattern of  
harassment and retaliation rather than a genuine attempt to resolve legal claims. The no-notice  
TRO and subsequent contempt orders were part of a coordinated effort to pressure Dillon-Capps,

with M&S filing affidavits that selectively omitted material facts central to Dillon-Capps's defense.

746     **Manipulation of Court Mechanisms:** M&S's filings contain material omissions and selective presentations intended to mislead the court, in direct alignment with *One Thousand Fleet Ltd. Partnership v. Guerriero*'s standard for abuse of process. Rather than pursuing an honest dispute, these actions leveraged judicial resources to retaliate against Dillon-Capps.

747     **Resulting Prejudice and Harm to Dillon-Capps:** The abusive litigation tactics employed by Ohana and M&S have caused Dillon-Capps substantial harm, from reputational damage to financial strain. These tactics meet the Maryland criteria for abuse of process, as they exploited court procedures to further an agenda outside the legal claims, justifying significant sanctions.

748     M&S and Ohana's conduct satisfies Maryland's standards for abuse of process, demonstrating that their motives and tactics were intended to coerce rather than resolve legitimate claims. Sanctions are warranted to protect the court's integrity, prevent similar misconduct, and uphold Maryland's standards for fair and ethical litigation.

749     Abuse of process in Maryland is treated as a serious offense, requiring sanctions to deter future misuse and protect procedural fairness. Ohana and M&S's misuse of judicial mechanisms to retaliate and harm Dillon-Capps underscores the need for compensatory relief, monetary fines, and judicial oversight to prevent future litigation abuse. Sanctions will reinforce Maryland's commitment to ethical and just litigation, preserving the court's role as a fair arbiter of legitimate disputes.



## 8 Conclusion

750 Maryland's ethical standards and statutory obligations regarding perjury and truthfulness create a comprehensive framework that prohibits dishonesty in all forms, especially when it materially impacts judicial findings. The breaches of **Rules 3.3(a), 4.1, and 8.4(c)**, along with perjury under **Md. Code Ann., Crim. Law § 9-101**, demonstrate that both M&S and Ohana have engaged in unethical and unlawful conduct by submitting misleading affidavits and manipulating material facts to disadvantage Dillon-Capps.

751 Sanctions are necessary to restore judicial integrity, deter similar conduct, and reinforce Maryland's commitment to honesty and accountability in legal proceedings. Recommended sanctions include compensatory relief, monetary fines, and a referral to the Maryland Attorney Grievance Commission to address professional misconduct. These sanctions will affirm the court's role in upholding ethical standards and ensuring fair and just outcomes.

## H Attempted/False Imprisonment

### 1 Foundations for Attempted/False Imprisonment in Sanctions

752 In Maryland, false imprisonment encompasses any unlawful restraint of a person's liberty without legal justification. Under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, Maryland law allows courts to impose sanctions on litigants who misuse legal processes to attempt confinement through false imprisonment. Attempted false imprisonment is achieved when one party seeks to use legal procedures to confine or coerce another, even if full confinement does not occur. This conduct is actionable and sanctionable when executed without legitimate purpose and with malicious intent to harm or intimidate, particularly in cases where judicial processes are weaponized to achieve wrongful confinement. Sanctions serve as a deterrent against litigants who attempt to misuse judicial authority to restrain another's liberty for an improper purpose.

## 2 Judicial Standards and Purpose from Precedent

753 Maryland courts and broader case law recognize that attempted or false imprisonment, especially when achieved through judicial abuse, is fundamentally sanctionable. Sanctions in these cases serve several critical purposes:

1. **Deterrence of Malicious Litigation Tactics:** Sanctions discourage the misuse of judicial processes as tools for intimidation, harassment, or coercion, protecting court resources from being expended on baseless actions.
2. **Preservation of Judicial Integrity:** Courts use sanctions to ensure that legal mechanisms are not manipulated to control or silence others without just cause. By holding litigants accountable for procedural abuse, sanctions reinforce the judiciary's commitment to fairness.
3. **Protection of Individual Liberty:** Sanctions uphold individuals' rights to be free from unwarranted restraint. Judicial processes weaponized for confinement or coercion undermine liberty, and sanctions prevent such misuse.
4. **Accountability for Misuse of Authority:** Sanctions ensure that individuals and entities seeking to manipulate legal procedures for wrongful confinement are held accountable. This approach safeguards individual rights and protects against judicial overreach.

## 3 Criteria for Imposing Sanctions for Attempted/False Imprisonment

754 To impose sanctions for attempted or false imprisonment in the context of litigation, Maryland courts generally require:

1. **Intent to Confine or Restrain Without Just Cause:** The party's actions show a deliberate effort to unlawfully confine or control another, often through procedural manipulation or abuse of judicial authority.
2. **Absence of Legitimate Purpose:** The actions must lack any lawful or legitimate justification and instead focus on using judicial processes solely to harass or exert control over the individual.
3. **Malicious Intent or Recklessness:** The conduct must reflect malicious intent or a reckless disregard for the rights of the other party, often involving perjury, fabricated claims, or procedural manipulations designed to harm or intimidate.
4. **Use of Judicial Process to Coerce:** The party abuses legal mechanisms—such as baseless show cause orders or contempt motions—to coerce compliance or achieve wrongful confinement of the opposing party.

755 By aligning these elements, Maryland courts ensure that sanctions are applied consistently to protect individuals from improper confinement and to uphold judicial integrity.

#### 4 [Maryland Case Law](#)

756 **Montgomery Ward v. Wilson**, 339 Md. 701, 664 A.2d 916 (1995): Maryland's Court of Appeals held that confinement without legal grounds constitutes false imprisonment. The court established that confining or attempting to confine through procedural abuse, without a legitimate basis, is actionable and warrants sanctions.

757 **Jones v. Jones**, 46 Md. App. 460, 418 A.2d 1253 (1980): The Maryland Court of Special Appeals ruled that fraudulent use of judicial processes to achieve confinement is tantamount to

false imprisonment. This case clarified that malicious pursuit of confinement under false pretenses is sanctionable conduct.

758 **King v. Ruffin**, 89 Md. App. 588, 598 A.2d 756 (1991): The court held that legal proceedings cannot be misused to achieve confinement under fraudulent or malicious circumstances. This precedent supports imposing sanctions for attempted confinement based on deceptive practices or abuse of legal mechanisms.

#### 5 Supporting Case Law Beyond Maryland

759 **Broughton v. State of New York**, 37 N.Y.2d 451, 373 N.Y.S.2d 87, 335 N.E.2d 310 (1975): The New York Court of Appeals ruled that attempted false imprisonment, when done with intent to confine through legal mechanisms, may qualify as false imprisonment. The decision set precedent that procedural abuses intending to restrict another's freedom warrant severe penalties.

760 **Lenarz v. State**, 301 Conn. 417, 22 A.3d 536 (2011): The Connecticut Supreme Court ruled that actions taken toward wrongful confinement through legal manipulations could be sanctioned, especially when motivated by malice or intent to control another's actions.

#### 6 Cross Argument Case Law

761 **Pierson v. Ray**, 386 U.S. 547 (1967): In the context of abuse of legal mechanisms, the U.S. Supreme Court held that judicial immunity does not protect individuals who misuse legal processes to confine or harm others. This case supports the broader argument that judicial mechanisms cannot be used to achieve wrongful confinement.

762 **Pulliam v. Allen**, 466 U.S. 522 (1984): This case highlighted that injunctive relief and attorney's fees are available under § 1983 when judicial actions result in wrongful confinement.

It emphasizes that abuse of authority in attempts to confine is actionable and can be met with financial and procedural sanctions.

## 7 Application to Dillon-Capps's Case

763 In Dillon-Capps's case, Ohana and M&S attempted to confine Dillon-Capps unlawfully through procedural abuse, filing baseless motions with the intent to restrain Dillon-Capps's freedom unjustly:

764 **Intent to Confine Without Just Cause:** Ohana and M&S pursued a second show cause motion seeking Dillon-Capps's incarceration based on perjured statements and misleading claims. The motion was designed to wrongfully restrict Dillon-Capps's liberty under false pretenses, which aligns with the criteria established in *Montgomery Ward v. Wilson* for false imprisonment and warrants sanctions.

765 **Lack of Legitimate Purpose:** The repeated filings lacked legitimate purpose, as they were intended to intimidate and compel compliance from Dillon-Capps through coercion rather than achieve a fair resolution. This abusive use of judicial processes, as in *Jones v. Jones*, constituted sanctionable conduct due to the lack of just cause or lawful purpose.

766 **Malicious Intent and Reckless Disregard:** Ohana and M&S's conduct showed reckless disregard for Dillon-Capps's rights, as evidenced by continued procedural manipulations intended to coerce, intimidate, and restrain. This aligns with the findings in *King v. Ruffin*, where deceptive practices to achieve confinement were met with sanctions.

## 8 Conclusion

767 Under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, Maryland law supports sanctions against litigants who attempt to achieve false imprisonment through abuse of

judicial processes. Ohana and M&S's actions, including filing motions aimed at wrongful confinement based on false claims and perjured statements, meet the criteria for attempted false imprisonment. The court should impose severe sanctions to deter such misconduct, uphold judicial integrity, and protect Dillon-Capps's rights, consistent with Maryland and national precedent.

## I Malicious Prosecution

### 1 Foundations for Malicious Prosecution in Sanctions

768 Malicious prosecution involves initiating legal action with improper motives, intending to harm the defendant rather than to resolve a legitimate dispute. Under Maryland law, **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** support the imposition of sanctions for malicious prosecution, especially when cases are filed without a legitimate basis and driven by ulterior motives, such as harassment or intimidation. Malicious prosecution is a misuse of the court system, leading to financial, emotional, and reputational harm to the opposing party.

### 2 Judicial Standards and Purpose from Precedent for Malicious Prosecution

769 Maryland courts impose sanctions for malicious prosecution to achieve these core purposes:

770 **Deterrence of Frivolous and Vexatious Litigation:** Sanctions discourage litigants from filing cases with malicious intent or without substantive justification, thereby protecting judicial resources and promoting fair use of the court system.

771 **Protection of Individual Rights:** Sanctions safeguard individuals from the harm caused by baseless lawsuits, including damage to reputation, unnecessary legal expenses, and emotional distress.

772 **Maintaining Judicial Integrity:** Sanctions reinforce the judiciary's role as an impartial forum for legitimate disputes, ensuring that courts are not misused to pursue personal vendettas or improper objectives.

773 **Accountability for Deceptive or Fraudulent Actions:** Courts use sanctions to hold parties accountable when they attempt to deceive the court or mislead the judicial process through fraudulent or malicious filings, fostering a system that values honesty and integrity.

### 3 Criteria for Imposing Sanctions for Malicious Prosecution

774 To impose sanctions for malicious prosecution, Maryland courts generally require:

775 **Absence of Probable Cause or Legitimate Basis:** The underlying claim or lawsuit must lack a legitimate foundation or probable cause, indicating that the plaintiff's case is baseless and was filed without reasonable grounds.

776 **Malicious Intent or Improper Purpose:** The party filing the lawsuit must have acted with malicious intent or an ulterior motive, such as harassment, retaliation, or coercion, rather than a genuine desire for legal resolution.

777 **Intentional Misrepresentation or Fraud upon the Court:** The case often involves deceptive practices, such as perjury, material misstatements, or intentional omissions, intended to manipulate the court or harm the opposing party.

778 **Actual Harm to the Defendant:** The baseless litigation must result in real harm to the defendant, including financial loss, reputational damage, or significant emotional distress.

### 4 Maryland Case Law

779 **One Thousand Fleet Ltd. Partnership v. Guerriero**, 346 Md. 29, 694 A.2d 952 (1997):  
The Maryland Court of Appeals found that initiating a lawsuit with malicious intent and without

probable cause is actionable as malicious prosecution, establishing the grounds for sanctions when litigation is pursued for improper purposes.

780 **Keys v. Chrysler Credit Corp.**, 303 Md. 397, 494 A.2d 200 (1985): The court confirmed that a lack of probable cause combined with malice in filing a lawsuit supports sanctions for malicious prosecution. This decision underscores the importance of legitimate purpose and factual basis in initiating legal proceedings.

781 **Herring v. Citizens Bank & Trust Co.**, 21 Md. App. 517, 321 A.2d 182 (1974): Maryland courts held that lawsuits filed with the intent to harass or cause reputational harm, rather than resolve a valid legal claim, warrant sanctions for malicious prosecution.

## 5 Supporting Case Law Beyond Maryland

782 **Wilson v. Parker, Covert & Chidester**, 28 Cal. 4th 811, 123 Cal. Rptr. 2d 19, 50 P.3d 733 (2002): The California Supreme Court upheld sanctions for malicious prosecution, emphasizing that lawsuits filed with improper motives and without probable cause compromise judicial integrity and justify sanctions.

783 **Swick v. Liautaud**, 169 Ill. 2d 504, 662 N.E.2d 1238 (1996): The Illinois Supreme Court found that malicious prosecution requires a lack of probable cause and an ulterior motive, such as using litigation to intimidate or coerce the opposing party, aligning with the grounds for sanctions.

## 6 Cross Argument Case Law

784 **Pierson v. Ray**, 386 U.S. 547 (1967): The U.S. Supreme Court clarified that judicial immunity does not extend to actions that misuse court authority for malicious purposes, laying a foundation for holding parties accountable when they misuse the judiciary to harm others.



785 **Pulliam v. Allen**, 466 U.S. 522 (1984): The Court found that injunctive relief and attorney's fees may be awarded under § 1983 when judicial actions involve malicious intent, supporting the imposition of sanctions to prevent abuse of judicial mechanisms.

7 **Application to Dillon-Capps's Case**

786 In Dillon-Capps's case, Ohana and M&S engaged in malicious prosecution by pursuing litigation based on perjured affidavits, baseless claims, and improper motives:

787 **Absence of Probable Cause or Legitimate Basis:** Ohana's lawsuit lacked a legitimate basis, relying on misrepresentations and unsupported claims rather than any reasonable legal grounds. This meets the standard in *One Thousand Fleet Ltd. Partnership v. Guerriero* for malicious prosecution.

788 **Malicious Intent or Improper Purpose:** The filings and procedural tactics reveal an intent to harm Dillon-Capps financially and reputationally, as opposed to resolving a valid legal issue. This aligns with *Keys v. Chrysler Credit Corp.*, where sanctions were imposed for pursuing litigation with malice and without legitimate purpose.

789 **Intentional Misrepresentation and Fraud upon the Court:** The use of perjured affidavits and misleading statements demonstrate that Ohana and M&S sought to deceive the court, fitting the criteria outlined in *Herring v. Citizens Bank & Trust Co.* for sanctionable malicious prosecution.

790 **Significant Harm to Dillon-Capps:** The litigation has caused financial strain, reputational harm, and emotional distress for Dillon-Capps. The intent to harm is evident, making sanctions appropriate under Maryland's standards for malicious prosecution.

## 8 Conclusion

791 Malicious prosecution, when pursued through litigation, undermines judicial integrity and imposes undue harm on the opposing party. Supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** and Maryland case law, Ohana and M&S's conduct in Dillon-Capps's case reflects malicious prosecution. The court should impose severe sanctions to deter future misconduct, uphold fairness, and protect Dillon-Capps's rights, in line with principles established in *One Thousand Fleet Ltd. Partnership v. Guerriero*, *Keys v. Chrysler Credit Corp.*, and other relevant precedents.

## J Vexing Litigations

### 1 Foundations for Vexatious Litigation in Sanctions

792 Vexatious litigation involves initiating or perpetuating legal proceedings without substantial justification, often to harass, intimidate, or exhaust the resources of the opposing party. Under Maryland law, **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** provide a basis for sanctioning vexatious litigants, especially when the litigation lacks legitimate purpose or is driven by improper motives. Vexatious litigation is particularly harmful because it clogs the judicial system with meritless claims, infringes on the defendant's right to a fair process, and causes financial and emotional strain.

### 2 Judicial Standards and Purpose from Precedent for Vexatious Litigation

793 Sanctions for vexatious litigation are imposed by Maryland courts to fulfill several critical purposes:

794     **Deterrence of Frivolous and Abusive Filings:** Sanctions discourage litigants from filing meritless claims or continuing litigation solely to harass or delay, conserving judicial resources for legitimate cases.

795     **Protection of Defendants' Rights:** Sanctions serve to protect defendants from undue hardship caused by continuous or unnecessary litigation, which imposes financial, reputational, and emotional harm.

796     **Maintenance of Judicial Integrity:** Sanctions uphold the court's role as a forum for legitimate disputes and prevent misuse of judicial processes by parties acting in bad faith.

797     **Accountability for Harassing Conduct:** Courts impose sanctions to hold parties accountable for attempting to harm the opposing party through the legal system, ensuring that the judiciary is not used as a weapon for harassment or intimidation.

### 3     Criteria for Imposing Sanctions for Vexatious Litigation

798     To impose sanctions for vexatious litigation, Maryland courts typically require:

799     **Pattern of Frivolous or Meritless Filings:** The litigant must demonstrate a pattern of filings that lack legal or factual support, suggesting an intent to harass or delay rather than pursue legitimate claims.

800     **Absence of Substantial Justification:** The actions in question must lack a valid legal basis or justification, with no reasonable grounds to believe the claims could succeed.

801     **Intent to Harass, Intimidate, or Exhaust Resources:** There must be evidence that the litigation was pursued with the intent to harm the opposing party, either by depleting their resources or subjecting them to undue stress.

802     **Significant Burden or Harm to the Opposing Party:** Vexatious litigation must impose a significant burden on the defendant, such as financial strain, emotional distress, or reputational harm.

4     [Maryland Case Law](#)

803     **DeLeon Enterprises, Inc. v. Zaino**, 92 Md. App. 399, 608 A.2d 828 (1992): The Court of Special Appeals held that litigants who pursue claims with no substantial justification can be sanctioned for vexatious litigation, particularly when the litigation lacks merit and is driven by an ulterior motive.

804     **Unger v. Berger**, 214 Md. 20, 133 A.2d 771 (1957): Maryland's Court of Appeals found that continuous baseless filings, designed to harass the opposing party, justify sanctions. This case affirmed that vexatious litigation burdens the judicial system and unfairly disadvantages the defendant.

805     **Klotz v. Klotz**, 97 Md. App. 532, 631 A.2d 321 (1993): The court emphasized that sanctions are appropriate in cases of vexatious litigation where a pattern of meritless claims imposes unnecessary hardship on the defendant, establishing grounds for relief.

5     [Supporting Case Law Beyond Maryland](#)

806     **In re Marriage of Flaherty**, 31 Cal. 3d 637, 646 P.2d 179 (1982): The California Supreme Court ruled that litigants who engage in frivolous filings or repetitive motions without basis can be sanctioned to prevent harassment and abuse of the court system.

807     **In re TCI Ltd.**, 769 F.2d 441 (7th Cir. 1985): The Seventh Circuit held that sanctions for vexatious litigation are justified when filings serve only to harass the opposing party or delay proceedings, highlighting the need for courts to protect defendants from abusive litigation.

6      Cross Argument Case Law

808      **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991): The U.S. Supreme Court affirmed the authority of courts to impose sanctions for vexatious litigation as part of their inherent powers to control abusive conduct within their proceedings, even outside statutory guidelines.

809      **Roadway Express, Inc. v. Piper**, 447 U.S. 752 (1980): The Court held that federal courts have inherent authority to sanction litigants for abusive conduct, emphasizing the importance of sanctions to deter vexatious behavior that disrupts judicial functions.

7      Application to Dillon-Capps's Case

810      In Dillon-Capps's case, Ohana and M&S engaged in vexatious litigation by pursuing baseless claims, filing unnecessary motions, and perpetuating litigation with the intent to harm Dillon-Capps financially and emotionally:

811      **Pattern of Frivolous Filings and Baseless Claims:** The lawsuit and subsequent filings show a repeated pattern of motions and claims with no substantial justification, intending to harass Dillon-Capps rather than resolve any legitimate legal dispute. This meets the criteria outlined in *DeLeon Enterprises, Inc. v. Zaino*.

812      **Absence of Substantial Justification:** Ohana's and M&S's claims lacked a valid legal foundation, with procedural filings often based on perjured statements and unsupported assertions. The case aligns with *Unger v. Berger*, where sanctions were imposed for litigation pursued without a legitimate basis.

813      **Intent to Harass and Exhaust Resources:** The filings demonstrate an intent to harm Dillon-Capps's financial stability and emotional well-being by prolonging the litigation

unnecessarily. This behavior fits the standard in *Klotz v. Klotz*, where meritless claims were filed to burden the defendant.

814 **Significant Burden on Dillon-Capps:** The prolonged litigation has imposed considerable financial, reputational, and emotional harm on Dillon-Capps, justifying sanctions under Maryland's standards for vexatious litigation.

## 8 Conclusion

815 Vexatious litigation, pursued without legitimate purpose or factual support, burdens both the opposing party and the judicial system. Under **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** and Maryland precedent, Ohana and M&S's conduct in Dillon-Capps's case constitutes vexatious litigation. The court should impose severe sanctions to deter future abuse, protect Dillon-Capps's rights, and uphold judicial integrity, consistent with principles established in *DeLeon Enterprises, Inc. v. Zaino*, *Unger v. Berger*, and other relevant precedents.

## K Frivolous Litigation as Sanctionable Conduct

### 1 Foundations for Frivolous Litigation in Sanctions

816 Frivolous litigation involves pursuing claims that lack legal merit or factual support, often filed without substantial justification. Maryland law, supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, authorizes sanctions for frivolous litigation to preserve judicial resources and prevent misuse of court processes. Frivolous litigation wastes time, burdens defendants, and abuses the judicial system, particularly when parties knowingly bring baseless claims or continue litigation without a legitimate purpose.

## 2 Judicial Standards and Purpose from Precedent for Frivolous Litigation

817 Maryland courts impose sanctions for frivolous litigation to achieve several critical purposes:

818 **Preservation of Judicial Resources:** Sanctions deter parties from engaging in baseless claims that consume court resources, ensuring that courts remain available for genuine disputes.

819 **Deterrence of Abuse and Harassment:** Sanctions prevent parties from using litigation to harass or intimidate others, especially when cases are pursued without legal or factual support.

820 **Protection of Defendants' Rights:** Sanctions protect defendants from undue financial and emotional harm caused by defending against meritless claims.

821 **Promotion of Judicial Integrity:** Sanctions reinforce that courts are forums for legitimate legal matters and prevent misuse of the judicial process for improper purposes.

## 3 Criteria for Imposing Sanctions for Frivolous Litigation

822 To impose sanctions for frivolous litigation, Maryland courts typically consider these elements:

1. **Lack of Legal or Factual Basis:** The claims must be clearly without legal or factual merit, such that a reasonable attorney would recognize them as baseless.
2. **Absence of Substantial Justification:** The filings lack a genuine legal basis, with no reasonable grounds to believe they could succeed, indicating an improper purpose for filing.
3. **Improper Intent to Harass or Burden:** Evidence that the litigation was pursued with the intent to harass, delay, or burden the opposing party, rather than resolve any actual dispute.

4. **Financial and Emotional Harm to the Defendant:** The baseless claims cause unnecessary harm to the defendant, including costs, reputational damage, and stress associated with defending against frivolous litigation.

4 [Maryland Case Law](#)

823 **Inlet Assocs. v. Assateague House Condo. Ass’n**, 313 Md. 413, 545 A.2d 1296 (1988):

The Maryland Court of Appeals held that sanctions are warranted when a party initiates frivolous claims with no substantial justification, particularly when the intent is to harass or burden the opposing party.

824 **Majority Properties, Inc. v. Town of Hancock**, 333 Md. 3, 633 A.2d 392 (1993): This case established that sanctions are appropriate when legal action lacks any substantial justification or is filed to delay, harass, or coerce, setting a clear standard for frivolous litigation.

825 **Needle v. White**, 81 Md. App. 463, 568 A.2d 856 (1990): The Maryland Court of Special Appeals affirmed sanctions against litigants who pursued claims with no factual or legal merit, emphasizing the role of sanctions in deterring frivolous claims and protecting defendants from undue hardship.

5 [Supporting Case Law Beyond Maryland](#)

826 **Christianburg Garment Co. v. EEOC**, 434 U.S. 412 (1978): The U.S. Supreme Court upheld sanctions for frivolous litigation, finding that lawsuits without legal merit or filed with improper intent justify financial penalties to deter abuse of the judicial system.

827 **Roadway Express, Inc. v. Piper**, 447 U.S. 752 (1980): The Supreme Court established that federal courts may impose sanctions for frivolous litigation, particularly when such cases are filed with the intent to harass or waste judicial resources.



## 6 Cross Argument Case Law

828 **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991): The U.S. Supreme Court reinforced that courts have inherent authority to sanction parties engaging in frivolous litigation, underscoring the judiciary's role in maintaining integrity and deterring abuse.

829 **Miller v. Bittner**, 50 Md. App. 302, 437 A.2d 81 (1981): The Maryland Court of Special Appeals emphasized that sanctions are necessary to prevent abuse of legal processes through baseless or frivolous filings, furthering the judicial standard for sanctions in Maryland.

## 7 Application to Dillon-Capps's Case

830 In Dillon-Capps's case, Ohana and M&S engaged in frivolous litigation by pursuing unsupported claims, submitting baseless motions, and advancing litigation without merit:

831 **Lack of Legal and Factual Basis:** Ohana and M&S's claims lacked any substantial legal foundation, relying on perjured affidavits and unsupported allegations. This fits the criteria for frivolous litigation as outlined in *Inlet Assocs. v. Assateague House Condo. Ass'n*.

832 **Absence of Substantial Justification:** The filings and procedural motions served no legitimate purpose and had no likelihood of success. As in *Majority Properties, Inc. v. Town of Hancock*, the claims were clearly unjustified and designed to harass.

833 **Improper Intent to Harass and Burden Dillon-Capps:** The litigation reveals a clear intent to exhaust Dillon-Capps's financial and emotional resources, causing undue hardship and distraction from meaningful pursuits. This aligns with the standards set in *Needle v. White*.

834 **Significant Harm to Dillon-Capps:** The baseless claims and prolonged litigation have inflicted financial, reputational, and emotional harm on Dillon-Capps, meeting Maryland's criteria for imposing sanctions for frivolous litigation.

## 8 Conclusion

835 Frivolous litigation undermines judicial efficiency, burdens defendants with baseless claims, and compromises the integrity of the judicial process. Supported by **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503** and Maryland precedent, Ohana and M&S's conduct in Dillon-Capps's case constitutes frivolous litigation. The court should impose severe sanctions to deter future abuses, uphold judicial integrity, and protect Dillon-Capps's rights, as established in *Inlet Assocs. v. Assateague House Condo. Ass'n*, *Majority Properties, Inc. v. Town of Hancock*, and other relevant cases.

## L Obstruction of Evidence

### 1 Foundation for Obstruction of Evidence

836 The obstruction of evidence undermines the judicial process, hindering the court's ability to ascertain the truth and impacting the fairness of the proceedings. Under English common law principles adopted into Maryland law via **Md. Code Ann., Cts. & Jud. Proc. §§ 10-501 and 10-503**, obstruction encompasses actions that interfere with the accessibility, preservation, or integrity of relevant evidence. Common law underscores the obligation of all parties to act in good faith by preserving and presenting material evidence accurately, prohibiting actions that intentionally mislead or delay judicial proceedings.

837 The core principles underlying obstruction include:

1. **Duty to Present and Preserve Evidence:** Parties in litigation are required to maintain and produce evidence relevant to the issues before the court, preventing concealment, alteration, or withholding of material information.

2. **Judicial Integrity and Truth-Seeking:** Courts have an inherent duty to sanction obstructive behavior to protect the judicial process, ensure fair access to evidence, and uphold truth-finding within the proceedings.

## 2 Judicial Standards and Purpose from Precedent

838 Maryland's approach to sanctions for obstruction is guided by the purpose of deterring misconduct, preventing unfair advantages, and maintaining procedural integrity. Maryland case law emphasizes that sanctions for obstruction serve to:

839 **Deter Misconduct:** Sanctions are imposed to discourage parties from engaging in obstructive behavior that impedes the court's ability to administer justice.

840 **Preserve Judicial Integrity:** Courts sanction obstruction to maintain the legitimacy of judicial proceedings, ensuring that no party can manipulate the outcome through procedural abuse.

841 **Provide Equitable Relief to the Aggrieved Party:** Maryland courts support equitable remedies that prevent one party from suffering undue disadvantage due to another party's misconduct, aligning with principles of fair dealing and integrity.

## 3 Criteria for Imposing Sanctions for Obstruction of Evidence

842 Maryland courts generally require that the following criteria be met to justify sanctions for obstruction of evidence:

1. **Material Relevance of the Obstructed Evidence:** The obstructed evidence must be relevant and central to the issues being litigated, potentially affecting the case's outcome.

2. **Intent to Obstruct:** The obstructive conduct must be intentional, with knowledge of the evidence's relevance and a deliberate effort to interfere with its presentation or accessibility.

3. **Prejudice to the Opposing Party:** The obstruction must have resulted in material harm or prejudice, hindering the opposing party's ability to present a complete case.

843 These elements ensure that sanctions are reserved for serious misconduct that significantly impacts the judicial process and the rights of the opposing party.

#### 4 Maryland Case Law

844 **Attorney Grievance Commission v. Ficker**, 319 Md. 305, 572 A.2d 501 (1990): The Maryland Court of Appeals upheld sanctions for intentional interference with evidence, emphasizing that obstruction compromises the truth-seeking process and warrants strong penalties. The court's ruling reinforced that obstruction is incompatible with fair dealing and requires accountability.

845 **Klupt v. Krongard**, 126 Md. App. 179, 728 A.2d 727 (1999): Maryland's Court of Special Appeals held that concealment or withholding of evidence constitutes obstruction, especially when done to mislead the court. This case established that Maryland courts are justified in imposing sanctions when a party's actions materially prejudice the opposing side.

846 **Bartholomee v. Casey**, 103 Md. App. 34, 651 A.2d 908 (1994): The court confirmed Maryland's authority to impose sanctions, including dismissal, for obstruction of evidence when it impacts the fair resolution of a case. This case emphasizes the role of sanctions in preventing obstruction from skewing outcomes unfairly.

## 5 Supporting Case Law Beyond Maryland

847 **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991): The U.S. Supreme Court ruled that courts have inherent authority to impose sanctions for misconduct that obstructs justice, reinforcing that such actions undermine judicial integrity and necessitate punitive measures to prevent similar conduct.

848 **Silvestri v. General Motors Corp.**, 271 F.3d 583 (4th Cir. 2001): The Fourth Circuit held that the intentional withholding of material evidence warrants severe sanctions, including dismissal, as a necessary deterrent to abuse of the judicial process.

849 These cases reinforce the judiciary's authority to impose sanctions as an inherent power, ensuring that obstruction is penalized consistently across jurisdictions.

## 6 Cross Argument Case Law

850 **Attorney Grievance Commission v. Mixer**, 441 Md. 416, 109 A.3d 1 (2015): This case dealt with intentional discovery abuses, underscoring that obstructive conduct during discovery warrants sanctions to protect judicial resources and prevent material harm. The court highlighted the need for sanctions as a deterrent against manipulation of the process.

851 **Meyers v. Montgomery County Police Department**, 96 Md. App. 668, 626 A.2d 1010 (1993): The court emphasized that discovery obstruction, whether direct or indirect, undermines fair dealing. Sanctions were deemed necessary to protect the opposing party's rights, reinforcing that obstruction justifies a judicial response to preserve equitable relief.

852 These cases support sanctions for obstruction as an essential tool for maintaining procedural fairness and serve to deter unethical practices.

## 7 Application to Dillon-Capps's Case

853 In Dillon-Capps's case, Plaintiff's counsel, Robert Brennen of Miles & Stockbridge, engaged in obstruction by conditioning access to essential evidence—including the transcript from the June 26th hearing—on Dillon-Capps complying with unrelated demands. The withheld transcript is critical to Dillon-Capps's defense, particularly due to memory-related impairments and the need for an accurate account of the hearing where significant procedural violations allegedly occurred. The transcript's relevance and the obstructive tactics employed meet Maryland's standards for imposing sanctions based on obstruction of evidence.

1. **Material Relevance of the June 26th Transcript:** The transcript of the June 26th hearing is essential for Dillon-Capps to address significant procedural violations involving Judge Barranco, as well as to recall specific events that Dillon-Capps's severe memory impairments hinder them from retaining. The transcript is vital for preparing an adequate defense, supporting motions, and substantiating claims of judicial errors that are central to the case's outcome. As in *Bartholomee v. Casey*, withholding access to this transcript prejudiced Dillon-Capps by limiting their ability to accurately present and verify evidence.

2. **Intentional Obstruction:** Brennen's July 2, 2024 message, in which he conditioned the release of the transcript upon Dillon-Capps's compliance with extraneous demands, shows an intentional attempt to interfere with Dillon-Capps's access to material evidence. This aligns with the standards set in *Klupt v. Krongard*, where Maryland courts upheld sanctions for intentional obstruction that disrupts the opposing party's access to essential evidence.

3. **Severe Prejudice and Harm to Dillon-Capps's Defense:** The obstructive conduct has severely impaired Dillon-Capps's ability to prepare a comprehensive defense, particularly due to Dillon-Capps's memory issues, which necessitate reliance on accurate transcripts. This obstruction has prevented Dillon-Capps from addressing key procedural violations, making it impossible to fully substantiate their defense and support motions. Maryland's standards, as demonstrated in *Bartholomee v. Casey*, support sanctions when obstruction materially prejudices a party, affecting their ability to mount an effective defense.

854 Brennen's actions, which deprived Dillon-Capps of access to crucial evidence necessary to defend against ongoing harm, satisfy Maryland's criteria for sanctions. Sanctions in this case are warranted to restore fairness and protect Dillon-Capps's right to a complete defense.

### CONCLUSION

855 Maryland law, supported by both statutory provisions and common law principles, provides a firm foundation for imposing sanctions for obstruction of evidence. In Dillon-Capps's case, the deliberate withholding of evidence by Plaintiff's counsel caused significant prejudice, justifying equitable sanctions to restore fairness and deter future abuses. Sanctions in this context would reinforce Maryland's commitment to judicial integrity, accountability, and the equitable treatment of all

### M B1. Rule 19-303.3(a) - Candor Toward the Tribunal

#### 1 Foundation for Sanctions under MRPC Rule 19-303.3(a)

856 **MRPC 19-303.3(a)** of the Maryland Attorneys' Rules of Professional Conduct requires attorneys to uphold truthfulness and accuracy in all representations to the court. This rule

mandates that attorneys neither make nor support false statements, disclose all material facts, and correct any previously submitted inaccuracies. **MRPC 19-303.3(a)** is grounded in the principle that judicial integrity relies on attorneys' honesty, ensuring that courts have accurate information to make fair decisions.

857 Key elements of MRPC 19-303.3(a) include:

1. **Duty of Candor and Truthfulness:** Attorneys must ensure that all statements to the court are accurate, complete, and free of intentional misrepresentations.
2. **Obligation to Correct Misleading Statements:** MRPC 19-303.3(a) obligates attorneys to rectify any previous statements shown to be inaccurate or misleading to maintain fairness in the proceedings.
3. **Prevention of Judicial Manipulation:** The rule prevents attorneys from selectively presenting facts or omitting information in ways that would mislead or influence the court unfairly.

## 2 Judicial Standards and Purpose from Maryland Precedent

858 Maryland courts enforce MRPC 19-303.3(a) to ensure that:

1. **Judicial Integrity is Maintained:** Sanctions for violating MRPC 19-303.3(a) reinforce the court's reliance on attorneys to present accurate information, free from manipulation or distortion.
2. **Accountability for Misrepresentation:** MRPC 19-303.3(a) holds attorneys accountable for any intentional misrepresentations, ensuring that all parties have a fair and honest foundation for presenting their cases.



3. **Deterrence of Procedural Abuses:** Sanctions imposed for breaches of MRPC 19-303.3(a) prevent future attempts to deceive or manipulate judicial processes, maintaining the court's credibility.

### 3 Criteria for Establishing a Breach of MRPC 19-303.3(a)

859 To impose sanctions for violations of MRPC 19-303.3(a), Maryland courts typically require:

1. **Knowingly False or Misleading Statement:** The attorney must have knowingly presented, supported, or failed to correct a materially false or misleading statement made to the court.
2. **Materiality of the Misrepresentation:** The misrepresentation must be relevant to the proceedings, with the potential to affect judicial findings or influence the court's perception of the case.
3. **Intent to Mislead the Tribunal:** The attorney's actions must demonstrate an intent to deceive the court, either through direct falsehoods, selective omissions, or refusal to correct inaccuracies once they are known.

### 4 Maryland Case Law on Rule 3.3(a)

860 **Attorney Grievance Commission v. Mixter**, 441 Md. 416, 109 A.3d 1 (2015): The Maryland Court of Appeals sanctioned an attorney for multiple breaches of MRPC 19-303.3(a), highlighting that knowingly misrepresenting facts or failing to correct inaccuracies undermines judicial integrity. The court ruled that repeated violations of MRPC 19-303.3(a) warrant sanctions to protect the court's reliance on truthful representations.

861 **Attorney Grievance Commission v. Vanderlinde**, 364 Md. 376, 773 A.2d 463 (2001):  
This case reinforced that attorneys have a fundamental duty to maintain honesty and candor. The  
court imposed severe sanctions for an attorney's intentional misrepresentations, underscoring  
that candor toward the tribunal is foundational to the legal profession.

5 [Supporting Case Law Beyond Maryland](#)

862 **United States v. Shaffer Equipment Co.**, 11 F.3d 450 (4th Cir. 1993): The Fourth  
Circuit held that attorneys' duty of candor is essential to maintaining trust in judicial  
proceedings, with sanctions necessary when attorneys knowingly provide false or misleading  
information to the court.

863 **In re Sealed Case**, 890 F.2d 451 (D.C. Cir. 1989): The D.C. Circuit emphasized that  
attorneys must act honestly in all representations to the court, highlighting that misrepresentation  
or omission of material facts warrants sanctions to preserve judicial fairness.

6 [Cross-Argument Case Law: Rule 3.3\(a\) and Ethical Misconduct](#)

864 **Attorney Grievance Commission v. Hodes**, 441 Md. 136, 105 A.3d 533 (2014): The  
Maryland Court of Appeals upheld sanctions for an attorney who misrepresented material facts  
in court, affirming that breaches of MRPC 19-303.3(a) require accountability to maintain the  
integrity of judicial proceedings.

865 **Attorney Grievance Commission v. Agbaje**, 438 Md. 695, 93 A.3d 262 (2014): The  
court found that knowingly misleading the court violates the attorney's duty to uphold fairness  
and truthfulness, supporting sanctions for breaches of MRPC 19-303.3(a) to reinforce ethical  
standards.

## 7 Application to Dillon-Capps's Case

866 In Dillon-Capps's case, Miles & Stockbridge (M&S) repeatedly breached MRPC 19-303.3(a) through the submission of affidavits and representations containing materially false statements, selective omissions, and deceptive presentations of facts. These breaches were designed to distort the court's understanding of the case and to prejudice Dillon-Capps's defense.

1. **Knowingly False Statements:** M&S submitted affidavits that knowingly omitted material facts about Dillon-Capps's employment status, FMLA rights, and the events surrounding the June 7th written accord, falsely implying that Dillon-Capps had refused reasonable requests. This conduct aligns with the breaches addressed in *Attorney Grievance Commission v. Mixter*, where knowingly misleading the court was deemed a significant ethical violation.
2. **Materiality of the Misrepresentations:** The omissions and selective facts presented by M&S pertain directly to Dillon-Capps's defense, including misleading statements about key dates and actions that impacted the court's perception. The materiality of these misrepresentations meets the standard outlined in *Attorney Grievance Commission v. Vanderlinde*, as they obstruct Dillon-Capps's ability to present a truthful and complete defense.
3. **Intent to Mislead:** M&S's actions show an intent to distort material facts and sway the court's judgment in Ohana's favor. The selective omissions and false representations demonstrate a deliberate attempt to mislead the court, warranting sanctions under MRPC 19-303.3(a) to preserve judicial fairness.

867 The conduct of M&S in misrepresenting and omitting key facts aligns with the criteria for  
a breach of MRPC 19-303.3(a), necessitating sanctions to uphold judicial integrity, deter future  
misconduct, and protect Dillon-Capps's right to an honest and impartial legal process.

## 8 Conclusion

868 Violations of MRPC 19-303.3(a) are taken seriously under Maryland law, as they  
compromise the court's ability to make fair and informed decisions. In Dillon-Capps's case,  
M&S's intentional misrepresentations and omissions demonstrate a significant breach of MRPC  
19-303.3(a), justifying sanctions to correct the judicial record, hold M&S accountable, and deter  
similar misconduct. Recommended sanctions include compensatory relief, fines, and referral for  
disciplinary review to maintain Maryland's commitment to truthfulness and transparency in  
judicial proceedings.

## N Rule 19-303.5 (Improper Influence and Contact with Court)

### 1 Foundation for Sanctions under MRPC Rule 19-303.5

869 **MRPC Rule 19-303.5** prohibits attorneys from attempting to influence or improperly  
communicate with a tribunal or court personnel, including any attempt to engage in ex parte  
communications or gain advantage by circumventing procedural norms. The rule ensures fair and  
impartial proceedings by prohibiting attorneys from undermining judicial integrity through  
informal access to judges or staff, or by applying undue influence.

### 2 Judicial Standards, Purpose, and Criteria for Imposing Sanctions under MRPC Rule 19-303.5

870 Sanctions under Rule 19-303.5 are imposed to:

1. **Uphold Judicial Impartiality:** Prevents attorneys from leveraging personal access or informal communication to improperly influence the court's decisions or behavior.
2. **Ensure Procedural Integrity:** Reinforces that judicial proceedings must follow standard procedural channels without attempts to expedite or alter proceedings through informal means.
3. **Deter Ex Parte Communications:** Discourages any communication with judges or court staff outside the presence or knowledge of opposing counsel, ensuring a balanced presentation of all arguments.
4. **Protect Opposing Parties' Rights:** Guarantees that all parties are treated equally and have fair access to court processes without being disadvantaged by opposing counsel's undue influence or improper communications.

### 3 Criteria for Imposing Sanctions under Rule 19-303.5:

871 **Improper Contact with Court Staff or Judges:** Attorneys must not engage in ex parte communications with judges or court staff about substantive matters of the case.

872 **Attempts to Influence Judicial Decisions:** Any effort to improperly sway a judge or staff member's perception of a case or party.

873 **Circumventing Procedural Norms:** Actions taken by an attorney to manipulate or expedite court processes outside regular procedural channels.

### 4 Maryland Case Law

874 **Attorney Grievance Commission v. Ficker**, 349 Md. 13, 706 A.2d 1045 (1998): The Maryland Court of Appeals found an attorney's repeated ex parte communications with a judge

constituted a serious ethical violation under Rule 19-303.5. The court imposed sanctions, emphasizing the need to prevent undue influence and ensure impartial judicial processes.

875 **Attorney Grievance Commission v. Kimmel**, 405 Md. 647, 955 A.2d 269 (2008): The court imposed sanctions on an attorney who attempted to improperly influence the court's scheduling and hearing decisions. This case established that efforts to interfere with court procedures or decisions constitute a breach of Rule 19-303.5.

876 **Attorney Grievance Commission v. Ross**, 428 Md. 50, 50 A.3d 1166 (2012): In this case, an attorney's attempts to informally expedite case handling through repeated contact with court personnel led to sanctions under Rule 19-303.5. The Maryland Court of Appeals reinforced that communications regarding scheduling or case outcomes should follow proper procedural channels.

## 5 Supporting Case Law Beyond Maryland

877 **In re Eisenstein**, 485 F.3d 1198 (9th Cir. 2007): The Ninth Circuit upheld sanctions for an attorney's repeated ex parte communications with the court to influence scheduling, finding this conduct disruptive to fair proceedings.

878 **In re Snyder**, 472 U.S. 634 (1985): The U.S. Supreme Court held that attorneys who attempt to influence the court improperly can be subject to sanctions for unprofessional conduct, underscoring the importance of maintaining impartiality and procedural fairness.

## 6 Cross Argument Case Law

879 **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991): The U.S. Supreme Court highlighted the inherent authority of courts to sanction attorneys who attempt to influence proceedings improperly, ensuring that justice is administered equitably without favoritism or manipulation.

880 **United States v. McCorkle**, 321 F.3d 1291 (11th Cir. 2003): The Eleventh Circuit held  
that ex parte or informal communications aimed at influencing court personnel or judges are  
improper, supporting the imposition of sanctions for any interference with judicial impartiality.

7 [Application to Dillon-Capps's Case](#)

881 In Dillon-Capps's case, M&S's communications with the court reflect violations of Rule  
19-303.5 based on the following actions:

1. **Improper Contact with Court Staff:** M&S frequently engaged in  
communications with Judge Barranco's chambers to discuss procedural matters, outside  
the knowledge or presence of Dillon-Capps. This conduct aligns with the actions in  
*Attorney Grievance Commission v. Ficker*, where ex parte communication was  
sanctionable as an attempt to gain an unfair advantage.
2. **Attempts to Influence Judicial Process:** The content and timing of M&S's  
emails appear calculated to influence scheduling or the court's procedural decisions,  
demonstrating an intent to manipulate the court's perception of the case. This behavior  
mirrors *Attorney Grievance Commission v. Kimmel*, where attempts to influence court  
decisions through informal communication warranted sanctions.
3. **Circumventing Procedural Norms:** M&S repeatedly sought to expedite or  
influence court processes outside standard procedural channels. In *Attorney Grievance  
Commission v. Ross*, such behavior was deemed a clear breach of Rule 19-303.5,  
establishing that attempts to manipulate procedures without adherence to formal  
protocols are sanctionable.

4. **Ex Parte Communications regarding Substantive Matters:** In addition to procedural matters, M&S's communications occasionally touched on substantive aspects of the case, which, under Rule 19-303.5, requires strict sanctions. This aligns with the Ninth Circuit's findings in *In re Eisenstein*, which underscored that any ex parte communications affecting case substance are improper.

## 8 Conclusion

882 M&S's improper contacts and attempts to influence court procedures in Dillon-Capps's case constitute serious breaches of **MRPC Rule 19-303.5**. Maryland case law and broader legal precedent support imposing sanctions to deter such misconduct, preserve judicial impartiality, and protect Dillon-Capps's rights. Sanctions under Rule 19-303.5 are essential to uphold procedural integrity and to prevent attorneys from gaining an unfair advantage through improper influence, as established in *Attorney Grievance Commission v. Ficker*, *Attorney Grievance Commission v. Kimmel*, and other relevant cases.

883

### O Rules 19-301.7 to 19-301.11 (Conflicts of Interest)

#### 1 Foundation for Sanctions under MRPC Rules 19-301.7 to 19-301.11

884 The Maryland Rules of Professional Conduct (MRPC) **Rules 19-301.7 through 19-301.11** govern conflicts of interest. These rules prohibit attorneys from representing clients in situations where conflicts may compromise their loyalty, objectivity, or independence of judgment. Attorneys must avoid conflicts that risk client harm, violate ethical obligations, or undermine the administration of justice. When attorneys disregard these rules, courts may impose sanctions to prevent exploitation of conflicting interests and to maintain the integrity of legal proceedings.

#### 2 Judicial Standards, Purpose, and Criteria for Imposing Sanctions under MRPC Rules 19-301.7 to 19-301.11

885 Sanctions under these conflict-of-interest rules are imposed to:



1. **Ensure Loyalty and Objectivity in Representation:** Sanctions protect clients' right to unbiased representation, ensuring that attorneys act solely in their clients' best interests.
2. **Preserve Ethical Standards in Litigation:** Sanctions deter attorneys from engaging in conflicting relationships that may compromise fairness or objectivity in legal representation.
3. **Promote Judicial Integrity and Public Confidence:** Sanctions discourage attorneys from compromising ethical obligations, thereby reinforcing public confidence in the judicial system.
4. **Prevent Prejudice and Protect Client Interests:** Courts impose sanctions to prevent harm to clients arising from divided loyalties or dual representation that may prejudice their legal outcomes.

### 3 Criteria for Imposing Sanctions under Rules 19-301.7 to 19-301.11:

886 **Existence of a Conflict of Interest:** The attorney must have engaged in representation despite a known or discoverable conflict that affects their ability to serve the client impartially.

887 **Failure to Obtain Informed Consent:** Attorneys are obligated to obtain informed consent, confirmed in writing, if representing clients with potentially conflicting interests.

888 **Improperly Acting Against a Former Client:** Attorneys cannot represent new clients in matters substantially related to those of former clients if it involves using the former client's information.

889 **Concurrent Representation of Conflicting Interests:** Concurrent representation in which the interests of clients are directly adverse, or where representation may be materially limited, is prohibited without written informed consent.

4 [Maryland Case Law](#)

890 **Attorney Grievance Commission v. Kent**, 447 Md. 555, 136 A.3d 1126 (2016): The Maryland Court of Appeals held that failure to avoid conflicts of interest and lack of informed consent constitutes a severe ethical breach, warranting sanctions. The court emphasized that conflicts jeopardize objectivity and may cause client harm.

891 **Attorney Grievance Commission v. Mixer**, 441 Md. 416, 109 A.3d 1 (2015): The court sanctioned an attorney for neglecting conflict-of-interest rules, highlighting the importance of ensuring undivided loyalty to clients and preventing prejudice arising from competing interests.

892 **Attorney Grievance Commission v. Dyer**, 453 Md. 585, 162 A.3d 966 (2017): This case established that representing conflicting interests, especially without informed consent, constitutes professional misconduct and warrants disciplinary measures to uphold the integrity of legal proceedings.

5 [Supporting Case Law Beyond Maryland](#)

893 **In re Silver**, 553 F.3d 455 (6th Cir. 2009): The Sixth Circuit sanctioned an attorney for representing conflicting interests without informed consent, emphasizing that conflicts can severely impact the attorney-client relationship and judicial integrity.

894 **Fiandaca v. Cunningham**, 827 F.2d 825 (1st Cir. 1987): The First Circuit ruled that attorneys must avoid conflicts of interest that may prejudice their clients, sanctioning counsel for representing opposing interests in related litigation, thereby violating conflict-of-interest rules.

6 [Cross Argument Case Law](#)

895 **Wood v. Georgia**, 450 U.S. 261 (1981): The U.S. Supreme Court held that conflicts of interest undermine the fair administration of justice, particularly when attorneys prioritize other interests over client loyalty, warranting sanctions or corrective measures.

896 **Armstrong v. McAlpin**, 625 F.2d 433 (2d Cir. 1980): The Second Circuit imposed sanctions on an attorney whose conflicting relationships compromised the client's representation, emphasizing the judiciary's duty to maintain ethical standards in client advocacy.

7 [Application to Dillon-Capps's Case](#)

897 In Dillon-Capps's case, M&S's actions reveal violations of Rules 19-301.7 through 19-301.11 based on the following conflicts:

1. **Conflicting Representation and Undisclosed Interests:** M&S's representation of Ohana while potentially maintaining interests that conflicted with Dillon-Capps's FMLA and ADA rights represents a direct ethical breach. This conduct aligns with *Attorney Grievance Commission v. Kent*, where failure to resolve conflicts warranted sanctions.
2. **Failure to Obtain Informed Consent:** At no point did M&S seek informed consent or disclose potential conflicts regarding Dillon-Capps's rights under the ADA and FMLA. The omission of informed consent mirrors *Attorney Grievance Commission v. Mixter*, establishing grounds for sanctions due to the ethical violation.

3. **Prejudice Resulting from Conflicting Representation:** M&S's representation adversely impacted Dillon-Capps by perpetuating litigation without addressing essential legal protections and misrepresenting Dillon-Capps's employment rights. This aligns with *Attorney Grievance Commission v. Dyer*, which confirmed that undisclosed conflicts and resulting client harm are sanctionable.

4. **Concurrent Representation with Adverse Interests:** The dual interests in aggressively litigating against Dillon-Capps while disregarding federal protections (FMLA and ADA) created a materially limited and adverse position, warranting sanctions. This misconduct parallels *In re Silver*, where sanctions were imposed for failing to prevent prejudice caused by conflicting representation.

## 8 Conclusion

898 M&S's conflicting representation of Ohana, combined with their failure to disclose conflicts or obtain informed consent, constitutes a severe breach of **MRPC Rules 19-301.7 through 19-301.11**. Maryland case law and broader legal precedent support imposing sanctions to deter future ethical violations, protect client rights, and uphold the integrity of the legal profession. The court should impose sanctions to address M&S's conflicting representation and disregard for client protections, as established in *Attorney Grievance Commission v. Kent*, *Attorney Grievance Commission v. Dyer*, and other relevant cases.

## P Rule 19-308.4(f) (Failure to Respond to Requests)

### 1 Foundation for Sanctions under MRPC Rules 19-301.7 to 19-301.11

899 The Maryland Rules of Professional Conduct (MRPC) **Rules 19-301.7 through 19-301.11** govern conflicts of interest. These rules prohibit attorneys from representing clients in

situations where conflicts may compromise their loyalty, objectivity, or independence of judgment. Attorneys must avoid conflicts that risk client harm, violate ethical obligations, or undermine the administration of justice. When attorneys disregard these rules, courts may impose sanctions to prevent exploitation of conflicting interests and to maintain the integrity of legal proceedings.

## 2 Judicial Standards, Purpose, and Criteria for Imposing Sanctions under MRPC Rules 19-301.7 to 19-301.11

900 Sanctions under these conflict-of-interest rules are imposed to:

1. **Ensure Loyalty and Objectivity in Representation:** Sanctions protect clients' right to unbiased representation, ensuring that attorneys act solely in their clients' best interests.
2. **Preserve Ethical Standards in Litigation:** Sanctions deter attorneys from engaging in conflicting relationships that may compromise fairness or objectivity in legal representation.
3. **Promote Judicial Integrity and Public Confidence:** Sanctions discourage attorneys from compromising ethical obligations, thereby reinforcing public confidence in the judicial system.
4. **Prevent Prejudice and Protect Client Interests:** Courts impose sanctions to prevent harm to clients arising from divided loyalties or dual representation that may prejudice their legal outcomes.

## 3 Criteria for Imposing Sanctions under Rules 19-301.7 to 19-301.11:

901 **Existence of a Conflict of Interest:** The attorney must have engaged in representation despite a known or discoverable conflict that affects their ability to serve the client impartially.

902     **Failure to Obtain Informed Consent:** Attorneys are obligated to obtain informed consent, confirmed in writing, if representing clients with potentially conflicting interests.

903     **Improperly Acting Against a Former Client:** Attorneys cannot represent new clients in matters substantially related to those of former clients if it involves using the former client's information.

904     **Concurrent Representation of Conflicting Interests:** Concurrent representation in which the interests of clients are directly adverse, or where representation may be materially limited, is prohibited without written informed consent.

4     [Maryland Case Law](#)

905     **Attorney Grievance Commission v. Kent**, 447 Md. 555, 136 A.3d 1126 (2016): The Maryland Court of Appeals held that failure to avoid conflicts of interest and lack of informed consent constitutes a severe ethical breach, warranting sanctions. The court emphasized that conflicts jeopardize objectivity and may cause client harm.

906     **Attorney Grievance Commission v. Mixer**, 441 Md. 416, 109 A.3d 1 (2015): The court sanctioned an attorney for neglecting conflict-of-interest rules, highlighting the importance of ensuring undivided loyalty to clients and preventing prejudice arising from competing interests.

907     **Attorney Grievance Commission v. Dyer**, 453 Md. 585, 162 A.3d 966 (2017): This case established that representing conflicting interests, especially without informed consent, constitutes professional misconduct and warrants disciplinary measures to uphold the integrity of legal proceedings.

## 5 Supporting Case Law Beyond Maryland

908 **In re Silver**, 553 F.3d 455 (6th Cir. 2009): The Sixth Circuit sanctioned an attorney for representing conflicting interests without informed consent, emphasizing that conflicts can severely impact the attorney-client relationship and judicial integrity.

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## 6 Cross Argument Case Law

910 **Wood v. Georgia**, 450 U.S. 261 (1981): The U.S. Supreme Court held that conflicts of interest undermine the fair administration of justice, particularly when attorneys prioritize other interests over client loyalty, warranting sanctions or corrective measures.

911 **Armstrong v. McAlpin**, 625 F.2d 433 (2d Cir. 1980): The Second Circuit imposed sanctions on an attorney whose conflicting relationships compromised the client's representation, emphasizing the judiciary's duty to maintain ethical standards in client advocacy.

## 7 Application to Dillon-Capps's Case

912 In Dillon-Capps's case, M&S's actions reveal violations of Rules 19-301.7 through 19-301.11 based on the following conflicts:

913 **Conflicting Representation and Undisclosed Interests:** M&S's representation of Ohana while potentially maintaining interests that conflicted with Dillon-Capps's FMLA and ADA rights represents a direct ethical breach. This conduct aligns with *Attorney Grievance Commission v. Kent*, where failure to resolve conflicts warranted sanctions.

914 **Failure to Obtain Informed Consent:** At no point did M&S seek informed consent or disclose potential conflicts regarding Dillon-Capps's rights under the ADA and FMLA. The omission of informed consent mirrors *Attorney Grievance Commission v. Mixter*, establishing grounds for sanctions due to the ethical violation.

915 **Prejudice Resulting from Conflicting Representation:** M&S's representation adversely impacted Dillon-Capps by perpetuating litigation without addressing essential legal protections and misrepresenting Dillon-Capps's employment rights. This aligns with *Attorney Grievance Commission v. Dyer*, which confirmed that undisclosed conflicts and resulting client harm are sanctionable.

916 **Concurrent Representation with Adverse Interests:** The dual interests in aggressively litigating against Dillon-Capps while disregarding federal protections (FMLA and ADA) created a materially limited and adverse position, warranting sanctions. This misconduct parallels *In re Silver*, where sanctions were imposed for failing to prevent prejudice caused by conflicting representation.

## 8 Conclusion

917 M&S's conflicting representation of Ohana, combined with their failure to disclose conflicts or obtain informed consent, constitutes a severe breach of **MRPC Rules 19-301.7 through 19-301.11**. Maryland case law and broader legal precedent support imposing sanctions to deter future ethical violations, protect client rights, and uphold the integrity of the legal profession. The court should impose sanctions to address M&S's conflicting representation and disregard for client protections, as established in *Attorney Grievance Commission v. Kent*, *Attorney Grievance Commission v. Dyer*, and other relevant cases.



Q Rules 19-308.4(a) through (d) (Broad Misconduct)

1 Foundation for Sanctions under MRPC Rule 19-308.4(a) through (d)

918 **MRPC Rule 19-308.4(a) through (d)** defines professional misconduct broadly, prohibiting attorneys from violating the Maryland Rules of Professional Conduct or engaging in actions that involve **dishonesty, fraud, deceit, or misrepresentation** (19-308.4(c)), **conduct prejudicial to the administration of justice** (19-308.4(d)), and **criminal acts that reflect adversely on the lawyer's honesty or trustworthiness** (19-308.4(b)). Additionally, **19-308.4(a)** establishes that it is professional misconduct for attorneys to violate any MRPC provision. These rules collectively seek to uphold ethical standards, ensure honesty and fairness in representation, and maintain the integrity of the judicial system.

2 Judicial Standards, Purpose, and Criteria for Imposing Sanctions under MRPC Rule 19-308.4(a) through (d)

1. Sanctions under Rule 19-308.4(a)-(d) are imposed to:
2. **Preserve Honesty and Integrity in Legal Practice:** Sanctions for violating this rule ensure that attorneys uphold their duty to provide honest and truthful representation.
3. **Deter Deceitful and Fraudulent Practices:** By penalizing dishonest or fraudulent behavior, sanctions deter attorneys from misleading courts, opposing counsel, or the public.
4. **Protect the Administration of Justice:** Sanctions are essential to prevent conduct that prejudices the judicial process or diminishes the fairness of proceedings.
5. **Hold Attorneys Accountable for Professional Misconduct:** Imposing sanctions on misconduct ensures that attorneys comply with ethical standards, reinforcing public trust in the legal system.

3     Criteria for Imposing Sanctions under Rules 19-308.4(a) through (d):

919     **Intentional Violations of Professional Standards:** Evidence that the attorney knowingly or intentionally violated MRPC rules.

920     **Dishonesty, Fraud, Deceit, or Misrepresentation:** Conduct involving deception, whether in statements, filings, or omissions.

921     **Conduct Prejudicial to the Administration of Justice:** Actions that obstruct justice, create unfair advantage, or subvert the judicial process.

922     **Criminal or Unethical Acts Reflecting Poor Character:** Any actions demonstrating lack of integrity, including criminal acts or conduct that compromises honesty or trustworthiness.

4     Maryland Case Law

923     **Attorney Grievance Commission v. Vanderlinde**, 364 Md. 376, 773 A.2d 463 (2001): The Maryland Court of Appeals held that intentional dishonesty and deceit are serious ethical violations warranting severe sanctions. The court emphasized that honesty is paramount in the legal profession, and violations reflect directly on a lawyer's fitness to practice.

924     **Attorney Grievance Commission v. Mixter**, 441 Md. 416, 109 A.3d 1 (2015): The court imposed sanctions for multiple rule violations, including prejudicial conduct and misrepresentations, underscoring that violations of Rules 19-308.4(a) through (d) compromise the administration of justice.

925     **Attorney Grievance Commission v. Agbaje**, 438 Md. 695, 93 A.3d 262 (2014): The court sanctioned an attorney for dishonest conduct and fraudulent misrepresentation, reinforcing that intentional deceit warrants serious penalties under MRPC Rule 19-308.4(c) and (d).

5      Supporting Case Law Beyond Maryland

926      **In re Murray**, 316 P.3d 1118 (Kan. 2013): The Kansas Supreme Court sanctioned an attorney for fraud and deceit that interfered with the administration of justice, reinforcing that such conduct warrants severe disciplinary measures.

927      **Office of Disciplinary Counsel v. Koresko**, 636 Pa. 627, 146 A.3d 1145 (2016): The Pennsylvania Supreme Court upheld sanctions on an attorney who engaged in deceitful conduct to manipulate judicial outcomes, emphasizing that fraud and misrepresentation constitute grave professional misconduct.

6      Cross Argument Case Law

928      **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991): The U.S. Supreme Court highlighted that courts possess inherent authority to sanction conduct that subverts justice, such as fraud and deceit, emphasizing the judiciary's responsibility to maintain the integrity of legal proceedings.

929      **Roadway Express, Inc. v. Piper**, 447 U.S. 752 (1980): This case established that courts have the authority to sanction attorneys for engaging in dishonest or fraudulent conduct that undermines the judicial process.

7      Application to Dillon-Capps's Case

930      In Dillon-Capps's case, M&S's conduct meets the criteria for sanctions under MRPC Rule 19-308.4(a) through (d) based on the following actions:

1.      **Intentional Violations of Professional Standards:** M&S repeatedly engaged in conduct violating MRPC provisions, including submitting perjured affidavits and omitting material facts. This pattern of intentional misconduct aligns with *Attorney*

*Grievance Commission v. Vanderlinde*, where the court sanctioned an attorney for intentional dishonesty.

2. **Dishonesty, Fraud, and Misrepresentation:** M&S knowingly submitted affidavits and statements containing false and misleading information regarding Dillon-Capps's employment status, ADA accommodations, and FMLA rights. This conduct mirrors *Attorney Grievance Commission v. Agbaje*, where intentional deceit was met with sanctions due to its impact on the administration of justice.

3. **Prejudicial Conduct Affecting the Administration of Justice:** M&S's filing of frivolous motions, improper voluntary dismissal, and failure to respond to requests for representational status prejudiced Dillon-Capps's ability to fairly litigate counterclaims. This pattern of prejudicial conduct is sanctionable, as illustrated in *Attorney Grievance Commission v. Mixer*, where actions undermining fair legal process warranted penalties.

4. **Conduct Reflecting Poor Character and Dishonesty:** By engaging in deceit, procedural manipulation, and evasion of judicial scrutiny, M&S demonstrated a lack of integrity, as described in *In re Murray*. These actions violate Rule 19-308.4(b) and (c), reflecting poorly on M&S's trustworthiness and ethical character.

## 8 Conclusion

931 M&S's conduct in Dillon-Capps's case constitutes serious breaches of **MRPC Rule 19-308.4(a) through (d)**, warranting sanctions to address dishonesty, prejudicial actions, and manipulation of the legal process. Maryland and national precedents support imposing sanctions to deter future unethical conduct, uphold the integrity of the judicial process, and protect Dillon-Capps's rights. The court should impose sanctions in line with *Attorney Grievance Commission*

*v. Vanderlinde, Attorney Grievance Commission v. Agbaje*, and other relevant cases to preserve the fairness and integrity of legal proceedings.

R 18-102.1 (Impartiality)

1 Foundation for Sanctions under Maryland Judicial Code Rule 18-102.1

932 **Maryland Judicial Code Rule 18-102.1** mandates that judges uphold and comply with the law and perform all judicial duties in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary. This rule is fundamental in maintaining the public's trust in the judicial system. A judge's failure to adhere to this rule undermines the administration of justice and warrants corrective actions, including sanctions, to reinforce accountability and uphold the integrity of the judiciary.

2 Judicial Standards, Purpose, and Criteria for Imposing Sanctions under Maryland Judicial Code Rule 18-102.1

933 Sanctions under Rule 18-102.1 serve several critical purposes:

1. **Upholding Judicial Integrity:** Ensures that judges maintain the highest ethical standards by complying with legal and ethical obligations.
2. **Reinforcing Impartiality and Fairness:** Promotes a fair judicial process by deterring judges from actions that could create bias or favoritism.
3. **Preserving Public Confidence in the Judiciary:** Protects public trust by ensuring judges adhere to ethical standards, thereby reinforcing the judiciary's role as an impartial arbiter.

4. **Deterring Judicial Misconduct:** Establishes accountability for judges who fail to comply with the rule's requirements, preventing future breaches and safeguarding judicial integrity.

3 **Criteria for Imposing Sanctions under Rule 18-102.1:**

934 **Failure to Uphold Legal Standards:** The judge must comply with all applicable legal standards, including Maryland law and procedural rules.

935 **Actions Undermining Public Confidence:** Judicial actions or decisions must not give rise to doubts regarding impartiality, integrity, or independence.

936 **Intentional or Reckless Misconduct:** Sanctions may apply when a judge knowingly disregards legal requirements or exercises recklessness in their conduct, thereby affecting public perception.

4 **Maryland Case Law**

937 **In re Lamdin**, 404 Md. 631, 948 A.2d 54 (2008): The Maryland Court of Appeals held that a judge's failure to uphold legal standards and engage in impartial behavior violated Rule 18-102.1. Sanctions were imposed to preserve public confidence and reinforce judicial integrity.

938 **Attorney Grievance Commission v. Blum**, 373 Md. 275, 818 A.2d 219 (2003): This case underscored the judiciary's duty to maintain impartiality and fairness. The court ruled that a judge's actions that create the appearance of bias or partiality violate ethical standards and erode public trust.

939 **In re White**, 391 Md. 626, 894 A.2d 314 (2006): The Maryland Court of Appeals emphasized that judges must avoid conduct that compromises the perception of impartiality and independence. Sanctions were imposed to protect public confidence in the judiciary.

## 5 Supporting Case Law Beyond Maryland

940 **In re Glover**, 759 So.2d 546 (Fla. 2000): The Florida Supreme Court imposed sanctions on a judge whose conduct undermined public trust and confidence in the judicial process, emphasizing that compliance with ethical standards is essential to uphold judicial integrity.

941 **In re Adams**, 283 Kan. 365, 153 P.3d 512 (2007): The Kansas Supreme Court ruled that a judge's actions affecting impartiality and public confidence warranted sanctions, as these actions compromise the judiciary's role as a fair and independent institution.

## 6 Cross Argument Case Law

942 **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991): The U.S. Supreme Court recognized the judiciary's inherent authority to impose sanctions on judges or attorneys whose conduct undermines the integrity of judicial proceedings, emphasizing the importance of upholding public confidence.

943 **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009): The U.S. Supreme Court held that the appearance of bias or lack of impartiality in judicial proceedings can compromise public confidence, underscoring the need for judicial conduct that promotes fairness and integrity.

## 7 Application to Dillon-Capps's Case

944 In Dillon-Capps's case, Judge Barranco's actions demonstrate violations of Rule 18-102.1 based on the following:

1. **Failure to Uphold Legal Standards:** Judge Barranco's rulings disregarded evidence of ADA and FMLA violations, refused to address Dillon-Capps's due process rights, and ignored clear procedural standards. This conduct is similar to *In re Lamdin*,

where failure to apply legal standards and procedural rules justified sanctions to protect judicial integrity.

2. **Actions Undermining Public Confidence:** Judge Barranco's comments, including disparaging remarks about Dillon-Capps's filings and testimony, created an appearance of bias. The public perception of judicial impartiality was further compromised by rulings that appeared selectively adverse. This behavior parallels *Attorney Grievance Commission v. Blum*, where conduct creating the appearance of partiality was sanctioned.

3. **Intentional or Reckless Disregard for Judicial Standards:** Judge Barranco's procedural rulings, including limitations on cross-examination and disregard for ADA-related evidence, suggest a pattern of recklessness, if not intentional disregard, for Dillon-Capps's rights. Such conduct mirrors *In re White*, where a lack of judicial impartiality and independence warranted sanctions to preserve public confidence.

4. **Impartiality in Judicial Conduct:** The judge's failure to objectively evaluate evidence supporting Dillon-Capps's ADA accommodations and FMLA rights, combined with procedural biases, reflects judicial misconduct. The need for sanctions in cases where a judge's impartiality is compromised is underscored by *Caperton v. A.T. Massey Coal Co.*, emphasizing that any appearance of bias demands corrective measures.

## 8 Conclusion

945 Judge Barranco's actions in Dillon-Capps's case violate **Maryland Judicial Code Rule 18-102.1**, warranting sanctions to address compromised integrity, bias, and procedural misconduct. Maryland and national precedents support imposing sanctions to uphold public



confidence in the judiciary, maintain impartiality, and ensure adherence to legal standards. The court should impose sanctions consistent with *In re Lamdin, Attorney Grievance Commission v. Blum*, and other cases, preserving judicial integrity and reinforcing public trust.

### S 18-102.2 (Public Confidence)

#### 1 Foundation for Sanctions under Maryland Judicial Code Rule 18-102.2

946 **Maryland Judicial Code Rule 18-102.2** requires judges to act in ways that promote public confidence in the independence, integrity, and impartiality of the judiciary. This rule mandates that judges avoid actions or statements that could undermine public trust in the judicial process, requiring judges to maintain objectivity and fairness in all interactions. Rule 18-102.2 is essential for fostering public trust, as judicial actions that suggest bias, favoritism, or improper influence directly erode confidence in the justice system. Violations of this rule call for sanctions to preserve the court's integrity and ensure impartiality.

#### 2 Judicial Standards, Purpose, and Criteria for Imposing Sanctions under Maryland Judicial Code Rule 18-102.2

947 Sanctions under Rule 18-102.2 are imposed to:

1. **Maintain Judicial Impartiality and Integrity:** Ensures that judges uphold ethical standards, fostering trust in their impartiality and objectivity.
2. **Protect Public Confidence in the Judicial System:** Reinforces the public's trust in the judicial system by addressing actions that may suggest bias or impropriety.
3. **Deter Conduct that Undermines Fairness:** Prevents judges from making statements or rulings that compromise the appearance of impartiality or integrity in the judiciary.

4. **Enforce Accountability for Judicial Bias:** Sanctions deter judicial actions that may appear influenced by personal bias, favoritism, or external pressure.

3 Criteria for Imposing Sanctions under Rule 18-102.2:

948 **Appearance of Bias or Lack of Impartiality:** Judicial actions or statements must not create an appearance of favoritism or prejudice.

949 **Failure to Promote Public Confidence:** Conduct that undermines trust in judicial integrity, independence, or fairness.

950 **Intentional or Reckless Disregard for Judicial Standards:** Sanctions may apply if a judge knowingly or recklessly disregards ethical obligations to uphold impartiality and public confidence.

4 Maryland Case Law

951 **In re Lamdin**, 404 Md. 631, 948 A.2d 54 (2008): The Maryland Court of Appeals held that a judge's conduct, which created an appearance of bias and compromised public confidence, warranted sanctions. The court emphasized that impartiality and public trust are essential to the judiciary's role.

952 **Attorney Grievance Commission v. Blum**, 373 Md. 275, 818 A.2d 219 (2003): The court sanctioned a judge for conduct that created a perception of favoritism, noting that even the appearance of bias undermines public confidence in judicial fairness and integrity.

953 **In re White**, 391 Md. 626, 894 A.2d 314 (2006): The Maryland Court of Appeals reinforced that judges must avoid actions that erode the public's perception of impartiality, holding that judicial behavior affecting trust in the judiciary is sanctionable.

## 5 Supporting Case Law Beyond Maryland

954 **In re Glover**, 759 So.2d 546 (Fla. 2000): The Florida Supreme Court sanctioned a judge whose actions compromised public trust, emphasizing that judicial impartiality is critical to the integrity of the judicial system.

955 **In re Adams**, 283 Kan. 365, 153 P.3d 512 (2007): The Kansas Supreme Court held that judicial actions reflecting bias or a lack of impartiality warrant sanctions to preserve the public's confidence in the judiciary.

## 6 Cross Argument Case Law

956 **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009): The U.S. Supreme Court held that the appearance of bias can be grounds for judicial recusal and sanctions, stressing that public confidence in the judiciary requires judges to act impartially and avoid even the appearance of partiality.

957 **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991): The Court reinforced that judges are obligated to avoid any actions that could erode public trust, holding that conduct undermining judicial impartiality is sanctionable.

## 7 Application to Dillon-Capps's Case

958 In Dillon-Capps's case, Judge Barranco's conduct reflects violations of Rule 18-102.2 based on the following:

1. **Appearance of Bias and Lack of Impartiality:** Judge Barranco's dismissive comments and restrictive rulings on Dillon-Capps's motions, including limiting cross-examination, created a perception of judicial bias. This conduct aligns with *In re Lamdin*,

where a judge's behavior compromising impartiality warranted sanctions to uphold public confidence.

2. **Failure to Promote Public Confidence:** By dismissing Dillon-Capps's ADA and FMLA concerns without consideration and issuing rulings adverse to Dillon-Capps without clear legal basis, Judge Barranco failed to uphold standards of impartiality. This conduct parallels *Attorney Grievance Commission v. Blum*, where sanctions were imposed for actions that created an appearance of favoritism.

3. **Intentional or Reckless Disregard for Judicial Standards:** Judge Barranco's repeated disregard for Dillon-Capps's evidence and procedural rights reflects a reckless approach that undermines public trust in judicial impartiality. This pattern mirrors *In re White*, where judicial conduct compromising fairness and impartiality was sanctioned to maintain public trust.

4. **Public Perception of Bias and Prejudice:** The cumulative effect of Judge Barranco's rulings and comments creates an appearance of prejudice against Dillon-Capps, undermining the perception of a fair and impartial judiciary. The *Caperton v. A.T. Massey Coal Co.* decision underscores the need for sanctions in cases where public confidence is at risk due to perceived judicial bias.

## 8 Conclusion

959 Judge Barranco's actions in Dillon-Capps's case violate **Maryland Judicial Code Rule 18-102.2**, as his conduct undermines public confidence in judicial impartiality and independence. Maryland case law and national precedents support imposing sanctions to reinforce judicial standards, preserve public trust, and ensure fairness in judicial conduct. The court should impose

sanctions in line with *In re Lamdin, Attorney Grievance Commission v. Blum*, and other relevant cases to uphold the integrity of the judiciary and protect public confidence in the justice system.

T **18-102.5 (Competence and Diligence)**

1 **Foundation for Sanctions under Maryland Judicial Code Rule 18-102.5**

960 **Maryland Judicial Code Rule 18-102.5** mandates that judges perform their judicial duties competently, diligently, and without bias or favoritism. This rule ensures that judges fully understand the legal and factual issues before them, apply the law correctly, and avoid actions or comments that may suggest bias or partiality. Violations of Rule 18-102.5 warrant sanctions to uphold the credibility and integrity of judicial proceedings, particularly when a judge's actions or inactions undermine fair and impartial adjudication.

2 **Judicial Standards, Purpose, and Criteria for Imposing Sanctions under Maryland Judicial Code Rule 18-102.5**

961 Sanctions under Rule 18-102.5 serve to:

1. **Ensure Judicial Competence and Diligence:** This rule holds judges accountable for demonstrating adequate knowledge and diligence in managing legal matters.
2. **Uphold Impartiality and Fairness:** Ensures that judges exercise their authority without bias or favoritism, protecting the integrity of the judicial process.
3. **Promote Public Confidence in Judicial Expertise:** Sanctions discourage judicial negligence or unpreparedness, reinforcing the public's trust in the judiciary's ability to resolve cases competently.

4. **Prevent Prejudice or Bias in Judicial Proceedings:** Sanctions address conduct suggesting that judicial rulings are influenced by personal bias rather than legal standards.

3 Criteria for Imposing Sanctions under Rule 18-102.5:

5. **Failure to Perform Judicial Duties Competently:** Judges must demonstrate sufficient understanding of legal and factual issues.

6. **Neglect or Lack of Diligence:** Sanctions are warranted if a judge exhibits disregard for the legal and factual complexities of a case.

7. **Evidence of Bias or Favoritism:** Any appearance of prejudice or preferential treatment may justify sanctions.

8. **Impeding the Fair Administration of Justice:** Judges who fail to exercise impartiality or make legally sound rulings impair the fairness of proceedings.

4 Maryland Case Law

962 **In re Lamdin**, 404 Md. 631, 948 A.2d 54 (2008): The Maryland Court of Appeals held that a judge's lack of diligence and competence, especially when coupled with bias, warranted sanctions. This case established that judges must be thorough, fair, and objective in their rulings.

963 **Attorney Grievance Commission v. White**, 354 Md. 346, 731 A.2d 447 (1999): The Maryland Court of Appeals sanctioned a judge for failing to diligently review case details and properly interpret applicable law, emphasizing that competence and impartiality are crucial judicial obligations.

964 **Attorney Grievance Commission v. Mixer**, 441 Md. 416, 109 A.3d 1 (2015): The court found that judges must avoid biases and prejudices that interfere with the fair

administration of justice, stressing that judicial conduct should exemplify diligence and impartiality.

5     Supporting Case Law Beyond Maryland

965     **In re Adams**, 283 Kan. 365, 153 P.3d 512 (2007): The Kansas Supreme Court sanctioned a judge for incompetence and partiality, affirming that diligence and unbiased decision-making are fundamental judicial responsibilities.

966     **In re Glover**, 759 So.2d 546 (Fla. 2000): The Florida Supreme Court imposed sanctions on a judge whose lack of diligence and biased comments compromised the integrity of the judicial process.

6     Cross Argument Case Law

967     **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009): The U.S. Supreme Court held that judges must avoid both actual bias and the appearance of bias to protect public confidence in judicial impartiality, emphasizing that impartiality is essential to fair adjudication.

968     **Liteky v. United States**, 510 U.S. 540 (1994): The U.S. Supreme Court underscored that judicial actions revealing favoritism or bias undermine public trust and justify corrective measures to ensure judicial impartiality and competence.

7     Application to Dillon-Capps's Case

969     In Dillon-Capps's case, Judge Barranco's actions demonstrate violations of Rule 18-102.5 based on the following:

1.     **Failure to Perform Judicial Duties Competently:** Judge Barranco's disregard for FMLA and ADA protections, combined with selective attention to procedural issues, suggests a lack of diligence in understanding and applying relevant laws. This aligns with

*In re Lamdin*, where sanctions were imposed due to insufficient judicial competence and diligence.

2. **Neglect or Lack of Diligence in Reviewing Case Evidence:** Judge Barranco ignored Dillon-Capps's supporting evidence and testimony, particularly regarding disability and leave rights, thereby neglecting factual complexities central to the case. This conduct mirrors *Attorney Grievance Commission v. White*, where failure to thoroughly review case materials was sanctionable.

3. **Evidence of Bias or Favoritism:** Judge Barranco's dismissive comments regarding Dillon-Capps's filings, coupled with repeated adverse rulings, created an appearance of bias. Such conduct is akin to *In re Glover*, where a judge's bias and partiality in rulings justified sanctions to uphold public confidence.

4. **Impeding the Fair Administration of Justice:** By disregarding ADA and FMLA evidence and failing to consider Dillon-Capps's motions fairly, Judge Barranco compromised the impartiality required in judicial proceedings. This aligns with *Caperton v. A.T. Massey Coal Co.*, which established that judicial bias undermines public trust and requires corrective action.

## 8 Conclusion

970 Judge Barranco's actions in Dillon-Capps's case violate **Maryland Judicial Code Rule 18-102.5**. His lack of diligence, disregard for relevant evidence, and apparent bias compromise judicial impartiality and the fair administration of justice. Maryland case law and broader legal precedents support imposing sanctions to reinforce judicial competence, uphold public confidence, and ensure that judicial duties are performed without prejudice. The court should



impose sanctions in line with *In re Lamdin, Attorney Grievance Commission v. White*, and other relevant cases to preserve judicial integrity and reinforce fairness in adjudication.

971

#### U 18-102.9 (Ex Parte Communications)

##### 1 Foundation for Sanctions under Maryland Judicial Code Rule 18-102.5

972 **Maryland Judicial Code Rule 18-102.5** mandates that judges perform their judicial duties competently, diligently, and without bias or favoritism. This rule ensures that judges fully understand the legal and factual issues before them, apply the law correctly, and avoid actions or comments that may suggest bias or partiality. Violations of Rule 18-102.5 warrant sanctions to uphold the credibility and integrity of judicial proceedings, particularly when a judge's actions or inactions undermine fair and impartial adjudication.

##### 2 Judicial Standards, Purpose, and Criteria for Imposing Sanctions under Maryland Judicial Code Rule 18-102.5

973 Sanctions under Rule 18-102.5 serve to:

1. **Ensure Judicial Competence and Diligence:** This rule holds judges accountable for demonstrating adequate knowledge and diligence in managing legal matters.
2. **Uphold Impartiality and Fairness:** Ensures that judges exercise their authority without bias or favoritism, protecting the integrity of the judicial process.
3. **Promote Public Confidence in Judicial Expertise:** Sanctions discourage judicial negligence or unpreparedness, reinforcing the public's trust in the judiciary's ability to resolve cases competently.

4. **Prevent Prejudice or Bias in Judicial Proceedings:** Sanctions address conduct suggesting that judicial rulings are influenced by personal bias rather than legal standards.

3 Criteria for Imposing Sanctions under Rule 18-102.5:

5. **Failure to Perform Judicial Duties Competently:** Judges must demonstrate sufficient understanding of legal and factual issues.

6. **Neglect or Lack of Diligence:** Sanctions are warranted if a judge exhibits disregard for the legal and factual complexities of a case.

7. **Evidence of Bias or Favoritism:** Any appearance of prejudice or preferential treatment may justify sanctions.

8. **Impeding the Fair Administration of Justice:** Judges who fail to exercise impartiality or make legally sound rulings impair the fairness of proceedings.

4 Maryland Case Law

974 **In re Lamdin**, 404 Md. 631, 948 A.2d 54 (2008): The Maryland Court of Appeals held that a judge's lack of diligence and competence, especially when coupled with bias, warranted sanctions. This case established that judges must be thorough, fair, and objective in their rulings.

975 **Attorney Grievance Commission v. White**, 354 Md. 346, 731 A.2d 447 (1999): The Maryland Court of Appeals sanctioned a judge for failing to diligently review case details and properly interpret applicable law, emphasizing that competence and impartiality are crucial judicial obligations.

976 **Attorney Grievance Commission v. Mixer**, 441 Md. 416, 109 A.3d 1 (2015): The court found that judges must avoid biases and prejudices that interfere with the fair

administration of justice, stressing that judicial conduct should exemplify diligence and impartiality.

5      Supporting Case Law Beyond Maryland

977      **In re Adams**, 283 Kan. 365, 153 P.3d 512 (2007): The Kansas Supreme Court sanctioned a judge for incompetence and partiality, affirming that diligence and unbiased decision-making are fundamental judicial responsibilities.

978      **In re Glover**, 759 So.2d 546 (Fla. 2000): The Florida Supreme Court imposed sanctions on a judge whose lack of diligence and biased comments compromised the integrity of the judicial process.

6      Cross Argument Case Law

979      **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009): The U.S. Supreme Court held that judges must avoid both actual bias and the appearance of bias to protect public confidence in judicial impartiality, emphasizing that impartiality is essential to fair adjudication.

980      **Liteky v. United States**, 510 U.S. 540 (1994): The U.S. Supreme Court underscored that judicial actions revealing favoritism or bias undermine public trust and justify corrective measures to ensure judicial impartiality and competence.

7      Application to Dillon-Capps's Case

981      In Dillon-Capps's case, Judge Barranco's actions demonstrate violations of Rule 18-102.5 based on the following:

982      **Failure to Perform Judicial Duties Competently**: Judge Barranco's disregard for FMLA and ADA protections, combined with selective attention to procedural issues, suggests a

lack of diligence in understanding and applying relevant laws. This aligns with *In re Lamdin*, where sanctions were imposed due to insufficient judicial competence and diligence.

983 **Neglect or Lack of Diligence in Reviewing Case Evidence:** Judge Barranco ignored Dillon-Capps's supporting evidence and testimony, particularly regarding disability and leave rights, thereby neglecting factual complexities central to the case. This conduct mirrors *Attorney Grievance Commission v. White*, where failure to thoroughly review case materials was sanctionable.

984 **Evidence of Bias or Favoritism:** Judge Barranco's dismissive comments regarding Dillon-Capps's filings, coupled with repeated adverse rulings, created an appearance of bias. Such conduct is akin to *In re Glover*, where a judge's bias and partiality in rulings justified sanctions to uphold public confidence.

985 **Impeding the Fair Administration of Justice:** By disregarding ADA and FMLA evidence and failing to consider Dillon-Capps's motions fairly, Judge Barranco compromised the impartiality required in judicial proceedings. This aligns with *Caperton v. A.T. Massey Coal Co.*, which established that judicial bias undermines public trust and requires corrective action.

## 8 Conclusion

986 Judge Barranco's actions in Dillon-Capps's case violate **Maryland Judicial Code Rule 18-102.5**. His lack of diligence, disregard for relevant evidence, and apparent bias compromise judicial impartiality and the fair administration of justice. Maryland case law and broader legal precedents support imposing sanctions to reinforce judicial competence, uphold public confidence, and ensure that judicial duties are performed without prejudice. The court should

impose sanctions in line with *In re Lamdin, Attorney Grievance Commission v. White*, and other relevant cases to preserve judicial integrity and reinforce fairness in adjudication.

V **18-102.11 (Disqualification Due to Bias and Conflict of Interest)**

1 **Foundation for Sanctions under Maryland Judicial Code Rule 18-102.11**

987 **Maryland Judicial Code Rule 18-102.11** mandates that judges disqualify themselves in any proceeding in which their impartiality might reasonably be questioned. This includes cases involving personal bias, conflict of interest, or any situation where a judge's impartiality could be compromised. Rule 18-102.11 is integral to ensuring that judicial proceedings remain fair and that no appearance of bias or prejudice exists. Violations of this rule call for sanctions to uphold judicial impartiality and protect public confidence in the court's objectivity.

2 **Judicial Standards, Purpose, and Criteria for Imposing Sanctions under Rule 18-102.11**

988 Sanctions under Rule 18-102.11 serve several purposes:

1. **Promoting Judicial Impartiality:** Ensures that judges avoid cases where their decisions could be influenced by personal interests or biases.
2. **Upholding Public Confidence in the Judiciary:** Reinforces public trust by ensuring that judges act without bias or conflict of interest.
3. **Preventing Prejudice or Favoritism in Legal Proceedings:** Protects litigants' rights by ensuring that judges adjudicate cases solely on the evidence and legal principles.
4. **Deterring Improper Judicial Participation:** Sanctions discourage judges from presiding over cases where they may lack impartiality.

### 3 Criteria for Imposing Sanctions under Rule 18-102.11:

989 **Existence of a Personal Bias or Interest:** The judge has a bias, personal relationship, or financial interest that could affect their impartiality.

990 **Reasonable Appearance of Bias or Conflict:** Sanctions are warranted if a reasonable observer could question the judge's impartiality based on the circumstances.

991 **Failure to Disqualify Despite Conflict:** Sanctions may apply if the judge knowingly proceeds despite the presence of disqualifying factors.

### 4 Maryland Case Law

992 **In re Turney**, 311 Md. 246, 533 A.2d 916 (1987): The Maryland Court of Appeals emphasized that judges must avoid cases where their impartiality could be questioned, and failure to disqualify themselves in such cases justifies sanctions to maintain public trust in judicial fairness.

993 **Attorney Grievance Commission v. Blum**, 373 Md. 275, 818 A.2d 219 (2003): The court ruled that judges must recuse themselves in situations involving personal relationships or potential biases that might affect impartiality, underscoring the need for disqualification to avoid prejudicing judicial outcomes.

994 **Attorney Grievance Commission v. White**, 354 Md. 346, 731 A.2d 447 (1999): This case reinforced that any reasonable appearance of bias, whether real or perceived, warrants recusal, with sanctions appropriate when judges ignore these obligations.

## 5 Supporting Case Law Beyond Maryland

995 **Liteky v. United States**, 510 U.S. 540 (1994): The U.S. Supreme Court held that judges should disqualify themselves whenever personal bias or prejudice might affect the case, with sanctions imposed for failure to uphold impartiality.

996 **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009): The Court ruled that judges must avoid even the appearance of bias to protect public confidence in the judiciary, underscoring the importance of disqualification in cases involving potential bias.

## 6 Cross Argument Case Law

997 **In re Scholl**, 684 A.2d 1073 (Del. 1996): The Delaware Supreme Court sanctioned a judge for failing to disqualify in a case involving personal interests, establishing that impartiality is central to the integrity of judicial proceedings.

998 **In re Murchison**, 349 U.S. 133 (1955): The U.S. Supreme Court emphasized that any situation creating an appearance of bias requires disqualification to ensure fairness and impartiality.

## 7 Application to Dillon-Capps's Case

999 In Dillon-Capps's case, Judge Barranco's actions reflect potential violations of Rule 18-102.11 based on:

1000 **Existence of Apparent Bias:** Judge Barranco's dismissive comments toward Dillon-Capps's filings, combined with adverse rulings, create an appearance of bias. This parallels *Attorney Grievance Commission v. White*, where the reasonable appearance of bias necessitated recusal.

1001 **Reasonable Appearance of Conflict:** The pattern of rulings adverse to Dillon-Capps and preferential treatment towards M&S suggests a lack of impartiality. In *In re Turney*, such behavior justified sanctions due to its impact on public confidence in judicial fairness.

1002 **Failure to Disqualify Despite Appearance of Bias:** Judge Barranco's refusal to disqualify himself despite apparent bias aligns with *In re Murchison*, where failure to step aside in cases involving potential bias warranted sanctions to ensure impartiality.

## 8 Conclusion

1003 Judge Barranco's refusal to disqualify himself despite a reasonable appearance of bias in Dillon-Capps's case constitutes a violation of **Maryland Judicial Code Rule 18-102.11**.

Maryland and national precedents support imposing sanctions to reinforce judicial impartiality and maintain public trust in the fairness of legal proceedings. The court should impose sanctions consistent with *In re Turney*, *Attorney Grievance Commission v. White*, and other relevant cases to uphold the principles of judicial impartiality and fairness.

## W 18-102.16 - Compliance with Judicial Integrity

### 1 Foundation for Sanctions under Maryland Judicial Code Rule 18-102.16

1004 **Maryland Judicial Code Rule 18-102.16** prohibits judges from allowing their conduct or behavior to bring the judiciary into disrepute or diminish the respect for judicial office. The rule mandates that judges conduct themselves in a manner consistent with judicial integrity and authority. Conduct that reflects poorly on judicial integrity or suggests misconduct violates Rule 18-102.16 and undermines public respect for the judiciary.



## 2 Judicial Standards, Purpose, and Criteria for Imposing Sanctions under Rule 18-102.16

1005 Sanctions under Rule 18-102.16 are imposed to:

1. **Protect Judicial Integrity and Authority:** Ensures that judges conduct themselves in a manner that reflects the authority and dignity of the judiciary.
2. **Preserve Public Respect for Judicial Office:** Reinforces public trust by preventing judges from engaging in behavior that undermines respect for the judicial position.
3. **Deter Conduct that Reflects Poorly on Judicial Office:** Sanctions discourage actions or comments that bring the judiciary into disrepute.
4. **Hold Judges Accountable for Misconduct:** Enforces a standard of behavior that reflects the integrity required of judicial officeholders.

## 3 Criteria for Imposing Sanctions under Rule 18-102.16:

1006 **Conduct that Reflects Poorly on Judicial Integrity:** Any behavior that diminishes public respect for the judiciary or undermines judicial authority.

1007 **Behavior that Diminishes Judicial Office:** Sanctions apply if a judge's conduct lowers public confidence in the judiciary or reflects poorly on their office.

1008 **Failure to Maintain Proper Demeanor and Respect for Judicial Role:** Conduct or comments that disrespect the authority or impartiality expected of a judge.

## 4 Maryland Case Law

1009 **In re Lamdin**, 404 Md. 631, 948 A.2d 54 (2008): The Maryland Court of Appeals sanctioned a judge for conduct that diminished respect for the judicial office, underscoring the importance of judicial integrity and appropriate demeanor.

1010 **Attorney Grievance Commission v. Blum**, 373 Md. 275, 818 A.2d 219 (2003): The court held that judicial behavior or comments that damage the public's perception of judicial integrity warrant sanctions, highlighting the importance of preserving respect for the judiciary.

1011 **Attorney Grievance Commission v. White**, 354 Md. 346, 731 A.2d 447 (1999): The court sanctioned a judge whose actions diminished the authority of the judiciary, emphasizing that judges must conduct themselves in ways that inspire respect for judicial office.

## 5 Supporting Case Law Beyond Maryland

1012 **In re Glover**, 759 So.2d 546 (Fla. 2000): The Florida Supreme Court imposed sanctions on a judge whose behavior reflected poorly on the judiciary, affirming that judicial integrity and respect are fundamental to public confidence.

1013 **In re Adams**, 283 Kan. 365, 153 P.3d 512 (2007): The Kansas Supreme Court sanctioned a judge for conduct that diminished public respect for the judicial role, highlighting the importance of maintaining the dignity of judicial office.

## 6 Cross Argument Case Law

1014 **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991): The U.S. Supreme Court recognized that courts have authority to sanction judges whose conduct diminishes public respect for the judiciary, upholding the need for accountability to preserve judicial integrity.

1015 **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009): The U.S. Supreme Court reinforced the requirement for judicial integrity, holding that actions diminishing public confidence in the judiciary are sanctionable.

## 7 Application to Dillon-Capps's Case

1016 In Dillon-Capps's case, Judge Barranco's conduct reflects potential violations of Rule 18-102.16 based on:

1. **Conduct Reflecting Poorly on Judicial Integrity:** Judge Barranco's dismissive remarks about Dillon-Capps's filings, combined with decisions favoring M&S, create an appearance of bias and reflect poorly on judicial integrity. This aligns with *In re Lamdin*, where judicial behavior that diminished public respect warranted sanctions.
2. **Behavior that Diminishes Judicial Office:** The disparaging comments made by Judge Barranco toward Dillon-Capps's ADA and FMLA claims contribute to a perception of judicial disregard for impartial adjudication, similar to *Attorney Grievance Commission v. Blum*.
3. **Failure to Maintain Proper Judicial Demeanor:** Judge Barranco's pattern of adverse rulings and dismissive comments compromise the dignity and authority of his position. This mirrors *Attorney Grievance Commission v. White*, where a judge's conduct that lessened respect for the judicial role was sanctionable.
4. **Impact on Public Confidence:** Judge Barranco's conduct undermines public confidence in the fairness and impartiality of the judiciary, warranting sanctions. The *Caperton* case highlights the need for corrective measures in cases where judicial behavior risks diminishing public trust.

## 8 Conclusion

1017 Judge Barranco's actions in Dillon-Capps's case violate **Maryland Judicial Code Rule 18-102.16**, warranting sanctions to address conduct that undermines public respect for the

judiciary. Maryland and national precedents support imposing sanctions to uphold judicial integrity and preserve the dignity of judicial office. The court should impose sanctions in line with *In re Lamdin*, *Attorney Grievance Commission v. Blum*, and other relevant cases, reinforcing the need for judicial behavior that promotes respect and confidence in the judiciary.

RESPECTFULLY SUBMITTED

November 4, 2024

/s/ Ryan Dillon-Capps

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 4, 2024, a copy of **Memorandum of Law in Support of Mandatory hearing of Adjudicated Facts** via email to rbrennen@milesstockbridge.com and served on via first-class mail, postage prepaid on:

Robert S. Brennen  
Miles & Stockbridge P.C.  
100 Light Street  
Baltimore, Maryland 21202

/s/Ryan Dillon-Capps

Ryan Dillon-Capps (Pro Se)

<p><b>OHANA GROWTH PARTNERS,</b></p> <p><b>LLC</b></p> <p>Plaintiff,</p> <p>vs.</p> <p><b>RYAN DILLON-CAPPS</b></p> <p>Defendant.</p>	<p><b>IN THE</b></p> <p><b>CIRCUIT COURT</b></p> <p><b>FOR</b></p> <p><b>BALTIMORE COUNTY</b></p> <p><b>CASE NO: C-03-CV-24-002264</b></p>
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MOTION FOR SANCTIONS

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## I INTRODUCTION

1       The Defendant, **Ryan Dillon-Capps**, appearing **Pro Se**, respectfully moves this  
Honorable Court to impose **sanctions** against the Plaintiff, **Ohana Growth Partners**, and their  
counsel, **Miles & Stockbridge**, pursuant to **Maryland Rule 1-341**. The Defendant asserts that  
the Plaintiff's actions throughout these proceedings have been undertaken in **bad faith, without**  
**substantial justification**, and represent a clear **abuse of the judicial process**.

2        The lawsuit is **fraudulent** in nature, lacking any legitimate legal or factual basis, as the Plaintiff has failed to demonstrate any specific harm that would warrant the initiation of this litigation. Furthermore, the Plaintiff and their counsel have repeatedly engaged in deceptive practices, including the submission of **fraudulent evidence** and the misrepresentation of critical facts, knowingly misleading this Court to secure improper legal relief. Their actions have caused unnecessary harm and hardship to the Defendant, both financially and emotionally.

3 In light of these ongoing abuses, and to preserve the integrity of these proceedings, the Defendant respectfully requests that this Court impose **appropriate sanctions** to address the

misconduct of the Plaintiff and their counsel. In support of this motion, the Defendant sets forth the following arguments and factual basis:

## II PRIMA FACIA ELEMENTS

### A Bad Faith

4        Bad faith occurs when a party knowingly engages in dishonest or unfair practices during litigation, acting with ill intent to harass, delay, or otherwise disrupt the judicial process. **Bad faith** is not simply a matter of negligence or poor judgment; it involves intentional misconduct, such as pursuing baseless claims with the knowledge that they lack merit. In **Christian v. Mattel, Inc.**, 286 F.3d 1118 (9th Cir. 2002), the court emphasized that bad faith may be found when a party files meritless claims for improper purposes, such as harassment, to impose unnecessary burdens on the opposing party, or to delay resolution of the matter.

5        In this case, the Plaintiff's actions demonstrate clear bad faith. They have pursued a fraudulent lawsuit based on fabricated evidence and unfounded claims, intending to mislead the Court and harass the Defendant. Their improper purpose, aimed at pressuring the Defendant through baseless litigation, meets the standard for bad faith conduct and justifies the imposition of sanctions under **Maryland Rule 1-341**.

### B Lack of Substantial Justification

6        A claim lacks **substantial justification** when there is no credible evidence or legal basis supporting it. The **Maryland Court of Appeals** in **Inlet Associates v. Harrison Inn Inlet, Inc.**, 324 Md. 254 (1991), held that claims lacking substantial justification are those that a reasonable

attorney would not pursue under existing law. When an action is frivolous, meritless, or based on misrepresentations, it cannot be considered substantially justified.

7 In this case, the Plaintiff's lawsuit lacks any credible factual or legal foundation. The claims made against the Defendant are unsupported by evidence, as the Plaintiff has failed to demonstrate specific harm or a legitimate cause of action. Instead, the Plaintiff has relied on fabricated and misleading information, which no reasonable attorney would have pursued. This absence of legal justification further supports the Defendant's motion for sanctions, as the lawsuit is frivolous and has no basis in fact or law.

### C Causation of Unnecessary Delay or Expense

8 For sanctions to be imposed, the Defendant must also demonstrate that the Plaintiff's actions caused **unnecessary delay or expense**. This element requires showing that the opposing party's conduct has resulted in avoidable delays or costs, often by misusing procedural devices or prolonging the litigation without justification. In **Blake v. Blake**, 341 Md. 326 (1996), the court recognized that parties who unnecessarily prolong litigation or engage in tactics that cause undue costs to the opposing party can be subject to sanctions.

9 The Plaintiff's continued pursuit of meritless claims and the filing of fraudulent evidence has significantly delayed the resolution of this case and imposed unnecessary costs on the Defendant. Rather than engaging in meaningful negotiations or presenting legitimate evidence, the Plaintiff has exploited procedural mechanisms to prolong the litigation and increase the Defendant's legal and financial burdens. These actions meet the standard for causing unnecessary delay and expense, further supporting the imposition of sanctions.

### D Conclusion: Prima Facie Case for Sanctions

10 To warrant sanctions under **Maryland Rule 1-341**, the Defendant has established the prima facie elements of **bad faith, lack of substantial justification**, and the **causation of unnecessary delay or expense**. The Plaintiff's actions throughout this litigation—pursuing a fraudulent claim, submitting falsified evidence, and causing unnecessary hardship to the Defendant—demonstrate a clear abuse of the judicial process. Accordingly, sanctions are warranted to address these improper actions, deter further misconduct, and compensate the Defendant for the undue costs and delays caused by the Plaintiff's bad faith litigation.

## III SANCTIONABLE CONDUCT

### A Abuse of Process

11 The Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge, have misused the judicial system by filing and continuing to pursue a baseless and fraudulent lawsuit against the Defendant. This conduct constitutes **Abuse of Process**, as they are not seeking to resolve a legitimate legal dispute but rather to use legal processes to harass, pressure, and intimidate the Defendant. The legal system has been weaponized for improper purposes, which violates the principles of fairness and justice under Maryland law.

#### I. ABUSE OF PROCESS DEFINED

12 Under Maryland law, **Abuse of Process** occurs when a party uses the legal system for an improper purpose, one that is not the regular aim of legal proceedings. The key elements of an

abuse of process claim are (1) the existence of an ulterior motive and (2) an improper act in the use of the legal process that is not proper in the regular conduct of proceedings.

13 The **Court of Appeals of Maryland** has clearly defined abuse of process in **One Thousand Fleet Ltd. Partnership v. Guerriero**, 346 Md. 29 (1997), stating that abuse of process arises when a party uses the judicial system to accomplish something outside the scope of the legitimate litigation process. The improper use of legal procedures to coerce, harass, or intimidate another party—rather than to obtain a lawful remedy—meets this standard. Here, the Plaintiff’s lawsuit was filed not to resolve a genuine legal claim but to harass and coerce the Defendant, a clear instance of abusing the judicial process.

## II. FILING A FRAUDULENT LAWSUIT TO HARASS AND INTIMIDATE

14 The Plaintiff and their counsel, Miles & Stockbridge, initiated this litigation based on fraudulent claims and have continued to pursue the lawsuit despite its baseless nature. The allegations made against the Defendant are not supported by facts or law, indicating that the Plaintiff’s true motive is not to seek a fair legal resolution but to harass and pressure the Defendant into submission.

15 Filing a lawsuit based on knowingly false allegations constitutes abuse of process. In **Keys v. Chrysler Credit Corp.**, 303 Md. 397 (1985), the Court of Appeals of Maryland noted that abuse of process involves not just the initiation of a legal action but the ongoing pursuit of litigation for improper purposes. In this case, the Plaintiff is using the lawsuit to tarnish the Defendant’s reputation, cause emotional distress, and gain leverage, rather than to address any

legitimate legal claims. This behavior goes beyond the bounds of normal litigation and is aimed at intimidating the Defendant.

### III. CONTINUING TO PURSUE THE LAWSUIT WITHOUT JUSTIFICATION

16 Abuse of process is further evident from the Plaintiff's continued pursuit of the lawsuit despite knowing that the claims lack merit. The ongoing litigation serves no legitimate purpose other than to impose financial and emotional burdens on the Defendant. Maryland courts have long recognized that continuing a legal action after it becomes clear that the claims are baseless can constitute abuse of process. In **Walker v. American Security & Trust Co.**, 237 Md. 80 (1964), the court held that persistence in pursuing meritless legal claims is a strong indicator of an improper motive, particularly when the intent is to coerce or intimidate the opposing party.

17 The Plaintiff's decision to continue this litigation, despite clear evidence that the claims are unfounded, reflects an intent to misuse the judicial process to harm the Defendant. This ongoing abuse of process is not only improper but sanctionable under Maryland law.

### IV. LEGAL REMEDIES AND SANCTIONS FOR ABUSE OF PROCESS

18 Courts have broad discretion to impose sanctions or dismiss claims when abuse of process is evident. Maryland courts, under both **Rule 1-341** and their inherent authority, can sanction parties for misusing the judicial process for purposes other than obtaining a legitimate legal remedy. In **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991), the Supreme Court emphasized that courts must retain the ability to impose sanctions to prevent parties from engaging in bad-faith conduct that abuses the legal system.

19 In this case, the Plaintiff and Miles & Stockbridge's conduct meets the standard for abuse of process because their actions serve no legitimate legal goal. Their continued pursuit of a baseless lawsuit is aimed at harassing and coercing the Defendant, causing undue emotional and financial harm. Sanctions, including dismissal of the lawsuit and the imposition of monetary penalties, are appropriate to remedy this improper use of the judicial process.

V. CONCLUSION: ABUSE OF PROCESS THROUGH FRAUDULENT LITIGATION

20 The Plaintiff and Miles & Stockbridge have engaged in **Abuse of Process** by filing a fraudulent lawsuit and continuing to pursue it for improper purposes. Their actions are not aimed at achieving a legitimate legal resolution but rather at harassing, intimidating, and pressuring the Defendant. Maryland law does not tolerate the misuse of legal proceedings in this manner, and sanctions are warranted to address this abuse of the judicial system. The court should consider dismissing the baseless claims and imposing appropriate penalties to prevent further misuse of legal processes.

Legal Basis:

21 The conduct of Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge, in filing and continuing to pursue a fraudulent lawsuit constitutes **Abuse of Process**, warranting sanctions under Maryland law. The principles set forth in **One Thousand Fleet Ltd. Partnership v. Guerriero**, 346 Md. 29 (1997), and **Palmer Ford, Inc. v. Wood**, 298 Md. 484 (1984), provide a clear legal framework for imposing sanctions when legal procedures are used improperly for ulterior purposes.

## I. LEGAL PROCESS SHOULD NOT BE USED FOR AN IMPROPER PURPOSE

22 In **One Thousand Fleet Ltd. Partnership v. Guerriero**, the Maryland Court of Appeals established that the legal process should not be used for purposes outside the legitimate aim of litigation. Abuse of process occurs when the judicial system is exploited to achieve something unrelated to the proper use of the law, such as harassment, coercion, or personal gain, rather than to resolve a genuine legal dispute.

23 The Plaintiff and Miles & Stockbridge's initiation of a baseless lawsuit and their continued pursuit of it demonstrates an improper use of legal procedures. Their intent was not to seek a legitimate legal remedy but to coerce and harass the Defendant by creating legal and emotional burdens. As outlined in **One Thousand Fleet**, this type of misuse of the legal system is impermissible and serves as a basis for sanctions.

## II. MISUSE OF LEGAL PROCEDURES CONSTITUTES ABUSE OF PROCESS

24 In **Palmer Ford, Inc. v. Wood**, the Maryland Court of Appeals clarified that abuse of process occurs not only when legal procedures are improperly issued but also when they are misused after they have been lawfully initiated. In this case, the Plaintiff and Miles & Stockbridge's conduct constitutes a continuation of the abuse after filing the lawsuit, as they persisted in pursuing claims despite knowing that the lawsuit was fraudulent and lacking in legal merit.

25 **Palmer Ford** makes it clear that once the legal process is set in motion, its continued use for improper purposes—such as harassing, coercing, or intimidating the opposing party—constitutes **abuse of process** and is sanctionable. Here, the Plaintiff's continued litigation serves



no legitimate purpose but to damage the Defendant emotionally, financially, and reputationally.

This ongoing misuse of the court's procedures demands remedial action in the form of sanctions.

### III. SANCTIONS FOR BAD FAITH AND ABUSE OF PROCESS

26 Both **One Thousand Fleet** and **Palmer Ford** illustrate that the courts have the authority to impose sanctions when legal procedures are used improperly or in bad faith. Maryland Rule **1-341** allows courts to impose sanctions, including attorney's fees and costs, against parties who engage in bad faith litigation or who misuse legal processes. Furthermore, courts have inherent power to penalize parties who abuse the judicial system by filing or pursuing baseless claims, as recognized by the U.S. Supreme Court in **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991).

27 In this case, the Plaintiff and Miles & Stockbridge's conduct—filing and continuing to pursue a lawsuit with no legal basis—qualifies as bad faith litigation. Their intent was not to obtain a legitimate legal remedy, but rather to harass, intimidate, and pressure the Defendant into submission. Such misuse of the legal process is precisely the type of behavior that sanctions are designed to address. The court should exercise its authority to impose penalties, including the dismissal of the fraudulent claims and the awarding of costs to the Defendant for the harm caused by this abuse of process.

### IV. JUSTIFICATION FOR SANCTIONS IN THIS CASE

28 The Plaintiff's continued litigation, despite the lack of factual or legal support for their claims, highlights their intention to misuse the legal process. Under **Palmer Ford**, the continuation of this baseless lawsuit after it became clear that the claims lacked merit constitutes

an ongoing abuse of process. This pattern of behavior has caused significant harm to the Defendant, including financial strain, emotional distress, and reputational damage.

29 Sanctions are necessary to deter this type of bad faith litigation and to compensate the Defendant for the damages incurred as a result of this abuse of process. The court should also consider awarding attorney's fees and costs under **Maryland Rule 1-341**, as the Plaintiff's actions have unnecessarily prolonged litigation and caused substantial harm to the Defendant.

#### V. CONCLUSION: SANCTIONS FOR ABUSE OF PROCESS ARE JUSTIFIED

30 Based on **One Thousand Fleet Ltd. Partnership v. Guerriero and Palmer Ford, Inc. v. Wood**, the Plaintiff and Miles & Stockbridge's actions in filing and continuing to pursue a fraudulent lawsuit constitute **Abuse of Process**. Their misuse of the legal system for improper purposes—such as harassment, intimidation, and coercion—violates the principles of fair litigation and is sanctionable under Maryland law. The court should impose appropriate sanctions, including the dismissal of claims and the awarding of attorney's fees and costs, to address this bad faith litigation and prevent further misuse of the judicial process.

#### B Attempted False Imprisonment (Common Law)

31 The Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge, pursued a show cause order with the intent of seeking the Defendant's incarceration, an action aimed at unlawfully restricting the Defendant's liberty. By initiating these legal proceedings, the Plaintiff and their counsel engaged in conduct that could be construed as an attempt at **false imprisonment** under Maryland common law. The use of a show cause order with the potential

for incarceration, without legitimate legal grounds, constitutes an abuse of the legal process and raises serious concerns about unlawful restraint on the Defendant's freedom.

## I. ELEMENTS OF FALSE IMPRISONMENT UNDER MARYLAND LAW

32 Under Maryland common law, **false imprisonment** is defined as the intentional restriction of a person's freedom of movement without legal justification. To prove false imprisonment, a plaintiff must establish that: (1) the defendant deprived them of their liberty, (2) the deprivation was without consent, and (3) there was no legal justification for the confinement. While this case involves an *attempted* false imprisonment, the underlying legal principles remain the same, as the Plaintiff's actions sought to unlawfully confine the Defendant through the misuse of a show cause order.

33 In **Montgomery Ward v. Wilson**, 339 Md. 701 (1995), the Court of Appeals of Maryland emphasized that false imprisonment can occur through legal proceedings when those proceedings are initiated without proper cause or justification. By filing the show cause order with the intent of securing the Defendant's incarceration, the Plaintiff and Miles & Stockbridge knowingly pursued legal action that could restrict the Defendant's freedom without sufficient legal grounds.

## II. ABUSE OF LEGAL PROCESS AND DEPRIVATION OF LIBERTY

34 The Plaintiff and Miles & Stockbridge's filing of a show cause order seeking potential incarceration demonstrates an abuse of the legal process, as their primary aim was not to pursue legitimate legal remedies but to intimidate and unlawfully restrict the Defendant's liberty. The

use of such legal mechanisms without proper cause is a significant overreach and could be seen as an attempt at false imprisonment, particularly when the action is intended to coerce or punish the Defendant rather than resolve the underlying legal dispute.

35 In **Henneberry v. Pharoan**, 232 Md. 346 (1963), the Maryland Court of Appeals held that a legal proceeding intended to detain or confine an individual without legal justification can give rise to a claim of false imprisonment. Here, the Plaintiff's efforts to seek the Defendant's incarceration through a show cause order, absent a valid basis for such extreme measures, amounts to an abuse of legal authority designed to curtail the Defendant's liberty.

### III. NO LEGAL JUSTIFICATION FOR SHOW CAUSE INCARCERATION

36 For a show cause order with potential incarceration to be valid, it must be supported by a legitimate legal basis, typically involving contempt of court or other serious violations. In this case, the Plaintiff and Miles & Stockbridge pursued incarceration as a punitive measure, not as a result of any contempt or actionable misconduct by the Defendant. The lack of any substantive legal justification for seeking the Defendant's imprisonment highlights the illegitimacy of the Plaintiff's actions.

37 The Maryland courts have long held that the deprivation of liberty through legal mechanisms, such as a show cause order, must be grounded in law. Without a valid reason for the incarceration request, the Plaintiff's actions represent an unlawful attempt to confine the Defendant. As noted in **Kougl v. Xspedius Mgmt. Co. of Rockville, LLC**, 405 Md. 42 (2008), legal actions that lead to the wrongful deprivation of liberty, particularly those undertaken with malice or without justification, may be deemed false imprisonment.

#### IV. COERCIVE AND INTIMIDATING USE OF INCARCERATION THREATS

38 The pursuit of incarceration through the show cause order was not only an abuse of legal process but also a coercive tactic aimed at intimidating the Defendant. By threatening the loss of personal liberty, the Plaintiff sought to place undue pressure on the Defendant, using the threat of imprisonment to gain leverage in the litigation. Such actions, when taken without sufficient legal grounds, are an improper and unlawful use of the judicial system.

39 This kind of coercive conduct has been recognized as abusive in Maryland. In **Walker v. American Security & Trust Co.**, 237 Md. 80 (1964), the court held that attempts to use legal threats to compel or intimidate a party, particularly when involving personal liberty, are subject to scrutiny and potential liability for false imprisonment or abuse of process. The Plaintiff's actions here fit within that framework, as the threat of incarceration was designed to unlawfully influence the Defendant's behavior.

#### Legal Basis:

40 The actions of the Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge, in pursuing a show cause order with the aim of incarcerating the Defendant, represent an attempt at **false imprisonment** under Maryland law. This conduct, without legal justification, amounts to an abuse of the judicial process that is sanctionable under both Maryland common law and statutory provisions. **Heron v. Strader**, **DeWolfe v. Richmond**, and **Maryland Criminal Law Code § 1-202** provide clear legal standards for holding the Plaintiff and their counsel accountable for attempting to unlawfully restrict the Defendant's liberty.

## I. FALSE IMPRISONMENT AND UNLAWFUL RESTRAINT

41 In **Heron v. Strader**, 361 Md. 258, 264 (2000), the Maryland Court of Appeals established that **false imprisonment** occurs when a person's liberty is unlawfully restrained without justification. The Plaintiff's pursuit of a show cause order, seeking the Defendant's incarceration without proper legal grounds, falls squarely within the definition of false imprisonment. By attempting to have the Defendant incarcerated without any legitimate basis, the Plaintiff and Miles & Stockbridge engaged in conduct aimed at unlawfully restraining the Defendant's freedom.

42 False imprisonment claims, even those based on attempted restraint, are subject to sanctions when undertaken in bad faith or without justification. **Heron** emphasizes that the mere act of unlawfully seeking to restrict someone's liberty, through legal channels or otherwise, constitutes a violation of the right to freedom. Here, the Plaintiff's actions were not grounded in law and had no legitimate legal purpose, making them sanctionable under Maryland law.

## II. EVEN TEMPORARY OR ATTEMPTED RESTRICTIONS ON LIBERTY ARE SANCTIONABLE

43 In **DeWolfe v. Richmond**, 434 Md. 444 (2013), the Maryland Court of Appeals reinforced the principle that **even temporary or brief unlawful restrictions on liberty** can give rise to a false imprisonment claim. In this case, the Plaintiff and their counsel took substantial steps toward unlawfully restricting the Defendant's liberty by filing a show cause order with the potential for incarceration. While the Defendant may not have been physically confined, the attempt to secure his incarceration through the misuse of legal processes qualifies as a substantial step toward false imprisonment.

44 Sanctions are appropriate in such cases where a party's actions, even if unsuccessful in achieving confinement, were aimed at unlawfully restricting the defendant's freedom. The Plaintiff and Miles & Stockbridge's pursuit of incarceration was not grounded in valid legal arguments but was instead a coercive tactic aimed at intimidating and applying pressure on the Defendant. Under **DeWolfe**, such actions are considered an abuse of the judicial process and warrant sanctions, especially when the conduct is intended to harm or intimidate.

### III. ATTEMPT LIABILITY UNDER MARYLAND LAW (MARYLAND CRIMINAL LAW CODE § 1-202)

45 Maryland law also recognizes that **attempted false imprisonment** is sanctionable under **Maryland Criminal Law Code § 1-202**, which addresses attempt liability. This statute states that an attempt occurs when a person takes substantial steps toward committing an offense, even if the offense is not ultimately completed. The Plaintiff's efforts to file a show cause order with the intent of having the Defendant incarcerated qualify as substantial steps toward false imprisonment, particularly when done without legal justification.

46 Under this statute, the Plaintiff and Miles & Stockbridge's actions represent more than just aggressive litigation—they constitute an abuse of the legal process aimed at unlawfully restricting the Defendant's liberty. Sanctions are appropriate when legal processes are misused to take substantial steps toward committing a wrongful act, such as false imprisonment. By pursuing incarceration without sufficient cause, the Plaintiff engaged in sanctionable conduct that violates both Maryland law and the principles of fair legal proceedings.

#### IV. SANCTIONS FOR MISUSE OF LEGAL PROCESS TO ATTEMPT FALSE IMPRISONMENT

47 Maryland courts have broad discretion to impose sanctions for the misuse of legal processes, particularly when those processes are used to attempt wrongful conduct such as false imprisonment. The **Maryland Rules of Civil Procedure** allow courts to impose sanctions on parties who engage in bad faith litigation or who use the legal system for purposes other than resolving legitimate disputes. In this case, the Plaintiff and Miles & Stockbridge's filing of a show cause order with the potential for incarceration was not a good-faith legal maneuver but rather an attempt to intimidate and unlawfully restrict the Defendant's liberty.

48 In **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991), the Supreme Court affirmed that courts have the inherent power to issue sanctions for bad faith conduct, including the use of legal mechanisms like show cause orders to attempt to unlawfully restrict someone's liberty. This principle applies here, where the Plaintiff's actions represent an abuse of the legal process. The Plaintiff and their counsel sought incarceration as a punitive measure without legal justification, making their conduct sanctionable under both Maryland common law and statutory standards.

#### V. CONCLUSION: SANCTIONS FOR ATTEMPTED FALSE IMPRISONMENT

49 The Plaintiff and Miles & Stockbridge's conduct in pursuing a show cause order with the potential for incarceration amounts to an **attempt at false imprisonment**, as defined by **Heron v. Strader** and **DeWolfe v. Richmond**. Their actions were aimed at unlawfully restricting the Defendant's liberty without justification, a clear abuse of the legal process. Under **Maryland Criminal Law Code § 1-202**, the substantial steps taken by the Plaintiff in seeking to confine the Defendant without legal cause constitute a sanctionable offense.



50 The court has both the authority and responsibility to impose sanctions on parties who misuse legal processes for improper purposes, particularly when such actions threaten an individual's personal liberty. The Plaintiff's attempt to secure the Defendant's incarceration through baseless legal filings was an act of bad faith intended to intimidate, coerce, and punish. Sanctions are warranted to address this misconduct, prevent further abuse of the judicial process, and uphold the principles of fairness and justice.

C Intentional Infliction of Emotional Distress (IIED)

51 The Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge, have engaged in extreme and outrageous conduct, deliberately intended to inflict emotional harm on the Defendant. Despite being aware of the harm their actions were causing, they continued their efforts without hesitation, demonstrating a pattern of behavior designed to cause emotional distress rather than to resolve legitimate legal disputes. This conduct constitutes **Intentional Infliction of Emotional Distress (IIED)** under Maryland law.

I. EXTREME AND OUTRAGEOUS CONDUCT

52 In Maryland, a claim for IIED requires that the defendant's conduct be so extreme and outrageous that it exceeds all bounds of decency and is considered intolerable in a civilized society. The actions of the Plaintiff and Miles & Stockbridge go beyond the realm of normal legal advocacy and into the territory of deliberate harm. Their repeated litigation tactics—despite knowing the emotional and mental toll on the Defendant—demonstrate a pattern of harassment and infliction of distress, not merely zealous representation.

53 The **Court of Appeals of Maryland** has recognized in **Harris v. Jones**, 281 Md. 560 (1977), that for IIED claims to be successful, the conduct must be extreme, outrageous, and intentionally aimed at causing severe emotional distress. The Court further emphasized that there must be a deliberate disregard for the emotional well-being of the victim. Here, the Plaintiff and their counsel have engaged in a relentless legal assault, despite being aware of the Defendant's vulnerability and the emotional impact their actions were having. This behavior rises to the level of extreme and outrageous conduct as defined under Maryland law.

## II. INTENT TO CAUSE EMOTIONAL DISTRESS

54 For a valid claim of IIED, the defendant's conduct must be intentional or reckless, meaning that the defendant either intended to cause emotional distress or acted with reckless disregard for the likelihood of causing such distress. In this case, the Plaintiff and Miles & Stockbridge have shown a reckless and, arguably, deliberate disregard for the emotional impact their actions have had on the Defendant.

55 By continuing their litigation tactics, even after being made aware of the harm they were causing, the Plaintiff and their counsel demonstrated intent or, at the very least, reckless indifference to the Defendant's emotional suffering. This conduct is designed not to resolve any legitimate legal dispute but to intimidate, harass, and emotionally damage the Defendant, a key element in proving intentional infliction of emotional distress.

### III. CAUSAL CONNECTION TO EMOTIONAL DISTRESS

56 Maryland law also requires a clear causal connection between the defendant's extreme and outrageous conduct and the emotional distress suffered by the plaintiff. The pattern of actions by the Plaintiff and Miles & Stockbridge, including filing unfounded legal claims, making defamatory statements, and refusing to accommodate the Defendant's disability, has caused significant emotional and psychological harm. The continuation of these actions, despite being aware of the Defendant's distress, exacerbates the harm and directly connects their conduct to the emotional suffering experienced by the Defendant.

57 As established in **Figueiredo-Torres v. Nickel**, 321 Md. 642 (1991), Maryland courts require proof that the defendant's conduct was the direct cause of the emotional distress. In this case, the Defendant's emotional suffering is not speculative but a direct result of the aggressive and hostile litigation strategy employed by the Plaintiff and their counsel. The refusal to relent, even when it was clear that their actions were causing harm, shows a calculated intent to inflict emotional pain.

### IV. SEVERE EMOTIONAL DISTRESS

58 To succeed in an IIED claim in Maryland, the emotional distress suffered must be severe—meaning that it is more than minor or transient; it must be so intense that no reasonable person could be expected to endure it. The relentless litigation tactics employed by the Plaintiff and Miles & Stockbridge have subjected the Defendant to severe emotional trauma, including anxiety, distress, and a sense of helplessness.

59 In **Moniodis v. Cook**, 64 Md. App. 1 (1985), the court explained that the severity of the emotional distress must be such that it seriously impacts the plaintiff's ability to function in daily life. Here, the Defendant's emotional distress is severe and ongoing, resulting from the Plaintiff's continued harassment and refusal to resolve the matter in a reasonable or fair manner. The Plaintiff's and Miles & Stockbridge's conduct has led to extreme psychological suffering for the Defendant, meeting the high threshold of severity required for an IIED claim under Maryland law.

#### V. CONCLUSION: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

60 The Plaintiff and Miles & Stockbridge's conduct constitutes intentional infliction of emotional distress. Their extreme and outrageous actions, carried out with the intent or reckless disregard for the harm caused to the Defendant, have resulted in severe emotional distress. The continued litigation and refusal to accommodate the Defendant's legitimate concerns, even after knowing the harm they were causing, make it clear that the goal was to intimidate and emotionally damage the Defendant. Under Maryland law, this conduct is actionable, and the Defendant has a valid claim for damages resulting from this intentional infliction of emotional distress.

#### Legal Basis:

61 The extreme and outrageous conduct by the Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge, amounts to **Intentional Infliction of Emotional Distress (IIED)** under Maryland law, as established in **Harris v. Jones, 281 Md. 560 (1977)**. In cases where actions have no legitimate legal purpose and are instead aimed at causing emotional harm,

sanctions are appropriate. The Defendant has suffered severe emotional distress as a direct result of the Plaintiff's conduct, making sanctions justified to address this misuse of the legal system.

#### I. EXTREME AND OUTRAGEOUS CONDUCT WITH NO LEGITIMATE LEGAL PURPOSE

62 Under **Harris v. Jones**, IIED requires conduct that is "so extreme in degree, as to go beyond all possible bounds of decency" and is "regarded as atrocious, and utterly intolerable in a civilized community." The behavior of the Plaintiff and Miles & Stockbridge meets this standard, as their litigation tactics have been employed with the intention of causing emotional harm rather than resolving a legal dispute.

63 In particular, the repeated use of litigation to harass and emotionally damage the Defendant, despite being aware of the harm caused, is conduct that has no legitimate legal purpose. Maryland courts recognize that bad faith or malicious actions in the context of litigation may warrant sanctions, especially when those actions inflict emotional distress without advancing any valid legal claim. In **Harris**, the court emphasized that sanctions are appropriate when conduct is extreme, outrageous, and aimed at causing emotional harm. Here, the relentless litigation tactics employed by the Plaintiff fall within this definition.

#### II. MALICIOUS INTENT AND RECKLESS DISREGARD FOR EMOTIONAL DISTRESS

64 In cases involving IIED, malicious intent or reckless disregard for the emotional harm caused is a key element. The Plaintiff and Miles & Stockbridge demonstrated reckless indifference to the emotional toll their actions were having on the Defendant. Even after

becoming aware of the emotional distress their conduct was causing, they continued their aggressive litigation strategy without pause.

65 In **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991), the Supreme Court affirmed that courts have the inherent power to sanction parties who act in bad faith, including those who engage in conduct intended to harass, intimidate, or cause emotional harm. The Plaintiff's pattern of behavior demonstrates that the litigation was used as a weapon of harassment, with the clear intention of inflicting emotional harm on the Defendant, rather than pursuing a legitimate legal resolution.

66 By continuing their tactics, even after being informed of the emotional harm suffered by the Defendant, the Plaintiff acted with a reckless disregard for the Defendant's well-being, creating further grounds for sanctions. The intent to cause emotional harm, combined with the absence of a legitimate legal basis, qualifies their conduct as sanctionable under Maryland law and federal procedural rules.

### III. IIED AS GROUNDS FOR SANCTIONS IN MARYLAND

67 In **Harris v. Jones**, the Court of Appeals of Maryland recognized that IIED occurs when extreme and outrageous conduct results in severe emotional distress, and sanctions are appropriate when such conduct is intended to harm rather than serve a legitimate purpose. Maryland courts have broad discretion to sanction parties who misuse the legal process, particularly when their actions are driven by malicious intent or are aimed at causing emotional damage.

68 Under **Maryland Rule 1-341**, the court may impose sanctions on parties or their attorneys for conduct that is in bad faith or without substantial justification. In this case, the Plaintiff and Miles & Stockbridge's conduct qualifies as bad faith litigation aimed at inflicting emotional distress on the Defendant, rather than resolving any legal issue. The emotional distress caused by their actions, combined with their refusal to moderate their behavior, satisfies the requirements for sanctions under Maryland law.

69 Additionally, the court's inherent authority to impose sanctions for misconduct applies when the actions of one party are meant to oppress or harm another party through abuse of the judicial process. By using litigation as a tool to emotionally damage the Defendant, the Plaintiff and their counsel have engaged in an abuse of process, warranting punitive action from the court.

#### IV. SEVERE EMOTIONAL DISTRESS AS A RESULT OF SANCTIONABLE CONDUCT

70 The Plaintiff and Miles & Stockbridge's conduct has resulted in severe emotional distress to the Defendant, a critical element of IIED as defined in **Harris v. Jones**. The Defendant's emotional suffering, including anxiety, stress, and a diminished ability to function, is a direct consequence of the Plaintiff's malicious litigation tactics. This type of distress, recognized by Maryland courts as a basis for IIED, meets the threshold for imposing sanctions, as the harm was both foreseeable and avoidable had the Plaintiff engaged in legitimate legal conduct.

71 Sanctions serve to address and deter such extreme and malicious conduct. The imposition of sanctions is not only necessary to compensate for the harm done but also to prevent the continued abuse of the legal system for the purposes of harassment. Given the severity of the

emotional distress caused by the Plaintiff's actions, sanctions are justified to remedy this harm and prevent further misconduct.

V. CONCLUSION: SANCTIONS WARRANTED FOR INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS

72 The Plaintiff and Miles & Stockbridge's actions constitute **Intentional Infliction of Emotional Distress**, as defined in **Harris v. Jones**. Their conduct was extreme, outrageous, and intended to cause the Defendant emotional harm. The lack of any legitimate legal purpose behind their litigation strategy, combined with their continued actions despite knowing the emotional toll on the Defendant, makes their conduct sanctionable. Sanctions are necessary to address this abuse of the legal process, compensate the Defendant for the severe emotional distress caused, and deter future misconduct.

D Defamation Through Misuse of Legal Process

73 The Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge, have weaponized this lawsuit to publicly discredit the Defendant through false and unfounded allegations. These allegations, which are baseless and aimed at damaging the Defendant's reputation, constitute defamation and are intended to evade accountability for the Plaintiff's own actions.

74 **Defamation**, under Maryland law, requires the plaintiff to establish: (1) a defamatory statement, (2) falsity of the statement, (3) publication to a third party, (4) fault on the part of the defendant, and (5) harm to the subject's reputation. Here, the Plaintiff and Miles & Stockbridge have made false statements about the Defendant's character and conduct through the public



filing of this lawsuit, which was accessible to third parties, including the public, business contacts, and other professionals in the Defendant's network.

#### I. FALSE AND DEFAMATORY STATEMENTS

75 The allegations made by the Plaintiff in the complaint are not only untrue but are crafted in a manner intended to harm the Defendant's personal and professional reputation. The Plaintiff has falsely portrayed the Defendant as engaging in conduct that warrants legal action, when in fact these allegations are being used to divert attention from the Plaintiff's own wrongdoing. These statements, presented as part of legal filings, were knowingly false and made with the intent to cause reputational harm.

76 In **Shapiro v. Massengill**, 105 Md. App. 743 (1995), the Maryland Court of Special Appeals affirmed that a defamatory statement is one that tends to expose a person to public scorn, hatred, contempt, or ridicule, or that discourages others from associating with them. By making unfounded allegations in a public forum, the Plaintiff and Miles & Stockbridge have met the threshold for defamation, as these statements are likely to lead to significant reputational damage for the Defendant in his professional and personal circles.

#### I. PUBLICATION AND MISUSE OF LEGAL PROCESS

77 The defamatory statements were made publicly through the filing of this lawsuit, thereby satisfying the publication element required for a defamation claim. The court filings are part of the public record and have been disseminated beyond the immediate parties involved in the litigation. This public disclosure of false allegations was a strategic choice to ensure the

Defendant's reputation would be damaged in the broader community, effectively using the legal process as a vehicle for defamation.

78 While the filing of a lawsuit generally enjoys a degree of privilege to protect parties from defamation claims, Maryland law recognizes exceptions where lawsuits are used as a tool for intentional harm. In **Beardsley v. Tait**, 69 Md. App. 52 (1986), the court acknowledged that legal privilege does not extend to statements made with malice or in bad faith, particularly where the legal process is being abused to harm another's reputation.

79 Here, the Plaintiff's lawsuit serves no legitimate legal purpose but instead operates as a form of **defamation by implication**—the false and inflammatory nature of the claims suggests misconduct by the Defendant, damaging his standing within the community. This misuse of the legal process to spread defamatory statements strips the Plaintiff of any privilege that might otherwise apply in the context of litigation.

## II. HARM TO REPUTATION AND ACCOUNTABILITY EVASION

80 The defamatory statements made by the Plaintiff and Miles & Stockbridge have caused actual harm to the Defendant's reputation. As a result of the false allegations, the Defendant has suffered professional and personal harm, including potential damage to his employment prospects, professional relationships, and standing in the community. This harm is exacerbated by the public nature of the legal filings, which are accessible to a broad audience and are likely to be shared among colleagues, employers, and others who may be influenced by the Plaintiff's false assertions.

81 In **Seley-Radtke v. Hosmane**, 450 Md. 468 (2016), the Maryland Court of Appeals held that defamation claims can be based on statements made within the legal process if those

statements are shown to be false, malicious, and intended to harm the subject's reputation. The Plaintiff's actions in this case align with this principle, as the allegations are designed to distract from their own wrongdoing by shifting blame onto the Defendant through a campaign of character assassination.

82 The motive behind these defamatory statements is clear: to evade accountability for the Plaintiff's own misconduct by discrediting the Defendant and undermining his credibility. By making the Defendant appear culpable, the Plaintiff seeks to obscure its own liability and avoid facing the consequences of its actions. This tactic is not only legally improper but also morally reprehensible, as it unfairly tarnishes the Defendant's reputation for personal gain.

### **III. CONCLUSION: DEFAMATION THROUGH LEGAL ABUSE**

83 The Plaintiff and Miles & Stockbridge have engaged in defamation by making false and malicious allegations against the Defendant through the public filing of this lawsuit. These actions are designed to harm the Defendant's reputation and evade accountability for their own misconduct. By abusing the legal process to spread defamatory statements, the Plaintiff has opened itself to liability for defamation, as Maryland law does not shield parties who misuse the legal system with the intent to cause reputational harm. The Defendant reserves the right to pursue appropriate remedies for this defamation, including damages for reputational harm caused by the Plaintiff's false statements.

#### **Legal Basis:**

84 In Maryland, defamation becomes sanctionable when false statements are made with malicious intent, particularly when such statements are designed to harm another's reputation through misuse of the legal process. In **Shapiro v. Massengill**, 105 Md. App. 743 (1995), the

Maryland Court of Special Appeals held that defamation claims are actionable when the statements in question are false, made with malice, and published in a manner that causes reputational harm. If these defamatory statements are made within the context of legal proceedings, and with malicious intent, they may also be subject to court sanctions, especially if the legal process is abused to propagate those statements.

#### I. MALICIOUS INTENT AND FALSITY

85 To warrant sanctions, defamatory statements must be proven to be both false and made with malicious intent. In **Shapiro**, the court established that malice can be inferred when false statements are made with reckless disregard for the truth or with the specific intention to cause harm to the individual's reputation. Here, the Plaintiff and Miles & Stockbridge made allegations against the Defendant that are not only false but were also crafted in bad faith with the intent to harm the Defendant's personal and professional standing.

86 The malicious nature of the allegations is evident from the fact that the Plaintiff sought to publicly discredit the Defendant without a legitimate legal basis, using the lawsuit as a vehicle to propagate defamatory content. Such misuse of legal filings to spread false statements demonstrates reckless disregard for the truth and suggests an ulterior motive—namely, to deflect accountability from the Plaintiff's own misconduct. This falls squarely within the type of malicious defamation described in **Shapiro**, where the court recognized that false, malicious statements aimed at damaging someone's reputation are actionable and may be subject to sanctions.

## II. MISUSE OF LEGAL PROCESS AS A VEHICLE FOR DEFAMATION

87 Sanctions are particularly appropriate when defamatory statements are made as part of a broader misuse of the legal process. While statements made in the course of litigation may enjoy a limited privilege, Maryland courts have recognized that this privilege does not apply when the legal process is being abused for improper purposes, such as to defame or discredit a party without a legitimate legal basis.

88 In **Beardsley v. Tait**, 69 Md. App. 52 (1986), the Maryland Court of Special Appeals held that legal privilege does not extend to statements made with malice or in bad faith, especially when the litigation is used as a tool to harm another's reputation. This principle is directly relevant here, where the Plaintiff and Miles & Stockbridge have weaponized the lawsuit to make defamatory statements with the intent to harm the Defendant, rather than to resolve a legitimate dispute. By filing a lawsuit with false allegations, the Plaintiff is effectively using the legal process to amplify the harm caused by the defamation, thereby stripping themselves of any privilege that might otherwise apply to statements made in court filings.

89 The malicious intent, combined with the abuse of the legal process, makes this defamation sanctionable under Maryland law. Courts have broad authority to impose sanctions when parties misuse legal proceedings to harass, defame, or harm others. Under **Rule 11** of the **Federal Rules of Civil Procedure** or equivalent Maryland state rules, sanctions may be imposed when legal filings are used in bad faith or with the intent to mislead the court or harm a party.

## III. DEFAMATION AS BAD FAITH CONDUCT WARRANTING SANCTIONS

90 Courts have inherent authority to sanction parties for bad faith conduct, including the filing of lawsuits with malicious intent. In **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991), the

Supreme Court affirmed that courts have the inherent power to impose sanctions for bad faith conduct, particularly when the legal process is misused to harm others. Misrepresentations, defamatory filings, and the use of litigation as a tool for personal vendettas are considered sanctionable misconduct under both state and federal rules.

91 Similarly, Maryland courts recognize that defamatory statements made in bad faith during litigation not only harm the individual but also undermine the integrity of the judicial system. In **In re Kittleman**, 312 Md. 329 (1988), the Maryland Court of Appeals held that attorneys and parties who knowingly mislead the court or engage in malicious litigation tactics can face sanctions, including fines, adverse rulings, and other punitive measures. When defamatory statements are made with the intent to harm a party's reputation as part of a larger strategy to evade accountability or inflict damage, sanctions are necessary to uphold the fairness of the judicial process.

#### IV. GROUND FOR SANCTIONS: HARM TO REPUTATION AND LEGAL ABUSE

92 The harm caused by defamatory statements made in the context of legal proceedings is both personal and professional. The Defendant's reputation has been damaged by the false allegations made in the lawsuit, and the public nature of the litigation has amplified this harm. These defamatory statements were not made in pursuit of a legitimate legal claim but rather to damage the Defendant's standing and divert attention from the Plaintiff's own misconduct.

93 The Plaintiff and Miles & Stockbridge's conduct is not only defamatory but also constitutes an abuse of the legal process. By using the lawsuit as a platform to spread false and damaging statements, they have engaged in bad faith litigation that undermines the integrity of

the court. Sanctions are warranted to address this misuse of the legal system, deter future bad faith conduct, and provide some remedy for the harm caused to the Defendant's reputation.

**V. CONCLUSION: SANCTIONS ARE WARRANTED FOR DEFAMATORY CONDUCT**

94 Based on **Shapiro v. Massengill**, false and malicious statements made with the intent to harm another's reputation are actionable and sanctionable under Maryland law. The Plaintiff and Miles & Stockbridge's use of the lawsuit to spread false allegations constitutes defamation, made with malice and aimed at damaging the Defendant's reputation. Given the clear misuse of the legal process, this conduct warrants sanctions to uphold the integrity of the court and to deter further abuses of the legal system.

95 The court should consider appropriate sanctions, including monetary penalties or other remedies, to address the harm caused by this defamatory conduct and to ensure that such misuse of the legal process does not go unpunished.

**E ADA Violation: Denial of Reasonable Accommodation and Misrepresentation of Facts**

96 The Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge, violated the **Americans with Disabilities Act (ADA)** by misrepresenting facts surrounding the Defendant's reasonable accommodation requests for an extension or continuance. The Defendant, who is disabled, sought a continuance and extension to secure new legal representation and to accommodate his disability, which is a recognized reasonable accommodation under the ADA.

97 In this instance, the Defendant initially attempted to resolve the issue informally by requesting additional time, before escalating the matter by filing a formal motion. Despite this

reasonable request, the Plaintiff and Miles & Stockbridge refused to grant the accommodation. Instead, they misled the court by falsely presenting the situation as though the Defendant had never made such a request. By doing so, they effectively denied the Defendant his rights under the ADA.

98 Under **Title II of the ADA**, public entities, including courts, are required to provide reasonable accommodations to individuals with disabilities to ensure full and equal access to the legal process. This includes granting extensions or continuances to disabled litigants when necessary to accommodate their medical needs or impairments. The Defendant's request for a continuance was reasonable, particularly given his disability and his need to secure new legal representation. Denying such a request violates the ADA's mandate to provide equitable treatment in legal proceedings.

99 Furthermore, the refusal to grant reasonable accommodation, combined with the misrepresentation of the Defendant's requests to the court, imposed unnecessary hardship on the Defendant, who was already in a vulnerable position due to his disability. The Defendant was ultimately denied the time he needed to resecure legal counsel and to prepare an adequate defense, which constitutes a deprivation of his rights under the ADA.

100 Importantly, granting the requested extension or continuance would not have caused any undue burden to the Plaintiff or the court. Courts have consistently held that reasonable accommodation, particularly in the form of continuances or extensions, should be granted unless doing so would cause significant delay or disruption to the proceedings. In **Shapiro v. Cadman Towers, Inc.**, 51 F.3d 328, 333 (2d Cir. 1995), the court held that a reasonable accommodation under the ADA is required unless it imposes an undue burden or hardship on the other party or



on the legal system itself. Here, no such hardship or undue burden would have resulted from the Plaintiff granting the Defendant's request for additional time.

101 Additionally, the timing of the Plaintiff's actions is troubling. The Defendant's request for a continuance coincided with the day he was unlawfully suspended and later terminated, adding to the appearance of retaliation. Denying the extension and refusing to acknowledge the accommodation request, all while misrepresenting the facts to the court, further underscores the unethical and potentially unlawful nature of the Plaintiff's conduct.

102 The denial of the Defendant's reasonable accommodation request and the subsequent misrepresentation of facts to the court constitute a violation of the ADA. By refusing to grant a reasonable extension or continuance, the Plaintiff and Miles & Stockbridge acted in bad faith, unjustly disadvantaging a disabled individual and depriving him of his right to a fair legal process. Given that the requested accommodation would not have imposed any undue burden or hardship, the denial was both unnecessary and unlawful under the ADA.

#### Legal Basis:

103 Under the **Americans with Disabilities Act (ADA)**, 42 U.S.C. § 12101, individuals with disabilities are entitled to reasonable accommodations in legal proceedings, including requests for extensions or continuances when necessary due to their disability. The ADA prohibits not only outright denial of these accommodations but also conduct that effectively denies these rights, such as misrepresentation or failure to properly inform the court of such requests.

104 The Defendant in this case, as a disabled individual, had a lawful right to request reasonable accommodations in the form of a continuance or extension to secure legal representation and manage his disability. The Plaintiff and their counsel, Miles & Stockbridge,

refused to grant the requested accommodation and further compounded this violation by misrepresenting the Defendant's request to the court. This denial and misrepresentation constitute a violation of the ADA, making their actions subject to sanctions.

**I. LEGAL STANDARD FOR ADA VIOLATIONS AND SANCTIONS**

105 The ADA mandates that public entities, including courts, provide reasonable accommodations to ensure full and equal participation by individuals with disabilities. Under **Title II of the ADA** and its implementing regulations, failing to provide such accommodations can result in sanctions against the offending party, particularly when there is bad faith or deliberate misrepresentation.

106 Courts have found that the intentional denial of a reasonable accommodation, especially when accompanied by misleading conduct, not only violates the ADA but also undermines the integrity of judicial proceedings. In **Battaglia v. McKendry**, 233 F.3d 720 (3d Cir. 2000), the court sanctioned a party for failing to provide reasonable accommodations under the ADA, emphasizing that such violations, especially when done willfully or with disregard for the disabled individual's rights, justify judicial intervention through sanctions.

**I. SANCTIONS FOR MISREPRESENTATION IN ADA ACCOMMODATION REQUESTS**

107 Sanctions are appropriate in this case not only for the denial of the Defendant's accommodation but also for the misrepresentation of facts surrounding the request. Misleading the court about a defendant's efforts to obtain reasonable accommodations is a serious violation of professional ethics and constitutes sanctionable conduct under federal and state procedural rules.

108 Misrepresentation in legal proceedings can also fall under the court's inherent authority to sanction parties that act in bad faith. In **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991), the Supreme Court affirmed the inherent power of courts to issue sanctions for bad faith conduct, particularly when a party misleads the court or engages in conduct that abuses the judicial process. Misrepresenting the existence of a reasonable accommodation request made by a disabled defendant would clearly fall within this category of sanctionable behavior.

109 Furthermore, Maryland courts have similarly recognized the importance of integrity in judicial proceedings. In **In re Kittleman**, 312 Md. 329 (1988), the Maryland Court of Appeals held that attorneys who knowingly mislead the court, particularly in situations involving the rights of vulnerable parties, are subject to sanctions, including fines, contempt, or disqualification. In this case, the misrepresentation of the Defendant's accommodation request not only violated the ADA but also deceived the court, making sanctions an appropriate remedy.

## II. SANCTIONS FOR ADA VIOLATIONS IN THE LEGAL PROCESS

110 Violating the ADA in the legal process, particularly through the denial of reasonable accommodations and misrepresentation, can result in a range of sanctions, including monetary penalties, adverse rulings, or dismissal of claims. Federal courts have broad discretion to impose sanctions under **Rule 11** of the Federal Rules of Civil Procedure or similar state rules when a party submits false statements or misrepresents critical facts to the court.

111 Under **42 U.S.C. § 12188**, which provides enforcement mechanisms for ADA violations, courts may grant appropriate relief to ensure compliance with the statute, including injunctive relief and penalties. While this provision primarily addresses discrimination in public

accommodations, courts have extended its principles to judicial misconduct that results in the denial of ADA rights.

112 In this case, Plaintiff and Miles & Stockbridge's refusal to grant a reasonable accommodation and subsequent misrepresentation to the court caused harm to the Defendant by obstructing his ability to prepare and defend his case. This conduct violates both the ADA and ethical obligations under professional rules of conduct, warranting sanctions.

### **III. CONCLUSION: SANCTIONS ARE WARRANTED FOR THE DENIAL OF ADA ACCOMMODATIONS AND MISREPRESENTATION**

113 The refusal to provide a reasonable accommodation and the misrepresentation of the Defendant's request before the court constitute a violation of the ADA, specifically 42 U.S.C. § 12101. Given that this conduct deprived the Defendant of his rights under the ADA and misled the court, sanctions are both justified and necessary to rectify the harm done. Misrepresentation regarding ADA accommodations is a serious breach that not only violates the statute but also undermines the fairness of the legal process. Therefore, the court should impose appropriate sanctions, including monetary penalties or other corrective measures, to address the violation and ensure compliance with the ADA.

#### **F Retaliatory Litigation and Escalation of Resolved Dispute**

114 The Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge, engaged in retaliatory litigation following an accord reached between the Defendant and Ryan Dillon-Capps. Rather than honoring the resolution of the dispute, their involvement escalated the matter into punitive legal action. The case was presented under false pretenses, with Miles &

Stockbridge framing the situation as one where negotiations had failed, misleading the court. In response to direct questions from the bench, Plaintiff's counsel provided evasive, nearly inaudible responses, including dismissive gestures, signaling their intent to obscure the facts.

115 From the outset, Miles & Stockbridge, in concert with Ohana Growth Partners, engaged in a concerted effort to retaliate against the Defendant, potentially to silence whistleblowing activities. This litigation appears to be part of a broader scheme to suppress the Defendant's attempts to expose serious misconduct, including but not limited to:

I. RETALIATION FOR WHISTLEBLOWING ON CORPORATE MISCONDUCT:

The Defendant raised concerns about retaliatory actions involving Richard Hartman and Darren Koritzka, the latter being placed on leave of absence under questionable circumstances. The Defendant's involvement in reporting these internal issues likely served as a trigger for this retaliatory legal action.'

II. ATTEMPTS TO CONCEAL FRAUD INVESTIGATIONS:

Evidence had been submitted, including email communications and screenshots, challenging the integrity of a fraud investigation initiated by Ohana Growth Partners. This investigation was compromised from the outset, as it began only after fraud had already been confirmed through a written admission. Miles & Stockbridge's legal guidance and conduct in this matter helped obstruct further inquiry into the fraudulent activities, effectively protecting those responsible rather than seeking transparency.

### III. FAILURE TO INVESTIGATE HR AND FINANCIAL IRREGULARITIES:

The Plaintiff's retaliatory actions also appear tied to the Defendant's insistence on investigating HR irregularities and accounting discrepancies, which were ignored by Glenn Norris and others within Ohana Growth Partners' leadership. Notably, the HR investigation failed to interview a key witness, despite the witness being the person who initially reported the incident.

Additionally, the Defendant raised serious concerns about the accounting practices used by Glenn Norris in financial certifications to the banks during refinancing efforts, highlighting inflated numbers that could have far-reaching implications.

116 The filing of this case by Miles & Stockbridge on behalf of Ohana Growth Partners represents not a legitimate legal dispute, but a calculated attempt to discredit the Defendant and avoid scrutiny of the serious allegations raised. This constitutes retaliatory litigation under both federal and state laws protecting whistleblowers and individuals who expose corporate fraud or wrongdoing. The timing, manner, and context of this lawsuit reflect an intent to punish the Defendant for raising legitimate concerns that have been systematically ignored or covered up.

117 This type of retaliatory litigation is not only unethical but also unlawful. Courts have recognized that when legal action is initiated as a response to an individual's attempt to expose fraud or wrongdoing, the action may be deemed retaliatory. For instance, in **Darveau v. Detecon, Inc.**, 515 F.3d 334 (4th Cir. 2008), the court held that an employer's lawsuit against a whistleblower could constitute illegal retaliation if it was filed with a retaliatory motive rather than for legitimate legal purposes. Similarly, under the **Maryland Whistleblower Protection Act (Md. Code, State Pers. & Pens. § 5-305)** and **Sarbanes-Oxley Act (18 U.S.C. § 1514A)**,

retaliatory actions against individuals who report corporate fraud or participate in investigations are expressly prohibited.

118 Here, the evidence suggests that Miles & Stockbridge, through their legal representation of Ohana Growth Partners, furthered retaliatory motives. Instead of resolving the issues raised, they have utilized the legal process to suppress the Defendant's efforts to expose fraud, misconduct, and other irregularities within the company. Their participation in these actions raises significant ethical concerns and adds to the liabilities faced by their client, as their guidance has led to the filing of baseless claims aimed at silencing the Defendant rather than addressing the underlying problems.

119 The Defense respectfully submits that this litigation, founded on retaliatory motives, should be viewed as an abuse of the legal process. The actions of Miles & Stockbridge and Ohana Growth Partners reflect bad faith and demonstrate a clear intent to punish the Defendant for lawfully raising concerns about corporate misconduct.

#### Legal Basis:

##### I. FEDERAL RETALIATION LAW: BURLINGTON N. & SANTA FE RY. CO. v. WHITE

120 At the federal level, retaliation claims are broadly governed by Title VII of the Civil Rights Act of 1964, which protects individuals from adverse actions taken in response to the exercise of their legal rights. The U.S. Supreme Court, in **Burlington N. & Santa Fe Ry. Co. v. White**, 548 U.S. 53 (2006), provided a key framework for understanding retaliation. The Court held that retaliation includes not only employment actions like firing or demotion but also any adverse action that could dissuade a reasonable person from pursuing or supporting a claim. This broader interpretation of "adverse actions" applies to actions that, while not directly impacting

employment or financial standing, still seek to intimidate, punish, or dissuade the individual from exercising their legal rights.

121 **Burlington** is particularly relevant to the concept of retaliatory lawsuits, which can be used as a tool to punish individuals for engaging in protected activities, such as whistleblowing or reporting misconduct. The Court's ruling emphasized that retaliation is not confined to workplace issues but can extend to any conduct that imposes burdens on the individual in response to their lawful actions. This reasoning has been widely adopted by courts to address retaliatory litigation as an extension of adverse actions designed to silence individuals through legal harassment, rather than resolve legitimate disputes.

122 Retaliatory lawsuits, in this sense, serve to impose unnecessary costs, stress, and burdens on defendants, effectively punishing them for exercising their rights, such as whistleblowing or reporting fraud. In the federal framework, such lawsuits are viewed as actionable under retaliation and abuse of process doctrines, particularly when filed with the intent to deter further legal or ethical action by the defendant.

#### **I. MARYLAND RETALIATION LAW: EXPANDING ON FEDERAL STANDARDS**

123 Maryland law builds upon the broad federal understanding of retaliation established by **Burlington**, while also providing its own set of protections and legal interpretations, particularly for whistleblowers and individuals subject to retaliatory actions. Maryland courts have recognized that retaliation can take many forms beyond employment actions, including the misuse of the legal system through retaliatory lawsuits.



## II. MARYLAND WHISTLEBLOWER PROTECTIONS AND RETALIATORY LAWSUITS

124 Under the **Maryland Whistleblower Protection Act**, employees and other individuals who report wrongdoing are protected from adverse actions taken in response to their lawful disclosures. Maryland courts have consistently applied these protections to ensure that whistleblowers are not subjected to retaliatory actions, whether through termination, demotion, or the filing of punitive lawsuits.

125 In **Wholey v. Sears Roebuck & Co.**, 370 Md. 38 (2002), the Maryland Court of Appeals emphasized that retaliation encompasses any adverse action that would dissuade a reasonable person from engaging in protected conduct, such as reporting misconduct. This mirrors the broad standard set in **Burlington** but is further contextualized in Maryland law to include actions that go beyond the workplace, extending to any efforts to suppress or punish whistleblowers through legal means.

126 In cases involving retaliatory lawsuits, the court has viewed such actions as an extension of adverse conduct designed to deter individuals from continuing to report or participate in lawful activities. This approach was reinforced in **Montgomery County v. Deibler**, 423 Md. 54 (2011), where the Court of Appeals highlighted the importance of protecting whistleblowers from adverse actions that would have a chilling effect on their willingness to report wrongdoing.

## III. RETALIATORY LAWSUITS AS AN ABUSE OF PROCESS IN MARYLAND

127 Maryland courts also recognize retaliatory lawsuits as a misuse of the legal system, and in some cases, an abuse of process. In **One Thousand Fleet Ltd. Partnership v. Guerriero**, 346 Md. 29 (1997), the Maryland Court of Appeals explored the concept of abuse of process,

where a lawsuit is initiated not to resolve a legitimate legal dispute but for an ulterior motive—such as punishing or intimidating the opposing party. The court held that when legal actions are filed with a retaliatory intent, they can constitute an abuse of the legal process and may be subject to sanctions.

128 Similarly, in **Okwa v. Harper**, 360 Md. 161 (2000), the court addressed the broader implications of retaliatory conduct within the legal system. The court recognized that litigation can be used to inflict harm on individuals exercising their legal rights, including whistleblowers or those involved in reporting misconduct. In such cases, the courts have indicated that retaliatory lawsuits are not only unethical but may also undermine the integrity of the legal process itself. As a result, these lawsuits may warrant dismissal, sanctions, or other corrective actions by the courts.

#### IV. CONCLUSIONS: FEDERAL AND MARYLAND RETALIATION PROTECTIONS CONVERGE

129 Both federal laws, as established in **Burlington**, and Maryland state law recognize that retaliation can take many forms, including lawsuits filed with the intent to intimidate or punish individuals for engaging in protected activities. While **Burlington** provides the broad federal framework for understanding adverse actions, Maryland courts have further expanded upon these principles through cases like **Wholey**, **Deibler**, and **One Thousand Fleet Ltd. Partnership**. Maryland's legal framework explicitly addresses the protection of whistleblowers and the misuse of legal proceedings to suppress or retaliate against individuals exercising their legal rights.

130 In the present case, if the lawsuit by Miles & Stockbridge is found to be retaliatory in nature, it may not only violate federal and state retaliation laws but could also be considered an

abuse of process under Maryland law, warranting sanctions and disqualification. Both legal standards demonstrate that such conduct is unacceptable and sanctionable under the law.

### G Obstruction of Evidence

131 **Miles & Stockbridge**, counsel for **Ohana Growth Partners**, has actively obstructed the Defendant's access to crucial evidence by conditioning the release of a **court transcript** on the payment of **\$12,500** related to fraudulently obtained contempt charges. This conduct not only violates the **Maryland Rules of Professional Conduct** but also constitutes a deliberate **obstruction of evidence**, impeding the Defendant's ability to **fairly litigate** this case. The Court must address this **serious breach** through the imposition of appropriate **sanctions**.

132 **Rule 3.4(a)** of the **Maryland Rules of Professional Conduct** specifically prohibits attorneys from unlawfully obstructing another party's access to evidence or unlawfully altering, destroying, or concealing a document that has potential evidentiary value. By withholding the court transcript, **Miles & Stockbridge** have violated this rule and obstructed the Defendant's right to access **key evidence** necessary for their defense. Courts have consistently held that such actions constitute a **serious ethical violation** and may warrant sanctions. In **Attorney Grievance Comm'n of Md. v. Brisbon**, 424 Md. 274 (2011), the Maryland Court of Appeals emphasized that the obstruction of access to evidence fundamentally undermines the integrity of the legal process and can result in severe professional sanctions.

### I. CONDITIONAL RELEASE OF COURT TRANSCRIPT

133 On **July 2, 2024**, when requested to provide the court transcript for the **June 26, 2024** hearing, **Miles & Stockbridge** conditioned its release on receiving **\$12,500** from the Defendant.

This sum is tied to **fraudulently obtained contempt charges**. By making the release of this transcript contingent upon payment, they have deliberately **obstructed access** to critical evidence. Such actions are **unethical** and amount to an intentional **obstruction of justice**, as they prevent the Defendant from properly defending themselves and preparing for further litigation.

134 This conduct also potentially constitutes **extortion**, as it leverages the Defendant's right to obtain evidence in exchange for the satisfaction of unlawful contempt charges. The U.S. Supreme Court has recognized that access to critical evidence is a **fundamental right** in litigation. In **Hickman v. Taylor**, 329 U.S. 495 (1947), the Court held that attorneys must act in good faith to ensure all parties have access to key evidence in the pursuit of justice, and the intentional withholding of such evidence violates both ethical duties and the basic principles of fairness.

## II. PREJUDICE TO THE DEFENDANT'S CASE

135 The **court transcript** requested by the Defendant is a **key piece of evidence** necessary to challenge the **fraudulent contempt charges** and to substantiate broader claims of **bad faith litigation** by the Plaintiff and their counsel. **Miles & Stockbridge's** refusal to release this transcript unless payment is made prevents the Defendant from **effectively defending** against these fraudulent claims and preparing for future hearings. The deliberate **withholding of evidence** has resulted in **significant prejudice** to the Defendant, delaying justice and wasting judicial resources.

136 In **Precision Instrument Mfg. Co. v. Automotive Maintenance Mach. Co.**, 324 U.S. 806 (1945), the Court held that the withholding of key evidence, particularly in bad faith, is an act that **corrupts the judicial process** and demands sanction. By obstructing the Defendant's access to this transcript, **Miles & Stockbridge** is actively preventing the Court from achieving a **just resolution**, while unfairly burdening the Defendant with **increased costs and delays**.

### III. ABUSE OF PROCESS

137 The actions of **Miles & Stockbridge** also constitute an **abuse of process**. Conditioning the release of a **court transcript** on the payment of **fraudulently obtained contempt charges** is an improper use of the judicial system's processes for a purpose unrelated to the fair administration of justice. As established in **One Thousand Fleet Ltd. P'ship v. Guerriero**, 346 Md. 29 (1997), an **abuse of process** occurs when a party misuses legal mechanisms for ulterior motives, such as extracting payment or harassing the opposing party. Here, the Plaintiff's counsel has weaponized the **court's contempt powers** and the procedural mechanisms governing the release of evidence to force payment and obstruct the Defendant's access to justice.

138 Further, in **Palmer Ford, Inc. v. Wood**, 298 Md. 484 (1984), the Court made clear that **abuse of process** claims are actionable when legal tools are used to exert pressure on an opposing party for purposes other than legitimate legal aims. By obstructing access to the transcript, **Miles & Stockbridge** has violated this principle, leveraging the judicial system to **coerce payment** and undermine the Defendant's ability to contest the charges.

#### IV. IMPACT ON JUDICIAL INTEGRITY

139 **Miles & Stockbridge's** obstruction of evidence through the withholding of the transcript and their **unlawful conditioning** of its release undermines the **integrity of the judicial process**. In **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991), the U.S. Supreme Court affirmed that courts have the inherent authority to sanction parties and counsel who abuse the judicial process, including through the intentional obstruction of evidence. In this case, the refusal to release the transcript not only violates ethical duties but also directly impacts the Court's ability to fairly and efficiently adjudicate the matter.

140 Such conduct warrants **severe sanctions**, including monetary penalties, **referral for ethical review**, and **criminal investigation** for potential violations related to obstruction of justice and abuse of process.

#### V. CONCLUSION: SANCTIONS FOR OBSTRUCTION OF EVIDENCE

141 The deliberate obstruction of evidence by **Miles & Stockbridge**, through their refusal to release the court transcript unless payment of fraudulently obtained charges is made, constitutes a clear violation of the **Maryland Rules of Professional Conduct**, and an **abuse of process** under Maryland law. Their actions have **prejudiced the Defendant**, undermined the **judicial process**, and caused unnecessary delays and costs. The Court should impose appropriate **sanctions** to address this **serious misconduct**, including monetary penalties and referral for further **ethical and criminal review**.

### Legal Basis

142 The actions of **Miles & Stockbridge** in **withholding the court transcript** until the Defendant pays \$12,500, related to **fraudulently obtained contempt charges**, constitute a violation of both the **Maryland Rules of Professional Conduct** and established case law. Their actions are a deliberate obstruction of justice, designed to prevent the Defendant from accessing critical evidence necessary for their defense. These violations, rooted in dishonesty and abuse of process, provide a clear basis for the imposition of sanctions.

#### I. RULE 3.4(A) – FAIRNESS TO OPPOSING PARTY AND COUNSEL

143 Under **Rule 3.4(a)** of the **Maryland Rules of Professional Conduct**, attorneys are prohibited from unlawfully obstructing another party's access to evidence or unlawfully concealing or destroying evidence that has **potential evidentiary value**. By conditioning the release of a court transcript on the payment of fraudulently obtained contempt charges, **Miles & Stockbridge** engaged in clear **obstruction of evidence**. This rule explicitly prohibits such actions, as they hinder the opposing party's ability to present their case and compromise the fairness of the judicial process.

144 In **Attorney Grievance Comm'n v. Brisbon**, 424 Md. 274 (2011), the Maryland Court of Appeals disciplined an attorney who obstructed access to evidence, emphasizing the critical importance of allowing both parties equal access to the information necessary for a fair trial. The conduct of **Miles & Stockbridge** in this case mirrors this violation, as their refusal to release the transcript has denied the Defendant access to a key piece of evidence needed to challenge the **fraudulent contempt charges**.

## II. RULE 8.4(C) – MISCONDUCT

145 **Rule 8.4(c)** of the **Maryland Rules of Professional Conduct** prohibits attorneys from engaging in conduct that involves **dishonesty, fraud, deceit, or misrepresentation**. By conditioning the release of the transcript on the payment of \$12,500 tied to fraudulent contempt charges, **Miles & Stockbridge** engaged in **misrepresentation and dishonesty**. Their actions reflect an attempt to **leverage a fraudulent court order** to extract money from the Defendant while concealing key evidence that would undermine the Plaintiff's claims.

146 The Maryland Court of Appeals in **Attorney Grievance Comm'n v. James, Jr.**, 385 Md. 637 (2005), held that attorneys who engage in **dishonest conduct by misrepresenting facts** during litigation commit serious ethical violations and may face sanctions, including disbarment. The conduct of **Miles & Stockbridge** in withholding critical evidence in exchange for payment similarly involves **misrepresentation** and **fraud**, warranting the imposition of sanctions under **Rule 8.4(c)**.

## III. ABUSE OF PROCESS – IMPROPER USE OF JUDICIAL MECHANISMS

147 The actions of **Miles & Stockbridge** also constitute an **abuse of process**. By using the judicial process to **extract payment** in connection with a fraudulently obtained court order, they have manipulated the legal system for an improper purpose. In **One Thousand Fleet Ltd. Partnership v. Guerriero**, 346 Md. 29 (1997), the Maryland Court of Appeals defined **abuse of process** as the improper use of legal mechanisms for a purpose unrelated to the fair administration of justice. The Court in that case emphasized that when legal processes are used to exert pressure or gain an advantage, rather than for legitimate legal purposes, it constitutes **abuse of process**.



148 Similarly, in this case, **Miles & Stockbridge**'s decision to condition the release of evidence upon payment directly tied to **fraudulent contempt charges** constitutes a clear misuse of judicial processes. Their actions are designed to pressure the Defendant into compliance, rather than ensure fair litigation. The Court in **Palmer Ford, Inc. v. Wood**, 298 Md. 484 (1984), further held that abuse of process claims are actionable when legal mechanisms are used with improper motives to coerce an opposing party. **Miles & Stockbridge**'s conduct aligns with this standard, as they have used the court's processes to create an **unlawful barrier** to the Defendant's access to evidence.

#### IV. CONCLUSION: GROUNDS FOR SANCTIONS

149 The conduct of **Miles & Stockbridge** in withholding the **July 2, 2024, court transcript** constitutes clear violations of the **Maryland Rules of Professional Conduct**, specifically **Rule 3.4(a)** and **Rule 8.4(c)**, which prohibit obstruction of evidence and misconduct involving dishonesty, fraud, or misrepresentation. Furthermore, their actions amount to an **abuse of process** by using judicial mechanisms for improper purposes. The combination of these violations demonstrates a significant breach of legal ethics and process that has severely prejudiced the Defendant's ability to defend themselves.

150 The Court should impose **sanctions** on **Miles & Stockbridge** to address these violations, including **monetary penalties**, a **referral for ethical review**, and any other sanctions the Court deems appropriate under its **inherent authority** to prevent **abuse of process** and **protect the integrity** of the judicial system.

#### H Disqualification of Counsel

151 Miles & Stockbridge must be disqualified as counsel for multiple reasons, all of which are sanctionable under Maryland law. The firm's continued representation of Plaintiff, Ohana Growth Partners, is incompatible with the ethical and professional responsibilities required of attorneys under the **Maryland Rules of Professional Conduct**. Their involvement presents clear grounds for disqualification based on two primary factors: (1) a conflict of interest that compromises their ability to provide competent and ethical representation, and (2) their active engagement in misconduct, including the submission of fraudulent evidence, which has directly misled the court.

#### I. CONFLICT OF INTEREST AND ETHICAL VIOLATIONS

152 First and foremost, a clear **conflict of interest** exists that precludes Miles & Stockbridge from ethically representing Ohana Growth Partners in this matter. Maryland Rule 1.7 of the **Maryland Rules of Professional Conduct** explicitly prohibits attorneys from representing a client when a conflict of interest impairs their ability to provide competent and loyal representation. In this case, the firm's actions demonstrate that their divided loyalties and unethical tactics undermine their ability to serve their client, the Defendant, and the Court.

153 Additionally, Miles & Stockbridge has engaged in egregious misconduct by falsifying evidence and presenting it to the court. Specifically, the firm fabricated email threads, using an invalid email address, and submitted these falsified communications as part of their evidence. This fraudulent material was used to secure an **ex parte Temporary Restraining Order (TRO)** under false pretenses. **Md. General Provision § 1-351(b)** requires that reasonable efforts be made to notify the opposing party before ex parte relief is sought, and that this be certified to the

court. By submitting fraudulent evidence, Miles & Stockbridge not only failed to meet this requirement but also **defrauded the court**, breaching their duties of candor and truthfulness.

## II. VIOLATIONS OF THE MARYLAND RULES OF PROFESSIONAL CONDUCT

154 Miles & Stockbridge's conduct directly violates several provisions of the **Maryland Rules of Professional Conduct**. Most notably:

1. **Rule 3.3 (Candor Toward the Tribunal):** This rule prohibits attorneys from knowingly making false statements or submitting fraudulent evidence to the court. By fabricating evidence and misleading the court, Miles & Stockbridge has demonstrated a clear violation of this fundamental ethical rule.
2. **Rule 8.4 (Misconduct):** This rule governs attorney misconduct and includes prohibitions against engaging in deceitful or dishonest behavior. Submitting falsified documents and manipulating the court system to obtain relief under false pretenses falls squarely within the type of misconduct that is subject to disciplinary action under Rule 8.4.

155 These violations alone provide sufficient grounds for the **disqualification** of Miles & Stockbridge as counsel, as they have shown an inability to maintain the ethical standards required in litigation and have compromised the integrity of the proceedings. Their actions have harmed not only the Defendant but also their own client, by exposing Ohana Growth Partners to further liability and damage to its legal standing.

### III. DISQUALIFICATION TO PROTECT THE INTEGRITY OF PROCEEDINGS

156 The Defense is not seeking the disqualification of Miles & Stockbridge as a punitive measure for their unethical conduct. Rather, the disqualification is necessary to **protect the integrity of the legal process** and to prevent the firm from facilitating further baseless litigation. By remaining as counsel, Miles & Stockbridge enables their client to pursue a claim that is **not grounded in fact or law**, which is inconsistent with their ethical duties under the legal profession.

157 An ethical attorney would not condone the pursuit of litigation based on false pretenses after hearing both sides of the dispute. Prior to the involvement of Miles & Stockbridge, the Plaintiff lacked the legal resources or the willingness to engage in such an aggressive and ethically questionable strategy. The firm's continued participation in this litigation serves only to avoid meaningful negotiation and resolution, while pushing forward with a flawed and baseless claim that no ethical attorney would pursue in good faith.

### IV. CONFLICT OF INTEREST AND REPEATED MISREPRESENTATION

158 The firm's **conflict of interest** is evident in their motivation to continue representing Ohana Growth Partners, even in the face of clear ethical violations and a lack of substantive legal claims. The record demonstrates that instead of presenting evidence to support their case, Miles & Stockbridge have resorted to **repeating flawed legal arguments** that lack any context or merit. Rather than engaging in a legitimate defense or negotiation process, they have focused on extreme interpretations of the law in pursuit of an untenable ruling.

159 Furthermore, the Plaintiff has failed to provide any compelling evidence of harm or a particularized claim. The Plaintiff's case remains unsupported by facts, and the firm's continued participation has only exacerbated the legal and ethical conflicts involved. This further highlights that Miles & Stockbridge is using the legal system to pursue a **baseless claim** that another ethical attorney would have likely withdrawn from after understanding the lack of merit in the case.

#### V. THE HARM TO DEFENDANT, PLAINTIFF, AND THE COURT

160 In summary, Miles & Stockbridge's continued representation of Ohana Growth Partners has harmed not only the Defendant but also the Plaintiff and the Court. By misleading the court and fabricating evidence, they have damaged their client's credibility and exposed them to further liability. The firm's actions have perpetuated an **unethical and legally flawed litigation strategy**, which undermines the fairness and integrity of these proceedings.

161 To preserve the integrity of this case and ensure that justice is served, the Defense respectfully submits that Miles & Stockbridge should be disqualified from continuing their representation. Their disqualification is necessary not only to protect the Defendant but also to prevent further harm to the Plaintiff and to uphold the court's duty to maintain fair and ethical legal proceedings.

#### Legal Basis

162 Under **Maryland Rules of Professional Conduct, Rule 1.7**, an attorney must avoid representing a client when a **conflict of interest** exists, unless specific conditions are met, such as informed consent from the client. A concurrent conflict of interest arises when an attorney's ability to provide loyal and independent judgment to a client is compromised, either because the

representation is directly adverse to another client or because the lawyer's responsibilities to a third party, a former client, or personal interests materially limit their representation.

## I. CONFLICT OF INTEREST AND DIVIDED LOYALTIES

163 **Rule 1.7** emphasizes that a lawyer cannot represent a client effectively when there is even the appearance of a conflict of interest. Courts in Maryland have interpreted this rule strictly. In **Kane v. Kane**, 146 Md. App. 568 (2002), the court ruled that the preservation of trust in the legal profession requires attorneys to avoid even potential conflicts that could impact their ability to provide independent legal advice. In the present case, **Miles & Stockbridge's** divided loyalties have not only impaired their ability to represent **Ohana Growth Partners** competently but have also placed their actions at odds with their professional responsibilities.

164 By continuing to represent Ohana Growth Partners despite clear conflicts, **Miles & Stockbridge** risks compromising their legal obligations to act in their client's best interest and with full candor to the court. Their conflict of interest creates divided loyalties, preventing them from providing ethical representation. **Attorney Grievance Commission of Maryland v. Stein**, 373 Md. 531 (2003), further underscores that conflicts of interest not only constitute breaches of ethical duties but also provide grounds for disqualification to protect the integrity of the proceedings.

## II. COURTS MANDATE DISQUALIFICATION FOR CONFLICTS OF INTEREST

165 When a conflict of interest impairs an attorney's ability to act solely for their client, disqualification becomes mandatory. In **Attorney Grievance Commission v. Stein**, the court

stressed that when divided loyalties arise, the attorney cannot maintain an objective stance on the case. This is precisely the issue with **Miles & Stockbridge**—their continued representation of **Ohana Growth Partners** is compromised by their conflicted position. **Disqualification** is therefore necessary to ensure that the legal proceedings are conducted fairly and that the client receives independent legal counsel.

### III. LEGAL BASIS FOR SANCTIONS: MARYLAND RULES OF PROFESSIONAL CONDUCT, RULE 3.3(A)

166 **Rule 3.3(a)** of the **Maryland Rules of Professional Conduct** establishes an attorney's duty to maintain candor toward the tribunal. This rule prohibits attorneys from knowingly making false statements of fact or law, presenting fraudulent evidence, or failing to correct falsehoods presented to the court. Attorneys are obligated to act honestly and with integrity, ensuring that the court can rely on the veracity of the evidence and statements submitted in legal proceedings.

### IV. DUTY OF CANDOR AND SUBMISSION OF FRAUDULENT EVIDENCE

167 In this case, **Miles & Stockbridge** violated **Rule 3.3(a)** by submitting falsified email threads and fabricating evidence to secure an **ex parte Temporary Restraining Order (TRO)**. The fraudulent nature of these submissions, coupled with the firm's failure to notify the Defendant as required by **Md. General Provision § 1-351(b)**, constitutes a severe breach of the duty of candor.

168 In **Attorney Grievance Commission of Maryland v. Vanderlinde**, 364 Md. 376 (2001), the court held that "intentional dishonesty, fraud, deceit, or misrepresentation by an

attorney is almost beyond excuse," and that sanctions must be imposed when such behavior occurs. The fraudulent conduct by **Miles & Stockbridge**—fabricating communications and misleading the court—strikes at the core of judicial integrity and warrants disqualification and further sanctions.

#### V. FRAUD UPON THE COURT JUSTIFIES SANCTIONS AND DISQUALIFICATION

169 In **Sinclair v. Mobile 360, Inc.**, 149 Md. App. 320 (2003), the court emphasized that presenting false evidence is a severe breach of an attorney's ethical obligations and justifies **disqualification** and **sanctions**. The submission of falsified documents constitutes fraud upon the court, and when it prejudices the opposing party and misleads the tribunal, disqualification is not only justified but necessary to preserve the fairness of the legal process.

170 **Miles & Stockbridge's** fraudulent conduct, including the submission of falsified emails and the misrepresentation surrounding the **TRO**, directly harmed the Defendant and eroded the court's ability to function impartially. Their actions fit squarely within the framework of misconduct described in **Sinclair**, which mandates **disqualification** and sanctions for attorneys who knowingly mislead the court.

#### VI. DISQUALIFICATION AND SANCTIONS ARE NECESSARY TO PROTECT THE INTEGRITY OF PROCEEDINGS

171 The submission of false evidence and misrepresentation by **Miles & Stockbridge** constitutes a clear violation of **Rule 3.3(a)** and creates the basis for both **disqualification** and **sanctions**. Their actions have caused significant harm to the Defendant and prejudiced the court



by distorting the facts of the case. Continuing to allow **Miles & Stockbridge** to represent **Ohana Growth Partners** would undermine the judicial process and further violate the principles of fair and ethical litigation.

172 As seen in **Attorney Grievance Commission v. Vanderlinde** and **Sinclair v. Mobile 360**, the court must act to impose sanctions and disqualification when attorneys engage in fraudulent conduct that compromises the fairness of the proceedings. In this case, **Miles & Stockbridge's** continued representation would only perpetuate these ethical breaches, making **disqualification** necessary to restore the integrity of the court.

## VII. CONCLUSION: LEGAL BASIS FOR DISQUALIFICATION AND SANCTIONS

173 The conduct of **Miles & Stockbridge**—including their conflicts of interest under **Rule 1.7** and their submission of fraudulent evidence under **Rule 3.3(a)**—demonstrates a profound breach of their professional and ethical obligations. Case law, including **Kane v. Kane**, **Attorney Grievance Commission v. Stein**, and **Sinclair v. Mobile 360**, underscores the need for **disqualification** when attorneys' conflicts of interest or fraudulent conduct threaten the fairness of legal proceedings. The court must disqualify **Miles & Stockbridge** and impose appropriate **sanctions** to prevent further misuse of the legal system and to uphold the integrity of the judicial process.

## IV RECOMMENDED SANCTIONS

174 Based on the above misconduct, both Plaintiff and Miles & Stockbridge should be subject to the following sanctions:

### A Monetary Sanctions

175 The Court should impose **monetary sanctions** on the Plaintiff, **Ohana Growth Partners**, and their counsel, **Miles & Stockbridge**, to fully compensate the Defendant for the legal fees, costs, and financial harm caused by the Plaintiff's **baseless** and **retaliatory claims**. The Plaintiff's actions—filing a **fraudulent lawsuit**, securing a **fraudulently obtained Temporary Restraining Order (TRO)**, and engaging in **abuse of process**—were not intended to resolve legitimate legal disputes but rather to **harass** and financially burden the Defendant.

176 The **misconduct** of the Plaintiff and their counsel, including **defamation**, **submission of false evidence**, and **repeated misuse of legal procedures**, constitutes an abuse of the judicial system. The Defendant has incurred significant legal fees and endured delays in defending against claims that were **frivolous** and made **without substantial justification**. Monetary sanctions are necessary to **compensate** the Defendant and deter **Miles & Stockbridge** and **Ohana Growth Partners** from engaging in such unethical and fraudulent practices in future litigation.

### Punitive Damages

177 The Plaintiff and their counsel should be held **jointly and severally liable** for **punitive damages** amounting to **\$5,000 per day**, starting from **June 14, 2024**, and continuing until these damages are paid in full. This daily amount, split between **Ohana Growth Partners** and **Miles & Stockbridge** at **\$2,500 per day each**, serves as a **penalty** for their **egregious conduct**. This includes **attempts to unlawfully deprive the Defendant of liberty** and **fraudulent submissions** made to mislead the Court.

178 The imposition of **punitive damages** is appropriate in this case, given the **seriousness** of the Plaintiff and counsel's misconduct. These punitive damages serve as a **deterrent** to prevent future fraudulent and harassing behavior by both **Ohana Growth Partners** and **Miles & Stockbridge**. The daily accrual incentivizes timely compliance and reflects the harm caused by the **fraudulent actions** of the Plaintiff.

179 The imposition of punitive damages is supported by **BMW of N. Am., Inc. v. Gore**, 517 U.S. 559 (1996), where the U.S. Supreme Court recognized the need for punitive damages to deter willful misconduct involving fraud or deceit. The fraudulent actions of the Plaintiff and their counsel in this case clearly warrant such punitive measures.

#### Liquidated Damages

180 The Court should impose **liquidated damages** to cover all **compensatory damages** owed to the Defendant, including **lost wages**, **bonuses**, and other compensation. These damages are necessary to make the Defendant whole after the **fraudulent conduct** of the Plaintiff and their counsel. Additionally, a **2x multiplier** should apply to these damages, reflecting the **serious nature of the Plaintiff's breach of contract** and their deliberate intent to harm the Defendant financially.

181 **Lost Wages:** The Defendant is entitled to compensation for wages from **June 14, 2024**, through the present, including:

1. **Base salary** the Defendant would have received had they remained in their position.
2. **Salary increases**, calculated based on the highest percentage raise granted to any employee in 2024.

3. **Bonuses, Incentives, and Profit-Sharing:** The Defendant is entitled to all reasonable bonuses, incentives, and profit-sharing they would have received, including:
4. **Performance-based bonuses** tied to deals or projects in which the Defendant would have participated.
5. **Profit-sharing agreements**, calculated based on company practices or industry standards.
6. **Catch-All Compensation:** The Defendant is entitled to any additional financial benefits they would have received, including:
  - Any bonuses or payments tied to their position as an executive, employee, or department head.
  - Compensation tied to agreements or discretionary practices related to their role in the company.

182     **Application of the 2x Multiplier:** The **2x multiplier** applies to all damages awarded to the Defendant, reflecting the **additional harm** caused by the Plaintiff's fraudulent conduct and bad faith breach of contract. This multiplier compensates for the financial burden and stress imposed on the Defendant.

183     **Itemized Statement:** Plaintiff's counsel must submit a **detailed, itemized statement** of all payments, bonuses, and compensation amounts owed to the Defendant within **7 days** of this Order.

184     **Payment Deadline:** Both **Ohana Growth Partners** and **Miles & Stockbridge** must pay the full liquidated damages amount within **14 days** of the submission of the itemized statement.

185 The imposition of liquidated damages, subject to a multiplier, is supported by **Inlet Associates v. Harrison Inn Inlet, Inc.**, 324 Md. 254 (1991), in which the **Maryland Court of Appeals** recognized that sanctions should include full compensation for harm caused by **bad faith litigation**. The **2x multiplier** in this case further ensures that the Defendant is fully compensated for the harm caused by the **breach of contract** and **fraudulent conduct** of the Plaintiff.

**Legal Basis for Monetary Sanctions: Rule 11(b) and Maryland Rule 1-341**

186 The imposition of monetary sanctions is fully supported under **Rule 11(b)** of the **Federal Rules of Civil Procedure** and **Maryland Rule 1-341**, both of which authorize sanctions when filings are made in **bad faith**, **to harass**, or to **cause unnecessary delay**.

187 **Rule 11(b)** of the **Federal Rules of Civil Procedure** requires that parties avoid filings intended to harass or needlessly increase the cost of litigation. When a party knowingly pursues litigation with fraudulent claims or misuses the judicial process, **sanctions** such as punitive damages are appropriate.

188 **Maryland Rule 1-341** allows courts to award **reasonable attorney's fees and expenses** when a party has **acted in bad faith** or **without substantial justification**. In **Inlet Associates v. Harrison Inn Inlet, Inc.**, the Maryland Court of Appeals held that sanctions should be imposed when a party's bad faith litigation causes unnecessary expense to the opposing party.

189 These rules support both the punitive and liquidated damages requested by the Defendant. The **fraudulent actions** and **false submissions** made by the Plaintiff and their counsel have resulted in significant financial harm to the Defendant, and monetary sanctions are essential to compensate for these costs and deter future misconduct.

### Failure to Address Merits and Enhanced Damages

190 The Plaintiff's counsel, **Miles & Stockbridge**, deviated from their typical strategy of contesting substantive claims to minimize damages, as seen in cases such as **Streeter v. Walden University LLC** and **Claudio De Simone v. Alfasigma USA, Inc.** In those cases, **Robert Brennen** and the firm robustly defended against the claims, often securing favorable outcomes through procedural challenges. However, in the present case, the firm's failure to engage with the merits of the Defendant's claims suggests a **greater culpability** or acknowledgment of the validity of those claims.

191 This strategic shift mirrors the behavior identified in **Matsushita Elec. Indus. Co. v. Epstein**, 516 U.S. 367 (1996), where the U.S. Supreme Court noted that avoiding substantive defenses may indicate an **implicit concession**. Similarly, in **Schlumberger Techs., Inc. v. Swanson**, 959 F.2d 720 (8th Cir. 1992), the court emphasized that when a defense counsel avoids addressing substantive issues, it can signal **fault or acknowledgment of liability**, justifying **enhanced damages**.

192 The Defendant requests a **2x multiplier** on all liquidated damages to reflect this **greater culpability** and the harm caused by **Miles & Stockbridge's** strategic decisions.

### Conclusion: Monetary Sanctions Are Essential to Compensate the Defendant and Deter Future Misconduct

193 Monetary sanctions are essential to fully compensate the Defendant for the significant **legal fees, costs, and financial harm** caused by the Plaintiff's **fraudulent litigation and bad faith conduct**. The Plaintiff's misuse of the legal system, including **fraudulent filings, misrepresentation, and failure to engage with the case's merits**, warrants the imposition of both **punitive and liquidated damages**.

194 By imposing these monetary sanctions and a **2x multiplier** on liquidated damages, the Court ensures that the Defendant is fully compensated for the **financial burden** caused by the Plaintiff and their counsel. These sanctions also serve as a **deterrent** to prevent **Ohana Growth Partners** and **Miles & Stockbridge** from engaging in similar misconduct in the future.

### B Dismissal of Claims with Prejudice

195 Given the Plaintiff's misconduct and the fraudulent nature of this litigation, the Plaintiff's claims should be dismissed **with prejudice**. The record reflects a sustained misuse of the judicial process by the Plaintiff and their counsel, **Miles & Stockbridge**, aimed at retaliating against the Defendant, misleading the court, and evading legitimate legal outcomes. This litigation has not been pursued in good faith and has caused unnecessary harm to the Defendant, who has been subjected to baseless claims, fraudulent evidence, and intentional delays.

196 Dismissal with prejudice is a fitting remedy for these abuses because it not only terminates the Plaintiff's meritless claims but also prevents them from refileing or pursuing the same baseless allegations in the future. This sanction would serve to protect the integrity of the judicial process and deter the Plaintiff from further misconduct. Allowing this litigation to continue or permitting the Plaintiff to refile these claims would only compound the abuse of the judicial system that has already occurred.

### Basis for Dismissal with Prejudice

197 **Courts have the authority to dismiss a case with prejudice** when a party's conduct demonstrates willful bad faith, fraud, or an intent to manipulate the court. Such a dismissal is

considered an appropriate remedy in cases where the party's actions show a deliberate and egregious disregard for the rules of procedure and the integrity of the judicial system.

198 In **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991), the U.S. Supreme Court affirmed the inherent power of courts to issue sanctions, including dismissal with prejudice, when a party acts in bad faith or perpetrates fraud upon the court. Courts can impose this severe sanction when no lesser remedy would adequately address the harm caused by the party's misconduct. In this case, the Plaintiff's fraudulent submission of evidence, bad faith litigation tactics, and misuse of legal procedures to harass the Defendant all warrant the strongest available sanction—**dismissal with prejudice**.

199 Additionally, in **Shaffer v. Gilmer**, 61 Md. App. 585 (1985), the Maryland Court of Special Appeals recognized that dismissal with prejudice is justified when a party's conduct demonstrates intentional wrongdoing or a pattern of abusive litigation practices. The Plaintiff's actions in this case are precisely the kind of **willful misconduct** that justifies dismissal with prejudice, as they have repeatedly misled the court and used the judicial process to pursue a retaliatory and meritless lawsuit.

#### Further Considerations for Dismissal

200 The Plaintiff's continued pursuit of this baseless litigation, despite being aware that their claims lack factual and legal support, demonstrates a disregard for the court's resources and the Defendant's rights. Dismissal with prejudice would not only terminate the present lawsuit but also send a clear message that the judicial system cannot be used as a tool for retaliation or to mislead the court.



201 Courts, including in **Blake v. Blake**, 341 Md. 326 (1996), have stressed the importance of imposing meaningful sanctions to prevent the misuse of legal proceedings. A **dismissal with prejudice** serves as a strong deterrent against further abuse of process and ensures that the Plaintiff is held accountable for the harm their actions have caused.

#### Conclusion: Dismissal with Prejudice is Necessary and Just

202 The Plaintiff's bad faith actions, including the submission of **fraudulent evidence** and the pursuit of a **meritless lawsuit**, constitute a severe abuse of the judicial process. Dismissal with prejudice is the only appropriate sanction to address this misconduct, as it prevents further manipulation of the legal system and protects the Defendant from continued harassment.

203 By dismissing the claims with prejudice, the Court will ensure that the Plaintiff cannot refile these fraudulent claims and will affirm its commitment to maintaining the integrity of the judicial process. Given the egregious nature of the Plaintiff's conduct, no lesser sanction would suffice to rectify the harm caused or to prevent future abuses.

#### C Referral for Ethical Review

204 In light of the serious ethical violations committed by **Miles & Stockbridge**, this Honorable Court should refer the firm to the **Maryland State Bar** for **disciplinary action**. The firm's conduct in this case—including **falsifying evidence**, making **false statements to the court**, and engaging in a **conflict of interest**—constitutes a significant breach of the **Maryland Rules of Professional Conduct** and demands professional accountability. These actions undermine the integrity of the legal profession and warrant a formal review by the appropriate bar association.

205 A referral for ethical review is necessary to address the gravity of the misconduct. Attorneys are held to the highest standards of honesty, integrity, and professional responsibility, and **Miles & Stockbridge's** actions fall far short of these standards. Their behavior reflects not only a disregard for the rules governing attorney conduct but also a blatant attempt to manipulate the legal system for improper purposes. To maintain public confidence in the legal profession, these ethical violations must be thoroughly investigated and appropriately sanctioned.

#### Basis for Referral: Violations of Maryland Rules of Professional Conduct

206 **Miles & Stockbridge's** conduct in this case constitutes a violation of several critical rules under the **Maryland Rules of Professional Conduct**, specifically:

1. Rule 3.3(a) (Candor Toward the Tribunal): This rule imposes an obligation on attorneys to avoid making false statements of fact or law to the court or presenting fraudulent evidence. In this case, Miles & Stockbridge falsified email threads and knowingly submitted this false evidence to the court to secure an ex parte Temporary Restraining Order (TRO) under false pretenses. This egregious breach of the duty of candor is an ethical violation of the highest order and warrants disciplinary action.
2. Rule 1.7 (Conflict of Interest: Current Clients): This rule governs conflicts of interest and prohibits attorneys from representing a client when that representation involves a conflict that materially limits the attorney's ability to provide independent and ethical advice. Miles & Stockbridge engaged in a clear conflict of interest by pursuing a legally questionable and ethically compromised litigation strategy on behalf of Ohana Growth Partners, despite knowing that their continued representation created divided

loyalties. Such conflicts impair the attorney's ability to act solely in the client's best interests and undermine the fairness of the proceedings.

207 In **Attorney Grievance Commission of Maryland v. Stein**, 373 Md. 531 (2003), the **Court of Appeals of Maryland** emphasized that ethical violations, especially those involving conflicts of interest and the intentional presentation of false evidence, warrant strict disciplinary measures. The professional misconduct in this case rises to the level of requiring formal disciplinary review by the state bar.

#### Ethical Violations and the Necessity for Professional Discipline

208 Ethical violations of this magnitude require a referral to the appropriate regulatory body for investigation and potential sanctions. The **Maryland Rules of Professional Conduct** are designed to ensure that attorneys act with honesty and integrity, particularly in their dealings with the court. When attorneys breach these fundamental duties—as **Miles & Stockbridge** has done here—it compromises not only the immediate proceedings but also the broader trust in the legal profession.

209 The **Maryland Court of Appeals** has consistently held that violations of the duty of candor and conflicts of interest are among the most serious ethical breaches. In **Attorney Grievance Commission v. Vanderlinde**, 364 Md. 376 (2001), the court noted that “intentional dishonesty, fraud, deceit, or misrepresentation by an attorney is almost beyond excuse” and must be addressed through professional discipline. Similarly, conflicts of interest undermine the core principles of loyalty and independent judgment, which are essential to the practice of law.

210 By referring **Miles & Stockbridge** to the state bar for disciplinary action, the court ensures that these violations are subject to appropriate scrutiny and that the firm is held

accountable for its unethical conduct. This referral would serve as a deterrent to future misconduct and affirm the legal profession's commitment to maintaining the highest ethical standards.

#### Conclusion: Referral for Ethical Review is Necessary

211 **Miles & Stockbridge** has engaged in **serious ethical violations**, including the submission of **fraudulent evidence**, **misleading the court**, and acting with a clear **conflict of interest**. These actions violate **Rule 3.3(a)** and **Rule 1.7** of the **Maryland Rules of Professional Conduct** and have caused significant harm to the Defendant and the judicial process. The gravity of these violations requires a formal referral to the **Maryland State Bar** for disciplinary action.

212 The Defendant respectfully requests that this Honorable Court refer **Miles & Stockbridge** to the appropriate regulatory body to ensure that their conduct is investigated, and that necessary professional discipline is imposed. Such a referral is crucial not only to protect the integrity of these proceedings but also to maintain public trust in the legal system and the ethical standards governing attorneys.

#### D Referral to Attorney General Criminal Review

213 **Miles & Stockbridge** and their client may have violated several criminal statutes under Maryland law, including:

#### Violation of Maryland Personal Information Protection Act (PIPA), Md. Code Ann., Com. Law § 14-3503(a)

214 The Plaintiff's actions violate the **Maryland Personal Information Protection Act (PIPA), Md. Code Ann., Com. Law § 14-3503(a)**, which mandates that businesses implement

access controls to limit access to **personal information**, such as cardholder data, based on a legitimate **business need to know**. The Plaintiff sought to bypass **Payment Card Industry (PCI) Compliance** by granting access to sensitive information without providing a clear business justification, in direct violation of **PCI standards** and Maryland law. This reckless disregard for data protection protocols places cardholder information at risk and further evidences the Plaintiff's unlawful conduct in circumventing compliance requirements.

Perjury (Md. Code, Crim. Law § 9-101)

215 The Plaintiff and several of its executives, as alleged by the Defendant, made **false statements under oath** in their filings, constituting **perjury** under **Md. Code, Crim. Law § 9-101**. Perjury involves willfully making false statements under oath or submitting false affidavits to the court. The use of **fraudulent evidence** and **false affidavits** in this case is a direct violation of this statute. By knowingly filing false statements, **Miles & Stockbridge** and their client have attempted to deceive the court and mislead the judicial process, warranting potential **criminal charges** for perjury.

Fraud (Md. Code, Crim. Law § 8-301 and § 8-402)

216 The fraudulent activities involved in this litigation, including the **fabrication of email threads**, unauthorized use of the Defendant's name in official filings, and **falsified events** to cover up illegal financial activities, constitute **felony fraud** under **Md. Code, Crim. Law § 8-301** and **§ 8-402**. Fraud is defined as knowingly and willfully deceiving another party for personal or financial gain. The fabricated evidence used to file a **fraudulent lawsuit** against the Defendant and tamper with official records is sufficient grounds for criminal charges. These

actions not only harmed the Defendant but also corrupted the legal process, warranting criminal investigation.

Conspiracy (Md. Code, Crim. Law § 9-802)

217 The coordination between multiple parties to fabricate events, falsify evidence, and retaliate against the Defendant suggests a **criminal conspiracy** under **Md. Code, Crim. Law § 9-802**. Conspiracy occurs when two or more parties collaborate to commit an unlawful act or to achieve a lawful result through unlawful means. In this case, the Plaintiff, alongside **Miles & Stockbridge**, engaged in a conspiracy to commit **fraud, identity theft, and harassment** against the Defendant. These coordinated actions, designed to obstruct the Defendant's legal rights and cover up financial misconduct, meet the legal threshold for **criminal conspiracy**.

Obstruction of Justice (Md. Code, Crim. Law § 9-306)

218 The Plaintiff and their legal representatives may also be guilty of **obstruction of justice** under **Md. Code, Crim. Law § 9-306** for tampering with financial records, filing **fraudulent lawsuits**, and interfering with the Defendant's ability to bring legal action. Obstruction of justice involves any act that impedes the proper administration of law, such as falsifying evidence, misleading the court, or attempting to prevent the whistleblower from exposing unlawful activities. In this case, the Plaintiff's intentional manipulation of records and legal proceedings is a direct violation of this statute and should be subject to criminal penalties.

Reckless Endangerment (Md. Code, Crim. Law § 3-204)

219 The Plaintiff's escalating harassment and retaliatory actions, which contributed to the onset of the Defendant's life-threatening condition of **catatonia**, constitute **reckless**

**endangerment** under **Md. Code, Crim. Law § 3-204**. Reckless endangerment occurs when a person's actions create a substantial risk of serious physical harm to another individual. The extreme stress and mental anguish caused by years of retaliatory litigation and harassment placed the Defendant's health in serious jeopardy. This deliberate disregard for the Defendant's well-being, despite knowing the potential harm, warrants criminal review for **reckless endangerment**.

#### Criminal Negligence (Common Law)

220 The employer's ongoing retaliation, including **gender-based harassment**, violations of the **Family and Medical Leave Act (FMLA)**, and repeated hostile actions, demonstrates a pattern of **criminal negligence** under Maryland common law. Criminal negligence involves a failure to exercise the care that a reasonably prudent person would under similar circumstances, leading to serious harm. In this case, the Plaintiff's continuous acts of retaliation resulted in both physical and emotional harm to the Defendant, contributing to the development of a severe medical condition. The **criminal negligence** displayed by the Plaintiff and **Miles & Stockbridge** merits a thorough investigation to determine if further charges should be pursued.

#### Justification for Criminal Review: Protection of Legal Process and Public Safety

221 The extreme actions taken by **Miles & Stockbridge**—including falsifying documents, filing **fraudulent lawsuits**, obstructing justice, and endangering the health and safety of the Defendant—are not simply unethical; they are **potentially criminal**. The **Maryland Attorney General's Office** is well-equipped to investigate these serious violations and determine whether criminal charges are appropriate.

222 In **Chambers v. NASCO, Inc.**, 501 U.S. 32 (1991), the U.S. Supreme Court affirmed the importance of criminal referrals when a party's conduct violates the law and undermines the judicial process. The fraudulent and reckless actions by **Miles & Stockbridge** have done just that—undermining the integrity of this court and causing severe harm to the Defendant. A criminal review is not only justified but necessary to ensure that such conduct is punished and prevented in the future.

#### Conclusion: Referral for Attorney General Criminal Review is Essential

223 The misconduct of **Miles & Stockbridge**—including **perjury, fraud, conspiracy, reckless endangerment, and criminal negligence**—warrants a comprehensive criminal investigation by the **Maryland Attorney General's Office**. These actions are not simply unethical but may rise to the level of **criminal offenses** under Maryland law. The Defendant respectfully requests that this Honorable Court refer **Miles & Stockbridge** and the Plaintiff for **criminal review** to ensure that their actions are investigated and prosecuted to the fullest extent of the law.

224 Such a referral is critical not only to protect the integrity of the judicial system but also to hold accountable those who endanger the lives and rights of others through fraudulent and criminal conduct.

#### E Disqualification of Counsel

225 **Miles & Stockbridge** must be **disqualified** from representing **Ohana Growth Partners** in this matter due to their clear **conflict of interest** and their **fraudulent misrepresentation** of facts before the Court. Their continued involvement in the case has compromised the fairness



and integrity of the proceedings. Disqualification should come with a **prohibition from further participation** in this case to prevent additional harm to the judicial process and the Defendant.

226 The firm's ongoing representation of Ohana Growth Partners has been tainted by unethical conduct, including falsifying evidence and misleading the Court. Their actions have not only violated ethical standards but also created an untenable position where they cannot provide independent and competent representation. Allowing them to continue would perpetuate these violations and further undermine the proceedings.

**Basis for Disqualification: Rules 1.7 and 3.3 of the Maryland Rules of Professional Conduct**

227 Disqualification is warranted under the **Maryland Rules of Professional Conduct**, specifically:

- **Rule 1.7 (Conflict of Interest):** The clear conflict of interest exhibited by **Miles & Stockbridge** makes it impossible for them to offer impartial and competent legal representation. Their divided loyalties have compromised their ability to act solely in the best interest of **Ohana Growth Partners**, creating a situation where their participation in the case is ethically untenable.
- **Rule 3.3 (Candor Toward the Tribunal):** **Miles & Stockbridge** has violated this rule by submitting **false statements** and **fraudulent evidence** to the Court, including falsified email threads used to obtain an **ex parte Temporary Restraining Order (TRO)**. This breach of their duty of candor constitutes **fraud upon the court** and necessitates their disqualification to preserve the fairness of the proceedings.

228 In addition to these ethical violations, **fraud upon the court** in securing the TRO further underscores the need for disqualification. When a party has engaged in fraudulent conduct that misleads the court and compromises the legal process, continued representation is not only inappropriate but harmful to the integrity of the judiciary. Disqualifying **Miles & Stockbridge** ensures that the legal proceedings can continue without further ethical violations or manipulation.

## V CONCLUSION

229 **WHEREAS**, the Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge, have engaged in repeated acts of bad faith, procedural abuse, and misrepresentation throughout this litigation, including but not limited to:

1. **Falsely claiming** that the Defendant, **Ryan Dillon-Capps**, refused to provide access to the Global Administrator account, despite an agreement being reached and intentionally prevented from being fulfilled by the Plaintiff and their representatives;
2. Filing and enforcing a **fraudulently obtained Temporary Restraining Order (TRO)** without providing the requisite notice and by using an email address that the Defendant was prohibited from accessing;
3. **Manipulating procedural rules**, misleading the Court regarding due process, and obtaining contempt orders and enforcement actions based on **fraudulent filings** and false narratives.
4. Failing to honor procedural safeguards provided by **Md. R. Civ. P. Cir. Ct. 2-322** and similar rules, all in an effort to harass and burden the Defendant, delay the

resolution of this case, and perpetuate a **baseless lawsuit** with no particularized harm or risk caused by the Defendant.

**230 WHEREAS**, Plaintiff and Miles & Stockbridge have further acted in concert as co-conspirators in perpetuating this false narrative, misleading the Court, and misusing judicial resources in violation of the Defendant's rights and due process protections;

**231 WHEREAS**, Plaintiff and their counsel's actions have had a direct and negative impact on the Defendant's ability to pursue litigation and have imposed undue emotional, financial, and psychological harm, particularly given the Defendant's protected status under the Americans with Disabilities Act (ADA) and ongoing medical needs;

**232 WHEREAS**, the Court has both the authority and duty to prevent abuse of process, sanction misconduct, and ensure fairness and integrity in the judicial process, including dismissing frivolous claims, awarding monetary damages, and referring unethical conduct for further investigation;

**233 THEREFORE**, the Defendant, Ryan Dillon-Capps, respectfully requests that this Court issue the following sanctions against the Plaintiff, Ohana Growth Partners, and their counsel, Miles & Stockbridge:

**Monetary Sanctions:**

**234** Both Plaintiff and **Miles & Stockbridge** should be ordered to compensate the Defendant for all **legal fees and costs** incurred due to their **bad faith litigation**, beginning from **June 14, 2024**, until the cessation of their perpetuation of the **false narrative**. Additionally, an award should be made reflecting the damages caused by the **fraudulent TRO enforcement** and misuse of judicial resources, as detailed in the affidavit.

### Dismissal of Claims with Prejudice

235 The Court should **dismiss all of the Plaintiff's claims with prejudice**, as they are based on knowingly **false assertions**, lack of particularized harm, and **continued bad faith** in the litigation process. Such dismissal is warranted as the Plaintiff's actions demonstrate a clear intent to **misuse the judicial process** for improper purposes.

### Referral for Ethical Review

236 The Court should refer Miles & Stockbridge, including Holly Butler, Steven D. Frenkil, Robert Brennen, Victoria Hoffberger, and Jessica L. Duvall, for ethical review by the appropriate state bar association. Their participation in presenting fraudulent evidence, misrepresenting facts, and misleading the Court constitutes violations of the Maryland Rules of Professional Conduct, and such conduct must be investigated and appropriately sanctioned.

### Referral for Criminal Review:

237 Given the serious nature of the false representations made to the Court, the fraudulent creation of email threads, and the intentional submission of falsified evidence, the Court should refer Miles & Stockbridge and Ohana Growth Partners for criminal review. Their actions may constitute fraud upon the court and other potential criminal violations, including obstruction of justice and perjury, for which appropriate legal remedies should be pursued.

### Disqualification of Counsel:

238 **Miles & Stockbridge** should be **disqualified** from representing **Ohana Growth Partners** in this case and any future litigation due to their **conflict of interest** and their participation in **fraudulent and unethical conduct**. Their continued involvement undermines the fairness and integrity of these proceedings.

Vacate Default Order:

239 It is illogical to believe that preliminary motions are limited solely to addressing the lead document, particularly when the case is attached to an injunction, with a show cause order serving as enforcement of that injunction. **Md. R. Civ. P. Cir. Ct. 2-322** exists for the purpose of addressing legal issues in the preliminary phase of the proceedings. Arguing that **Rule 2-322** applies only to documents that do not form the basis of the proceedings is an invalid interpretation. Moreover, the order to vacate offers no viable relief, as **Ohana Growth Partners'** claim lacks particularized harm and fails to explain how **Ryan Dillon-Capps** would be the cause of any such harm.

240 Additionally, the Plaintiff has pursued this case with **unclean hands**, employing **estoppel** in an attempt to fabricate a legal basis for their claims. Their effort to set up **Dillon-Capps** was futile, as **Justin Drummond** accepted an agreement and made an accord on **June 7, 2024**. Their actions on **June 13, 2024** demonstrate that they conspired to frame the Defendant and subsequently misled the Court. The entire case is based on fraudulent claims, lacks merit, and should not be allowed to continue.

Conclusion Summary

241 The **Court** is asked to exercise its power to **sanction** to protect and **penalize** for relief and deterrence. **Plaintiff** and their **counsel, Miles & Stockbridge**, for their **fraudulent actions, misuse of judicial resources**, and continued bad faith in the pursuit of a **meritless lawsuit**. Given the **ongoing harm** to the Defendant, as well as the significant **ethical and procedural violations**, the requested sanctions will ensure **fairness** and protect the **integrity of the judicial process** moving forward.



RESPECTFULLY SUBMITTED,

September 27, 2024

/s/ Ryan Dillon-Capps  
Ryan Dillon-Capps (Pro Se)  
Email: ryan@mxt3.com  
1334 Maple Avenue  
Essex, Maryland 21221  
Telephone: (703) 303-1113

Certificate Of Service

I HEREBY CERTIFY that on September 27, 2024, a copy of the **Motion for Sanctions** was sent via email to rbrennen@milesstockbridge.com and served on via first-class mail, postage prepaid on:

Robert S. Brennen  
Miles & Stockbridge P.C.  
100 Light Street  
Baltimore, Maryland 21202

/s/Ryan Dillon-Capps  
Ryan Dillon-Capps (Pro Se)

<b>OHANA GROWTH PARTNERS, LLC</b>  <i>Plaintiff,</i>  vs.  <b>RYAN DILLON-CAPPS</b>  <i>Defendant.</i>	<b>IN THE</b>  <b>CIRCUIT COURT</b>  <b>FOR</b>  <b>BALTIMORE COUNTY</b>  <b>CASE NO: C-03-CV-24-002264</b>
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**REPLY TO OPPOSITION TO DEFENDANT’S MOTION FOR EXPEDITED DISCOVERY**

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Defendant, Ryan Dillon-Capps (“Defendant” or “Dillon-Capps” or “RDC”), hereby replies to the Plaintiff Opposition to the Defendant’s Motion for Expedited Discovery (the “Opposition”) filed by Miles & Stockbridge, PC (“M&S”) on behalf of the Plaintiff, Ohana Growth Partners, LLC (“Ohana” or “OGP”) and states as follows:

**I INCORPORATED HEREIN**

1 Ryan Dillon-Capps incorporates and adopts by reference all factual averments, arguments, and documents contained in all of the Defendant’s motions, affidavits, petitions, notices, amendments, exhibits, and other papers filed or submitted in this case, regardless of their current status (pending, denied, granted, or otherwise), pursuant to Md. Rule 2-303(d) (“Statements in a pleading or other paper of record may be adopted by reference in a different part of the same pleading or paper of record or in another pleading or paper of record.”). This incorporation includes, but is not limited to, any filings made contemporaneously with or subsequent to this motion, ensuring that all submissions are considered as part of the record for purposes of this proceeding, in real time.



2      **3 Reservation of Rights:** The Defendant reserves the right to amend, withdraw, or  
exclude any specific filing, document, or factual averment from this comprehensive  
incorporation at any point, by submitting a formal notice or motion to the Court.

## II INTRODUCTION

3      Since the commencement of this matter on June 14, 2024, Ohana and M&S have pursued  
a lawsuit which the U.S. Supreme Court and MD Appellate courts would deny the claim of  
equitable injunctive relief for. Richard Hartman's tells the court in his Affidavit from June 14,  
2024, on page 4:

"Dillon-Capps claimed that Ohana's efforts to regain control of its own systems, MS 365 Account somehow amounts to retaliation against Dillon-Capps <b>for requesting family and medical leave</b> "
--

4      The Plaintiff's Opposition to Defendant's Motion for Expedited Discovery is cut from the  
same cloth. In it Ohana asks the Court to forget that this is still a lawsuit to which relief can not  
be granted under the "unclean hands Doctrine," and nothing in the Opposition presents  
arguments to establish a lawful basis for this lawsuit.

5      The only causes of action pending before the Court in this matter are as follows:

1.      Add Steven Frenkil as counsel on record, Frenkil, has been listed in the system as  
a contact for the lawsuit since the commencement of action, included on all  
communications between parties, and was named as a representative in negotiations.
2.      Add Holly Butler as counsel on record, Butler has been representing Ohana in  
opposition to RDC since December 2023 under the false pretense of performing a Fraud  
Investigation.

3. Impose Sanctions on Ohana and M&S, their pursuit of the baseless claim has included fraud, abuse of the judicial system, obstruction, conspiracy to commit fraud, filing perjured statements, and several more reasons for sanctions.

4. Disqualify M&S and bar them from ever representing Ohana or representing any party in litigation where Dillon-Capps is involved.

5. Forward court findings to the BAR for review of M&S.

6. Dismiss the lawsuit with Perjury and bar any party from engaging in another frivolous lawsuit from the events leading up to or since the commencement of action.

7. Grand reciprocal relief that includes reciprocal relief that they were seeking as their costs and the \$2500 per day fine in reciprocal relief that was being imposed on an individual per day basis against an invalid claim for relief that was ruled on in the same hearings that the Supremacy Clause was dismissed and arguments to it were prohibited.

6 Miles & Stockbridge is correct that a baseless lawsuit is one defined by a lawsuit to which there can be no relief granted. Yet, it is still being pursued after 4 months, and it is frustrating that 15 years of work has been irrevocably damaged, Dillon-Capps has been irrevocably harmed physically and financially, and the pursuit of the lawsuit continues to incur additional emotional, physical, and financial harm to the Defendant.

7 The U.S. Supreme Court and the Maryland Appellate Courts agree with the Defenses position that this lawsuit is beneath consideration, worthless, and those individuals involved are deserving of scorn because they have ruled time and time again for over 70 years that there can be no equitable relief of any kind, including injunctive relief, for those who come with unclean hands.

### III NO BASIS FOR LAWSUIT

#### FMLA LAW

8 Under **29 U.S.C. § 2615(a)(1)**, it is unlawful for any employer to "interfere with, restrain, or deny the exercise of or the attempt to exercise" any FMLA rights. This means that employers are prohibited from interrupting or denying an employee's FMLA leave once it is granted.

9 **29 C.F.R. § 825.220** reinforces this, stating that employers cannot interfere with, restrain, or deny employees the rights provided by FMLA. Any effort to discourage an employee from using FMLA leave also constitutes interference.

10 **29 U.S.C. § 2615(a)(2)** specifically prohibits employers from retaliating against employees for taking FMLA leave. This includes actions such as demotion, job elimination, or imposing excessive work expectations during or immediately following FMLA leave

#### UNCLEAN HANDS DOCTRINE

11 Under the "unclean hands" doctrine, the **affidavit containing the admission of violating FMLA leave rights** effectively bars **Ohana Growth Partners, LLC** from obtaining relief. This doctrine prohibits any party from seeking **equitable relief** if they have engaged in fraudulent or bad-faith conduct related to the issue at hand.

12 *Keystone Driller Co. v. General Excavator Co.*, 290 U.S. 240 (1933):

The U.S. Supreme Court held that a party seeking relief in equity must come with "clean hands." In this case, Keystone's prior misconduct related to suppressing evidence affected the equitable relief sought, and the court denied the claim. More Specifically, the U.S. Supreme Court **denied INJUNCTIVE RELIEF** because of unclean hands.

**Opinion by Justice George Sutherland:**

- *“The equitable powers of this court can never be exerted on behalf of one who has acted fraudulently, or who by deceit or any unfair means has gained an advantage.*
- *“He who comes into equity must come with clean hands, or he will be denied relief.”*

13 Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co., 324 U.S. 806 (1945):

The Supreme Court reaffirmed that a party with unclean hands should not be entitled to equitable relief. Precision Instrument’s fraudulent conduct regarding patents barred them from enforcing the patents. Once again, the form of relief denied was **INJUNCTIVE RELIEF** and they were denied because of unclean hands.

**Opinion by Justice Hugo Black:**

- *“A court of equity acts only when and as conscience commands; and if the conduct of the plaintiff be offensive to the dictates of natural justice, then whatever may be the rights he possesses and however unqualified may be the right asserted by him, he will be held remediless in a court of equity.”*
- *“The equitable powers of the court can never be exerted in behalf of one who has acted fraudulently or in bad faith relative to the matter in which he seeks relief.”*

14 Smith v. Cessna Aircraft Co., 124 F.3d 1419 (11th Cir. 1997):

This case emphasized that the unclean hands doctrine is a defense to both equitable and certain legal claims if the plaintiff’s conduct is directly related to the subject of the lawsuit. The 11<sup>th</sup>

Circuit Court of Appeals went so far as to explicitly say that **INJUNCTIVE RELIEF** is a form of equitable remedy, and unclean hands is grounds for denying this relief.

**Opinion by Judge Gerald Bard Tjoflat:**

- *“The doctrine of unclean hands precludes a plaintiff from obtaining relief in equity if the plaintiff's own conduct has been inequitable.”*
- *“Injunctive relief is an equitable remedy, and the court will deny such relief to parties with unclean hands.”*

**SUPREMACY CLAUSE**

15     **Federal courts** hold supremacy in interpreting **federal law** and the **U.S. Constitution**, which state courts are bound to follow under the **Supremacy Clause** of the **U.S. Constitution** (Article VI, Clause 2).

16     **U.S. Constitution, Article VI, Clause 2 (Supremacy Clause):**

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

17     This clause establishes that **federal law is supreme** over conflicting state laws, and state courts must follow federal law when applicable.

18     **Martin v. Hunter’s Lessee, 14 U.S. 304 (1816):**

The **U.S. Supreme Court**, in an opinion by **Justice Joseph Story**, held that **state courts** are obligated to follow the decisions of the **U.S. Supreme Court** on matters of federal law. The ruling reinforced the principle that state courts are part of the federal judicial system when interpreting federal laws.

**Opinion of Justice Joseph Story:**

- *“The Constitution of the United States was designed for the common and equal benefit of all the people of the United States; and ... the judicial power was granted for the same benign and salutary purposes.”*

19     **Cooper v. Aaron, 358 U.S. 1 (1958):**

The **U.S. Supreme Court** reaffirmed the supremacy of federal law over state law, stating that **state courts** and officials are bound by the Court’s interpretation of the Constitution.

**Per Curiam Opinion:**

*“Article VI of the Constitution makes the Constitution the ‘supreme Law of the Land.’ In 1803, Chief Justice Marshall, speaking for a unanimous Court, referring to the Constitution as ‘the fundamental and paramount law of the nation,’ declared in **Marbury v. Madison** that ‘It is emphatically the province and duty of the judicial department to say what the law is.’”*

**MARYLAND APPELLATE COURT**

20     **However**, more than four months have passed, during which time **permanent physical harm** and **financial default** have occurred—actions taken in direct **defiance of the Supremacy Clause**.

21     **Manown v. Adams, 328 Md. 463, 615 A.2d 611 (1992):**

In this case, the court stressed that the unclean hands doctrine is meant to protect the judiciary, not the parties involved. The court stated:

Opinion of Judge Eldridge: *“The doctrine is not for the protection of the parties to a lawsuit, but rather, for the protection of the courts... judicial integrity is endangered when judicial powers are interposed to aid persons whose very presence before a court is the result of some fraud or inequity.”*

22 Hicks v. Gilbert, 135 Md. App. 394, 762 A.2d 986 (2000):

The court affirmed the application of the unclean hand’s doctrine, explaining that:

Opinion of Judge Eyler: *“The doctrine refuses to recognize or provide relief from the court for those guilty of unlawful or inequitable conduct pertaining to the matter in which relief is sought.”*

23 In re Estate of Robert H. Watkins, Jr., No. 2612, 2019 Md. App.:

Five years ago - **Judge Eyler**, supported the **Chief Judge of the Orphans’ Court, Judge Cartwright**, decision to deny injunctive relief because of unclean hands.

#### FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

24 Under **Maryland Rule 2-322(b)(2)** and **Federal Rule of Civil Procedure 12(b)(6)**, a case must be dismissed if the plaintiff fails to state a claim for which relief can be granted. This means the complaint must include sufficient factual allegations to support the legal claim.

Simply put, if the plaintiff’s complaint does not state a valid legal claim, the case cannot proceed.

25 **Maryland Case Law: Hoffman v. Stamper**, 385 Md. 1, 867 A.2d 276 (2005): The Maryland Court of Appeals reinforced the importance of alleging sufficient facts to support a

cause of action. If a plaintiff fails to provide enough detail in the allegations to support the claim, the case is subject to dismissal under Rule 2-322.

26     **Federal Case Law: Ashcroft v. Iqbal**, 556 U.S. 662 (2009): The U.S. Supreme Court held that a plaintiff must state a "plausible claim for relief" based on facts, not mere legal conclusions. The Court emphasized that a complaint must include enough facts to raise the right to relief above the speculative level.

27     **Bell Atlantic Corp. v. Twombly**, 550 U.S. 544 (2007): The Court held that mere conclusory statements or speculative claims are insufficient to survive a Rule 12(b)(6) motion. The complaint must include factual content that makes the claim for relief plausible on its face.

### LACK OF LEGAL STANDING

28     **Standing** is a constitutional requirement that ensures a party has a legitimate interest in the case. Without standing, the court lacks jurisdiction, and the case must be dismissed. The plaintiff must show an actual injury that is concrete, traceable to the defendant's actions, and likely to be redressed by the court.

29     **Maryland Case Law: Sugarloaf Citizens Ass'n, Inc. v. Dep't of Env't**, 344 Md. 271, 686 A.2d 605 (1996): The Maryland Court of Appeals reiterated the importance of standing, noting that a plaintiff must have a direct, personal stake in the outcome of the litigation to proceed with the claim.

30     **Federal Case Law: Lujan v. Defenders of Wildlife**, 504 U.S. 555 (1992): The U.S. Supreme Court outlined the elements of standing—injury in fact, causation, and redressability. If



a plaintiff cannot establish standing, the court is compelled to dismiss the claim, as it lacks subject matter jurisdiction.

### NO CLAIM FOR RELIEF WITHOUT LEGAL BASIS

31 A **claim must rest on a valid legal basis**, whether rooted in statutory law, common law, or constitutional law. If no recognized cause of action supports the claim, it must be dismissed.

32 **Maryland Case Law: Shenker v. Laureate Educ., Inc.**, 411 Md. 317, 983 A.2d 408 (2009): The Maryland Court of Appeals dismissed a claim where the plaintiffs failed to allege sufficient facts to support a recognized cause of action. The court noted that a valid legal theory must support the claim for it to proceed.

33 **Federal Case Law:**

1. **Conley v. Gibson**, 355 U.S. 41 (1957): Although later refined by **Twombly**, this case originally stated that a complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim that would entitle them to relief. This principle remains a cornerstone of pleading standards.

2. **Twombly**, 550 U.S. 544 (2007): Reinforced that speculative claims without a legal basis should be dismissed at the pleading stage.

### LACK OF JURISDICTION

34 Courts require **subject matter jurisdiction** to hear a case. If the court lacks jurisdiction, either because the claim falls outside its authority or the plaintiff lacks standing, it cannot provide relief. This is true at both state and federal levels.

35      **Maryland Case Law: Thana v. Bd. of License Comm'rs for Charles Cnty., Md.**, 226 Md. App. 555, 130 A.3d 669 (2016): The Maryland Court of Special Appeals held that a court must dismiss a case if it lacks jurisdiction, as it cannot grant relief on matters outside its authority.

**Federal Case Law: Steel Co. v. Citizens for a Better Environment**, 523 U.S. 83 (1998): The U.S. Supreme Court held that courts must resolve jurisdictional questions before proceeding to the merits of a case. Without jurisdiction, the court cannot grant any form of relief.

#### IV FAILURE OF LEGAL OBLIGATIONS

36      The case at hand reveals a persistent failure by **Ohana Growth Partners, LLC** to meet their legal obligations under both federal and state law, as well as industry-specific regulations. These failures are central to the claim that **Ohana Growth Partners** comes before this court with **unclean hands**, rendering their entire lawsuit **frivolous** and **illegitimate**. Both the **Affidavit of Legal Obligations** and the **Affidavit of Bad Faith**, along with their supporting exhibits, detail the extent to which Ohana has engaged in unethical, fraudulent, and retaliatory actions that undermine their standing to seek any form of relief in this litigation. These failures demonstrate clear violations of **PCI DSS compliance**, **federal data protection laws**, **state consumer protection statutes**, and contractual obligations, all of which have been willfully disregarded in a scheme to harass and retaliate against the defendant.

#### VIOLATIONS OF PCI DSS COMPLIANCE

37 As outlined in the **Affidavit of Legal Obligations**, Ohana Growth Partners' failure to adhere to **PCI DSS v4.0 standards** is egregious and intentional. **PCI DSS** mandates strict compliance with several core requirements, including but not limited to:

1. **Requirement 7:** Least privilege access controls—ensuring that individuals only have the access necessary for their role.
2. **Requirement 10:** Logging and monitoring access to systems to prevent unauthorized modifications and security breaches.

38 The affidavit confirms that Ohana knowingly violated these requirements by failing to implement **proper access controls** and by allowing unauthorized individuals to access critical systems. These lapses exposed the company to potential data breaches, putting consumers' sensitive payment information at risk. Under **Maryland's Personal Information Protection Act (PIPA)** (Md. Code Ann. Com. Law § 14-3503(a)), businesses are legally obligated to secure personal data. **Ohana's disregard for these obligations** not only violates PCI DSS but also Maryland state law, further disqualifying them from seeking any relief based on equitable grounds.

#### UNLAWFUL DELEGATION OF ROLES AND SECURITY MISMANAGEMENT

39 The **Affidavit of Bad Faith** highlights specific instances where **Glenn Norris, Ryan Brooks**, and **Richard Hartman** unlawfully delegated critical IT security roles without following established security protocols. These actions not only breached internal policies but violated **Maryland Criminal Law § 7-302(c)**, which prohibits the misuse of authorized access to computer systems. Ohana Growth Partners' management knowingly violated these laws by

refusing to provide clear instructions or justification for accessing key systems, all while retaliating against the defendant for upholding proper security standards.

40 Such blatant disregard for **least privilege principles** and unauthorized access to critical systems directly violated state and federal laws, including the **Computer Fraud and Abuse Act (CFAA)** and the **Gramm-Leach-Bliley Act (GLBA)**. This misconduct clearly demonstrates **unclean hands**, making any injunctive relief obtained by Ohana Growth Partners inherently unjust and void.

#### BREACH OF CONTRACT AND FAILURE TO COMPLY WITH LEGAL OBLIGATIONS

41 The **Affidavit of Legal Obligations** and **Affidavit of Bad Faith** provide ample evidence that **Ohana Growth Partners** has continuously failed to meet their **contractual obligations**, specifically under the **Franchise Disclosure Documents (FDD)** and other legally binding agreements. The affidavits show how **PCI DSS v4 compliance requirements** were willfully ignored, placing the company in breach of both federal and state laws regarding data security.

42 Moreover, **Ohana's claim for injunctive relief** is based on incomplete and fraudulent documentation. As the affidavits note, the **contract presented by Ohana is missing critical sections**, rendering it unenforceable under **Maryland contract law**. Without a valid contract or evidence of actual harm, **Ohana's lawsuit has no merit** and was initiated in bad faith.

#### RETALIATION AND ABUSE OF PROCESS

43 Both affidavits make clear that this lawsuit is not about protecting legitimate business interests but is part of a sustained effort to **retaliate** against the defendant for exposing

accounting irregularities and security violations. **Richard Hartman** and **Glenn Norris**'s actions, detailed in the affidavits, show a pattern of retaliation following the defendant's **FMLA leave**, in direct violation of federal law (**29 U.S.C. § 2615(a)(2)**) and Maryland state law.

44 **Ohana Growth Partners** has used the court system as a tool of harassment, engaging in **bad faith litigation** without substantial justification. As noted in **Garcia v. Folger Pratt Development, Inc.**, 155 Md. App. 634, 678 (2004), bad faith exists where a party litigates for the purpose of harassment or delay. Ohana's behavior falls squarely within this definition, as their claims are not only unsupported by the facts but are also contradicted by their own documentation and the testimony of their representatives.

#### WHISLEBLOWER AND THE UNCLEAN HANDS DOCTRINE

45 The **unclean hands doctrine** is a well-established principle in both Maryland and federal courts, preventing a party from seeking relief when they have acted unethically or in bad faith. In **Manown v. Adams**, 328 Md. 463 (1992), the Maryland Court of Appeals affirmed that equitable relief is barred when the party seeking it has engaged in fraudulent or improper conduct related to the case. **Ohana's actions**—including their failure to comply with **PCI DSS**, misrepresentation of facts to the court, and retaliation against a whistleblower—clearly demonstrate **unclean hands**.

46 Similarly, in **Keystone Driller Co. v. General Excavator Co.**, 290 U.S. 240 (1933), the U.S. Supreme Court held that **injunctive relief** is not available to a party who has acted fraudulently. Ohana's entire lawsuit is based on misrepresentations, and their failure to disclose

material facts regarding **administrative control and access to critical systems** invalidates any claim for injunctive relief.

### MARYLAND CRIMINAL LAW VIOLATIONS

47 In addition to the egregious violations of **PCI DSS standards** and federal laws, **Ohana Growth Partners, LLC** and its representatives have breached multiple **Maryland state laws**, further supporting the argument for dismissal and severe sanctions. These violations extend beyond security failures, involving **fraudulent practices, misrepresentation**, and the deliberate obstruction of legal and regulatory compliance efforts. The following Maryland laws provide clear legal grounds for criminal liability and civil penalties, while also reinforcing the application of the **unclean hands doctrine** to disqualify Ohana from seeking relief.

### FAILURE TO IMPLEMENT REASONABLE SECURITY PROCEDURES (MD. CODE, COM. § 14-3503(B))

48 Under **Md. Code, Com. § 14-3503(b)**, businesses in Maryland are required to implement and maintain reasonable security procedures to protect the personal information of their clients and customers. For companies like **Ohana Growth Partners**, this obligation specifically includes adherence to **PCI DSS v4** standards, which are industry-mandated regulations for safeguarding cardholder data. Despite these legal obligations, Ohana knowingly and willfully violated critical **PCI DSS requirements**, failing to secure sensitive data, allowing unauthorized system access, and refusing to maintain proper security protocols.

49 **Violation:** Ohana's failure to implement reasonable security measures as required by § 14-3503(b) places them in direct violation of Maryland law. The company's failure to secure personal information and protect it against unauthorized access underscores their **unclean hands**

in this litigation. Their persistent refusal to comply with security requirements makes their entire lawsuit **frivolous** and **malicious**, further justifying **dismissal with prejudice** and severe **sanctions**.

**DECEPTIVE TRADE PRACTICES – MISREPRESENTATION OF COMPLIANCE (MD. CODE, COM. § 13-301(9))**

50 **Md. Code, Com. § 13-301(9)** prohibits **deceptive trade practices**, which include making false or misleading statements about compliance with legal or industry standards. Ohana Growth Partners has engaged in exactly this type of deception by **falsely claiming compliance with PCI DSS standards** while simultaneously demanding actions that directly **violate those standards**. By requiring system administrators to implement security practices that contradict established PCI DSS protocols, Ohana misrepresented their compliance with critical data protection regulations.

51 Ohana's conduct constitutes a clear violation of **§ 13-301(9)** by falsely representing their adherence to PCI DSS while engaging in practices that undermine those very standards. These deceptive practices further support the application of the **unclean hands doctrine**, as Ohana has not only misled the court but has also engaged in fraud against regulators and the public. This deceitful conduct provides further grounds for **dismissal** and **sanctions**, including referral for civil penalties under Maryland consumer protection laws.

**EXCEEDING AUTHORIZED ACCESS TO COMPUTER SYSTEMS (MD. CODE ANN., CRIM. LAW § 7-302)**

52 **Md. Code Ann., Crim. Law § 7-302** prohibits accessing or using computer systems beyond the scope of one's authorized access, particularly when done to facilitate fraud or obstruct compliance. While **Glenn Norris** and **Ryan Brooks** maintain **ownership** of Ohana

Growth Partners, this ownership does not grant them the right to override security protocols or engage in actions that **violate legal obligations**. Norris's refusal to answer direct questions about requested system access, and his deliberate interference with compliance efforts, made it legally impossible for Ohana Growth Partners to meet PCI DSS requirements. This conduct violates § 7-302 by exceeding authorized access for fraudulent purposes.

53 By knowingly exceeding authorized access and preventing the company from complying with PCI DSS standards, **Glenn Norris and Ryan Brooks** violated **Md. Code Ann., Crim. Law § 7-302**. Their actions not only undermine the integrity of the business's security systems but also represent a breach of **criminal law**. These actions reinforce Ohana's **unclean hands**, supporting the argument that the court should **dismiss this case with prejudice**, impose **severe sanctions**, and refer the matter to law enforcement for potential criminal prosecution.

#### CONCLUSION: SYSTEMIC VIOLATIONS OF MARYLAND LAW

54 The actions of Ohana Growth Partners, LLC, particularly involving unauthorized access, misrepresentation, and failure to comply with mandated security standards, represent systemic violations of Maryland criminal and consumer protection laws. Their conduct breaches Md. Code, Com. §§ 14-3503(b) and 13-301(9), as well as Md. Code Ann., Crim. Law § 7-302, by exceeding authorized access for fraudulent purposes. These breaches of legal obligations demonstrate Ohana's unclean hands, which disqualify them from seeking any form of equitable relief.

55 In addition to violating Maryland law, **Ohana's actions** constitute clear **bad faith litigation**. The affidavits detail a pattern of **malicious and frivolous litigation**, with fraudulent claims, retaliatory conduct, and violations of state and federal laws reflecting an ongoing **abuse**



of process. Under **Maryland Rule 1-341**, severe sanctions are warranted to hold **Ohana Growth Partners** and their counsel, **Miles & Stockbridge**, accountable for their intentional misconduct.

56 Given the **egregious nature** of these actions, the court should take the following steps to ensure justice is served and the integrity of the judicial process is upheld:

1. **Dismiss** this case **with prejudice**, as **Ohana's unclean hands** and **bad faith** render **their claims meritless**.
2. Impose **severe sanctions**, including **monetary penalties**, to deter further abuse of the legal process.
3. Consider a **referral for criminal investigation** based on **violations of Maryland's criminal statutes**.

57 These actions are necessary to address **Ohana's grievous misconduct** and to prevent further misuse of the courts. The **unclean hands doctrine** unequivocally bars them from seeking any relief, and continuing this lawsuit would only reward their **malicious and frivolous tactics**.

#### V ENTHUSIASTIC LEGAL COMPLIANCE

58 **Ohana Growth Partners, LLC** has repeatedly alleged that **Ryan Dillon-Capps** refused to comply with company directives, particularly regarding the transfer of administrative access to its IT systems. However, these allegations are demonstrably false and misrepresent the actual events. The affidavits provided in support of **Dillon-Capps' defense—Affidavit of Legal Obligation, Affidavit of Bad Faith, Affidavit of Unauthorized Contractual Modifications, and Affidavit of Plaintiff's Abusive Use of the Judicial System**—collectively establish that **Dillon-Capps** acted in full **good faith** and complied with all legal obligations, security

standards, and contractual duties to the extent possible within the constraints placed upon him by **Ohana's** own failure to act in good faith.

### COMPLIANCE WITH PCI DSS AND SECURITY PROTOCOLS

59 A key element of **Dillon-Capps' compliance** stems from his role as **PCI Compliance Officer**. His actions were in strict adherence to **PCI DSS v4** standards, which are not merely guidelines but are codified as legal obligations under **Md. Code, Com. § 14-3503(b)**. This law mandates the implementation of **reasonable security procedures**—procedures that Dillon-Capps was tasked with upholding, including the **least privilege access controls** outlined in **PCI DSS Requirement 7**. When **Glenn Norris** refused to answer basic questions such as, “What is the access for?” it rendered it impossible for **Dillon-Capps** to grant unrestricted access without violating PCI DSS requirements. **Ohana's failure to provide necessary information constituted estoppel**, as detailed in the affidavits, thereby blocking Dillon-Capps from fulfilling the request.

### GOOD FAITH EFFORTS AND SOLUTIONS PROVIDED

60 Despite **Ohana's refusal** to provide clear instructions or necessary details, **Dillon-Capps** made **multiple good faith attempts** to accommodate their requests. These efforts are meticulously documented in the **Affidavit of Plaintiff's Abusive Use of the Judicial System**. On **June 7, 2023**, Dillon-Capps even proposed a solution that would grant **Justin Drummond** the necessary access without compromising PCI DSS standards. Instead of acting in good faith, **Ohana** canceled meetings, refused to communicate, and created an environment of escalating hostility.

61 Further, **Dillon-Capps** was in full compliance with the **Franchise Disclosure Documents (FDD)**, which also mandate adherence to PCI standards. Any alleged failure to provide access was not due to **Dillon-Capps' refusal**, but rather due to **Ohana's deliberate obfuscation and manipulation** of the process. This is confirmed in the **Affidavit of Unauthorized Contractual Modifications**, where the evidence shows that **Ohana** attempted to enforce incomplete contracts while simultaneously ignoring PCI compliance and contractual obligations.

#### LEGAL FRAMEWORK FOR REFUSAL OF UNLAWFUL REQUESTS

62 **Ohana's claims** hinge on the false premise that **Dillon-Capps refused access**. However, **Maryland law** provides strong protections for individuals who are required to refuse unlawful or improper directives. Under **Md. Code, Com. § 13-301(9)**, it is illegal for a business to engage in **deceptive practices**, including making requests that conflict with compliance obligations and then claiming non-compliance when those requests are lawfully refused. **Ohana's insistence** on bypassing PCI requirements, coupled with their subsequent accusations of refusal, falls squarely within the prohibited conduct under this statute.

#### ESTOPPEL AND FRAUDULENT CONDUCT BY OHANA

63 The affidavits also establish that **Ohana Growth Partners**, through their conduct, engaged in **estoppel**, barring them from claiming any refusal. On **June 12, 2024**, **Hartman Executive Advisors (HEA)** was granted access yet failed to respond to multiple offers from **Dillon-Capps** to finalize the process. **Ohana's refusal to engage** demonstrates bad faith and

malicious intent to fabricate a refusal. This fraudulent conduct aligns with the principles of estoppel, preventing them from seeking relief for actions they willfully obstructed.

#### COMMITMENT TO LEGAL OBLIGATIONS AND ACCESS COMPLIANCE

64 Contrary to **Ohana's false narrative**, **Dillon-Capps** has demonstrated **enthusiastic legal compliance**. His role required strict adherence to both **PCI DSS** and **company policy**, and his actions reflect a commitment to **legal obligations**—a stark contrast to the retaliatory and bad faith litigation engaged in by **Ohana Growth Partners**. This enthusiastic compliance, well-documented in affidavits, serves as a strong counter to any claims of refusal. It proves that **Ohana's litigation is based on fraudulent allegations**, as **Dillon-Capps** consistently provided lawful alternatives and engaged in **good faith efforts** to meet **PCI DSS and contractual standards**.

#### CONCLUSION: OHANA AND MILES & STOCKBRIDGE'S LAWSUIT IS A

#### CONFESSION

65 The lawsuit filed by **Ohana Growth Partners, LLC**, and their counsel, **Miles & Stockbridge**, is nothing more than a **repackaging of their own legal and ethical violations**. Their claims of **breach of contract** and **failure of duty** are, in fact, **confessions** of how they themselves have violated numerous contracts and failed in their duty to protect the sensitive data of Maryland residents. By falsely accusing **Ryan Dillon-Capps** of misconduct, they are attempting to deflect from their own **misrepresentation** of PCI DSS compliance and their deliberate actions to undermine it.

66 **Ohana Growth Partners** has not only misrepresented their adherence to **PCI DSS v4 standards**, but they have also taken **deliberate actions to violate these standards**, all while refusing to provide a legitimate answer to the basic question of **what the access was for**. These violations directly breach their contractual obligations, including those outlined in the **Franchise Disclosure Documents (FDD)**, and also violate their duty to protect customer data under **Md. Code, Com. § 14-3503(b)**.

67 Their **lawsuit is a confession** of these breaches. By claiming that **Dillon-Capps** failed in his duties, they are admitting that it was **Ohana's own actions** that violated both state law and **PCI DSS standards**. The **criminal statute—Md. Code Ann., Crim. Law § 7-302**—is also applicable to them for their **unauthorized access** and misuse of computer systems. Ohana's failure to comply with their own legal obligations shows that their claims are a **sham** meant to distract from their **own liability**.

68 **Ohana's strategy** is clear: they have **repackaged their own violations**, accusing **Dillon-Capps** of the very misconduct they committed. By falsely alleging **breach of contract** and **failure of duty**, they are attempting to shift blame for their own legal and ethical failures. This lawsuit is not a legitimate claim, but a **fabrication** designed to manipulate the court and **silence the Defendant** before the truth could be heard.

69 Throughout the litigation, **Ohana and Miles & Stockbridge** have taken every opportunity to prevent the Defendant from being heard, spinning a **web of lies** in an attempt to convince the court that the **opposite** of the truth has occurred. They have deliberately obstructed access to key information and misrepresented facts to disguise their own **non-compliance** and **fraudulent conduct**.

70 The **unclean hands doctrine** prevents any party from seeking relief when they have acted in bad faith. **Ohana's lawsuit** is not just a breach of duty and contract, but a confession of their own **criminal conduct**. Their violation of **PCI DSS standards**, misrepresentation of compliance, and refusal to answer critical questions about system access clearly fall within **Md. Code Ann., Crim. Law § 7-302** (unauthorized access). By using this lawsuit to deflect attention from their own illegal actions, **Ohana** has confirmed their **unclean hands**, disqualifying them from seeking any form of equitable relief.

71 This lawsuit is not only baseless but a **direct admission** of **Ohana Growth Partners' own breaches** of legal, contractual, and ethical obligations. They have accused the Defendant of exactly what they themselves are guilty of. This court must recognize that **Ohana and Miles & Stockbridge's lawsuit is their confession**, and therefore:

1. **Dismiss this case with prejudice**, as **Ohana's unclean hands** and **bad faith** make their claims entirely without merit.
2. Impose **severe sanctions**, including **monetary penalties**, to deter further abuse of the legal system.
3. Consider a **referral for criminal investigation**, based on **Ohana's violations** of Maryland's criminal and consumer protection laws.

72 Allowing this litigation to continue would only serve to reward **Ohana's malicious and unethical conduct**. Their attempts to deflect responsibility through false accusations cannot stand, and the court must take decisive action to uphold justice.

## VI A CASE BUILT ON FALSEHOODS AND PERJURY

73 From the very beginning, the claims brought forward by **Ohana Growth Partners, LLC**, supported by their counsel **Miles & Stockbridge**, have been grounded in falsehoods and deliberate misrepresentations. **Justin Drummond**, President of Ohana, and **Richard Hartman** have engaged in a pattern of **perjury**—providing knowingly false statements under oath in an attempt to shift blame onto **Ryan Dillon-Capps** and obscure **Ohana’s own violations**. The **Affidavit of Bad Faith** and the **Affidavit of Plaintiff’s Abusive Use of the Judicial System** dismantle these false claims, exposing a malicious strategy aimed at manipulating the court. The following sections detail the key perjurious statements made by **Drummond** and **Hartman**, and how these lies form the foundation of **Ohana’s** lawsuit.

#### JUSTIN DRUMMOND – PRESIDENTIAL PERJURY & ESTOPPEL

74 **Justin Drummond** falsely asserted that **Ryan Dillon-Capps** failed to provide updates on the request to grant **Hartman Executive Advisors (HEA)** access to the necessary systems. However, the affidavits make it clear that **Dillon-Capps** not only provided consistent updates but actively **pleaded with Drummond** to assist in getting a response from **HEA** to facilitate access. The **Affidavit of Bad Faith** shows that **Dillon-Capps** made every effort to comply with the **HEA** access request, even going above and beyond his duties by asking for help in resolving the matter.

75 **Intentional Ignorance:** Despite these efforts, **Drummond intentionally ignored Dillon-Capps’ updates**, choosing instead to promote a false narrative of non-compliance. This was a deliberate act to manipulate the court and misrepresent the facts surrounding **HEA** access, constituting **perjury**.

### FALSE CLAIM OF NO COMPLIANCE FOR HEA

76 Drummond further alleged that **Dillon-Capps** failed to comply with HEA requests. However, **text messages from June 13, 2024**, reveal that **Dillon-Capps** was not only in full compliance but was also **eager to grant access** as demonstrated moment by moment breakdown of the June 13<sup>th</sup> text messages in the **Deposition Request for Agents of Ohana Growth Partners**. Dillon-Capps repeatedly asked **Drummond** for assistance in reaching **HEA** to ensure the access was provided. This behavior demonstrates more than compliance—it reflects **enthusiastic willingness** to comply, which is the opposite of a refusal.

77 **HEA's Role in Estoppel**: The affidavits show that **HEA** deliberately engaged in **estoppel**, preventing Dillon-Capps from satisfying their access request. By ignoring Dillon-Capps' communications and refusing to cooperate, **HEA** created a situation in which compliance was impossible, and **Drummond's false claims** only served to further this obstruction.

### FALSE CLAIM OF NON-COMPLIANCE WITH PRESIDENTIAL REQUEST

78 Drummond also claimed that **Dillon-Capps** failed to comply with requests made by company leadership, specifically the President himself. This claim is demonstrably false. **Dillon-Capps** made documented **good faith efforts** to comply with these requests, despite **Ohana's refusal** to provide basic information necessary to lawfully execute his duties.

79 **June 7, 2024 Solution**: On **June 7, 2024**, **Drummond accepted a proposed solution** by Dillon-Capps, which would have resolved the access issue. However, Drummond then engaged in **estoppel**, preventing Dillon-Capps from fulfilling the request. The **text message exchanges** on **June 13, 2024**, further reveal that while **Dillon-Capps was asking for help to reach HEA**,



Drummond never once asked for access during their multi-hour conversation. Instead, Drummond perpetuated the false narrative of non-compliance.

#### PERJURY THROUGH FALSE STATEMENTS

80 These **false statements** made by **Justin Drummond** are not just misrepresentations but **acts of perjury**, designed to portray **Ryan Dillon-Capps** as non-compliant and obstructive. In reality, **Dillon-Capps** was fully compliant, and it was **Ohana Growth Partners** that failed to provide the necessary support and information to facilitate compliance. Drummond's **perjurious claims** were calculated to deceive the court and shift the blame for **Ohana's violations of security protocols** onto Dillon-Capps

#### RICHARD HARTMAN – FALSE CLAIMS REGARDING PERSONNEL RECORDS AND SYSTEM ACCESS

81 **Richard Hartman** falsely claimed that **Ryan Dillon-Capps** severed access to personnel records, implying that Dillon-Capps was obstructing the company's ability to manage its Human Resources records. However, the **Affidavit of Legal Obligations** establishes that this claim is categorically false. **Hartman**, as the administrator of the **HRIS system (Paycom)**, held full administrative control over personnel records. The **IT Department**, led by Dillon-Capps, had **no administrative access** to this system. **Hartman's statement** was not just inaccurate but a deliberate attempt to shift responsibility and mislead the court about who controlled access to these sensitive systems.

### FALSE HEA COMPLIANCE CLAIM

82 Hartman's claims regarding **Hartman Executive Advisors (HEA)** compliance were also riddled with falsehoods. He alleged that **Dillon-Capps** denied compliance with the **cease-and-desist order**, when, in fact, the documented communication shows that Dillon-Capps was clearly making good faith effort to comply. The **Affidavit of Bad Faith** reveals that Hartman deliberately misrepresented the context of the messages to frame Dillon-Capps' compliance as a denial. Hartman made no attempt to clarify the situation before losing control in response to the **2:05 PM email on June 13, 2024**, where he lashed out at an unrelated employee. His actions reflect not only a calculated attempt to deceive but also **retaliatory behavior** triggered by his own loss of control.

### FALSE STATEMENT ABOUT ACCESS AT 2:05 PM

83 One of **Hartman's most egregious perjuries** is his claim that he had **no email or system access** at **2:05 PM on June 13, 2024**. The affidavits clearly establish that Hartman had full access to the email system and IT network at that time. His claim of being unable to receive the **2:05 PM email** is patently false and was intended to mislead the court regarding his **awareness of critical communications**. The affidavits further reveal that **15 minutes after the 2:05 PM email**, Hartman retaliated against another employee, reflecting someone who was not only fully in control but actively engaging in **retaliatory actions**. His outburst before the **3:00 PM deadline**, demonstrates a pattern of **retaliation and deception**.

### FALSE HYPERLINK CLAIM

84 Hartman's perjury extends to his claims regarding a **hyperlink** that he pieced together from **fragments of a quote** in an attempt to misrepresent the content of the referenced website.

His manipulation of the quote and the hyperlink was designed to deceive the court into believing the website said the opposite of its actual content. This deliberate misrepresentation is not just an error in interpretation but a willful act of perjury, intended to bolster his false narrative and mislead the court about key facts.

### DANIEL LEVETT – EXPERT CONFESSION OF OHANA’S FRAUD

85 Throughout this litigation, **Ohana Growth Partners, LLC** and their counsel, **Miles & Stockbridge**, have presented a case built on **falsehoods** and **perjurious statements**, all in an effort to manipulate the court and hide their own failures. The affidavits of **Justin Drummond** and **Richard Hartman** are full of inconsistencies and demonstrably false claims. One critical document—the **Affidavit of Daniel Levett**—highlights the deception at the heart of this lawsuit.

### FALSE CLAIMS REGARDING ADMINISTRATOR ACCESS

86 A central claim made by **Ohana Growth Partners** is that they were unable to access their **Global Administrator accounts**, necessitating the **injunctive relief** they sought. However, the **Affidavit of Daniel Levett** directly contradicts this narrative. In his affidavit, **Levett** confirmed that he was able to work with an existing administrator—the **Help Desk Manager**—who had full access to the **Global Administrator accounts**. This completely undermines **Ohana's claim** that they had no access to their systems and that Dillon-Capps was obstructing them.

87 **Levett’s Admission:** Levett inadvertently admitted that **Ohana Growth Partners** always had access to the accounts through their administrators, proving that the basis for **injunctive relief** was false. The affidavit reveals that they not only had administrative access but

that they actively used it to verify information on **June 26, 2024**. Therefore, **Ohana's claims** of needing court intervention were fabricated .

#### PERJURY AND INCONSISTENT STATEMENTS

88 The **Affidavit of Daniel Levett** is just one example of **Ohana's contradictory claims**. Throughout the proceedings, **Ohana** has shifted its narrative—first claiming that there were **no administrators**, then asserting that **Dillon-Capps refused access**, only to later confirm that **Levett** and the **Help Desk Manager** successfully accessed the necessary accounts. This shifting narrative is further evidence of the **perjury** and manipulation employed by **Ohana Growth Partners** to mislead the court.

89 **Contradiction:** At various points in the case, **Ohana** claimed that different individuals (including **Glenn Norris** and **Richard Hartman**) were responsible for controlling the accounts. Yet, when these claims were scrutinized, the evidence showed that the accounts were always accessible, and there was no obstruction by **Dillon-Capps** .

#### ESTOPPEL AND NO JUSTIFICATION FOR INJUNCTIVE RELIEF

90 The **Affidavit of Daniel Levett** inadvertently supports the legal principle of **Estoppel**, which prevents **Ohana Growth Partners** from seeking **relief** based on a situation they themselves created. By confirming that the **Help Desk Manager** had access to the accounts all along, **Levett's affidavit** proves that **Ohana's claim for injunctive relief** was baseless. **Ohana's refusal** to respond to multiple emails seeking to clarify the situation amounts to **Estoppel**, barring them from obtaining relief for issues they caused by their own inaction.

91 **Levett's Confession:** In the affidavit, **Levett** unwittingly exposes the fact that **Ohana** was never locked out of their accounts and could have resolved the matter without court

intervention. This fact discredits their claims for relief, further supporting **Dillon-Capps'** defense.

### THE BROADER PATTERN OF PERJURY AND MANIPULATION

92 The **false statements** made by **Drummond** and **Hartman** are not isolated incidents but are part of a broader effort by **Ohana Growth Partners** and **Miles & Stockbridge** to distort the facts and manipulate the legal process. The affidavits prove that these individuals knowingly lied under oath, making their testimony an intentional misrepresentation of the truth to gain a legal advantage.

93 These actions are **clear violations of Maryland's perjury laws (Md. Code Ann., Crim. Law § 9-101)**, and their willingness to present false statements to the court further solidifies the **unclean hands** argument. Ohana's lawsuit is **founded in perjury**, and their use of perjured testimony to support their claims disqualifies them from seeking any form of equitable relief.

### CONCLUSION: THE ENTIRE LAWSUIT IS BUILT ON LIES

94 This lawsuit, constructed on a foundation of **perjurious statements** from **Justin Drummond** and **Richard Hartman**, should not be allowed to proceed. The affidavits presented in this case prove beyond doubt that both individuals deliberately lied under oath to mislead the court, covering up **Ohana Growth Partners' own violations of PCI DSS standards**, company policies, and legal obligations. These falsehoods were not accidental or minor; they were part of a **deliberate campaign to deceive** the court and manipulate the legal process in favor of **Ohana**.

95 **Justin Drummond** falsely claimed non-compliance by **Dillon-Capps**, despite text messages and communications showing enthusiastic efforts to grant access to **HEA**. **Richard**

**Hartman** falsely asserted that **Dillon-Capps severed access** to personnel records, and his claims regarding compliance and system access at 2:05 PM on **June 13, 2024**, were equally perjurious. These false statements are violations of **Maryland's perjury laws (Md. Code Ann., Crim. Law § 9-101)** and are clear examples of **unclean hands**.

96 The perjury committed by **Drummond** and **Hartman** invalidates **Ohana's claims** and disqualifies them from seeking **any form of equitable relief**. This lawsuit, based entirely on lies and manipulation, is the epitome of bad faith litigation. As such, the court should:

1. **Dismiss the case with prejudice**, as **Ohana's unclean hands** render their claims entirely without merit.
2. Impose **severe sanctions**, including **monetary penalties**, to deter future perjury and abuse of the judicial process.
3. Consider a referral for criminal investigation, based on the perjury and fraud committed by Ohana Growth Partners and their representatives.

97 Allowing this lawsuit to continue would not only reward **Ohana's malicious behavior** but would also undermine the integrity of the court. **Ohana Growth Partners** has used the judicial system as a weapon, but their case—founded in **perjury**—must be swiftly and decisively rejected.

## VII OBSTRUCTION, ATTEMPTED FALSE IMPRISONMENT, CONFLICTING ORDERS, IIED, AND WITNESS TAMPERING

98 The lawsuit pursued by Ohana Growth Partners, LLC, in conjunction with Miles & Stockbridge, has not only been built on perjury but also includes a pattern of obstruction, false imprisonment attempts, and intentional infliction of emotional distress (IIED). Further, actions

taken by Ohana suggest possible witness tampering, all of which contribute to the overall bad faith and unethical conduct in this case.

### OBSTRUCTION OF ACCESS TO COURT RECORDS

99 The exhibits attached to the affidavits include an email from **Robert Brennen**, legal counsel for **Ohana**, which clearly demonstrates **obstruction** of the **Defense's access to court transcripts**. In this email, Brennen applied improper conditions to the release of the transcript to the Defense, thereby restricting **Ryan Dillon-Capps' ability to access** vital records crucial to his defense. This obstruction, as documented in the **Affidavit of Bad Faith**, was a deliberate attempt to limit the Defense's access to information, further evidencing **bad faith litigation tactics**.

100 By manipulating access to critical legal documents, **Ohana Growth Partners** and their counsel have acted in direct opposition to **due process** rights and have sought to prevent the Defense from adequately preparing for proceedings. Such conduct not only undermines the fairness of the legal process but also demonstrates a **deliberate effort** to obscure the truth.

### ATTEMPTED FALSE IMPRISONMENT

101 The **Second Show Cause Order**, which included the possibility of **incarceration**, was issued as part of a **baseless and fraudulent lawsuit**. The demand for **incarceration** in a matter lacking legal merit constitutes an **attempt at false imprisonment**. By pursuing incarceration as a remedy in a **frivolous lawsuit**, **Ohana Growth Partners** and **Miles & Stockbridge** demonstrated a malicious intent to imprison **Ryan Dillon-Capps** without cause, thereby violating his legal rights.

102 This attempted use of the legal system to unjustly threaten imprisonment, as outlined in the affidavits, is a gross abuse of judicial processes and represents another example of **unclean hands** on the part of **Ohana**. The court must recognize that such actions—threatening imprisonment in a case rooted in **perjury and deceit**—constitute **attempted false imprisonment**, which is not only unethical but also a violation of Dillon-Capps’ constitutional rights.

### CONFLICTING ORDERS AND IMPOSSIBLE COMPLIANCE

103 The **Suspension Letter, Temporary Restraining Order (TRO), and Show Cause Orders** issued in this case all demand that **Dillon-Capps** take actions within the **same systems** from which he had been **prohibited from accessing or using**. The contradictory nature of these orders made **compliance legally impossible**.

104 For example:

1. The **TRO** prevented **Dillon-Capps** from using specific IT systems while simultaneously demanding that he take actions within those same systems.
2. The **Show Cause Orders** similarly required compliance in areas where **Dillon-Capps** had no ability to act due to the **TRO’s restrictions**.

105 The result of these **conflicting orders** was the creation of a **legal trap** designed to position **Dillon-Capps** in continuous non-compliance, regardless of his efforts to fulfill court directives. Such legal entrapment is not only a form of procedural abuse but also demonstrates **malicious intent** to expose Dillon-Capps to punitive actions despite his **inability to comply**. This is a direct violation of his rights under due process and further underscores the **bad faith litigation** engaged in by **Ohana Growth Partners**.



### INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (IIED)

106 The continued pursuit of this **fraudulent lawsuit**, in combination with the **obstruction, attempted false imprisonment, and conflicting orders**, has resulted in significant **emotional, physical, and financial harm** to **Ryan Dillon-Capps**. The affidavits detail how the relentless pressure, baseless accusations, and threat of incarceration have caused severe emotional trauma.

107 **Ohana's actions**, driven by **retaliation** and **malice**, were clearly intended to cause harm to Dillon-Capps. Their goal was not to resolve legitimate business concerns but to punish and harass him for exposing **security violations** and **accounting irregularities** within the company. These actions constitute **intentional infliction of emotional distress (IIED)** under **Maryland law**, and the court should consider this harm when determining **sanctions** and other remedies.

### POTENTIAL WITNESS TAMPERING: RANDAL ROMES' AFFIDAVIT

108 The **Affidavit of Randal Romes** raises significant concerns about **witness tampering**. In his affidavit, Romes stated that he was provided with a letter to **Judge Truffer**, which contained no citations to **PCI DSS requirements** directed at **Ohana Growth Partners**. This is highly suggestive of tampering, as Romes' affidavit appears to have been influenced or manipulated to reflect a narrative beneficial to **Ohana**.

109 This manipulation of a witness's statement, especially in the context of compliance-related issues, points to potential **witness tampering**. **Ohana Growth Partners**, by distorting the facts and attempting to influence **Romes' testimony**, further demonstrates their **unclean hands** in this litigation. Witness tampering is a serious offense, and the court should carefully review this issue to determine if further investigation is warranted.

### CONCLUSION: MALICIOUS LITIGATION DESIGNED TO CAUSE HARM

110 The actions taken by **Ohana Growth Partners** and their counsel **Miles & Stockbridge** throughout this litigation—including **obstruction of access, attempted false imprisonment, conflicting court orders**, and possible **witness tampering**—demonstrate a clear pattern of **malicious litigation** designed to cause **emotional, physical, and financial harm** to **Ryan Dillon-Capps**.

111 This lawsuit is not a good-faith attempt to resolve legitimate business disputes but rather an orchestrated effort to **abuse the legal system**, manipulate court processes, and harass the defendant. These actions are part of a larger scheme to **obstruct justice**, undermine the truth, and create a false narrative of non-compliance.

112 The court must:

1. **Dismiss this case with prejudice**, recognizing **Ohana's bad faith litigation** and **unclean hands**.
2. Impose **severe sanctions** on **Ohana Growth Partners** and **Miles & Stockbridge** for their abusive and unethical conduct.
3. Consider a referral for criminal investigation into the potential witness tampering, obstruction of justice, and attempted false imprisonment committed during the course of this litigation.

113 The continued pursuit of this fraudulent lawsuit only serves to harm the judicial process and must be brought to a swift and decisive end.

### VIII RECIPROCAL RELIEF AND ATTORNEY'S FEES – A PRECEDENT FOR A BETTER MARYLAND

114 In this case, **Ohana Growth Partners LLC** has employed the judicial system as a weapon, filing a fraudulent lawsuit based on **perjury**, **misrepresentation**, and **manipulation**. Their conduct threatens not only the integrity of this case but also the broader **Maryland legal system**, which must protect against such abuses. The principle of **reciprocal relief** not only addresses the immediate harm caused to **Ryan Dillon-Capps** but also serves a larger purpose: establishing a **precedent** that deters future fraudulent lawsuits in Maryland. The imposition of reciprocal penalties and attorney's fees will contribute to a **stronger legal system** for all Marylanders, safeguarding the courts from being misused by parties acting in **bad faith**.

115 The arguments supporting reciprocal penalties and attorney's fees are derived from both the Memorandum of Law in Support of Reciprocal Penalties and the Memorandum of Law for Reciprocal Attorney's Fees and are amplified by the need for Maryland to set a clear precedent against fraudulent litigation practices.

116 In this case, **Ohana Growth Partners LLC** sought daily penalties and extensive legal fees from **Ryan Dillon-Capps** based on false claims and bad-faith litigation. However, the evidence presented has clearly demonstrated that **Ohana**, through its agents and counsel, engaged in fraudulent conduct and abused the judicial process. The principle of **reciprocal relief**—grounded in equity and fairness—provides a robust framework for ensuring that those responsible for **fraudulent lawsuits** face the same consequences they sought to impose on others.

117 The arguments supporting reciprocal penalties and attorney's fees are drawn from both the **Memorandum of Law in Support of Reciprocal Penalties** and the **Memorandum of Law**

for **Reciprocal Attorney's Fees**, which together establish the legal and equitable basis for shifting the financial burden onto Ohana Growth Partners and their counsel.

### RECIPROCAL PENALTIES FOR BAD FAITH LITIGATION

118 As outlined in the **Memorandum of Law in Support of Reciprocal Penalties**, Ohana's **fraudulent claims** and bad-faith litigation tactics merit severe penalties. **Maryland Rule 1-341** grants courts the authority to impose **sanctions** when a party acts without justification or in bad faith, both of which have been conclusively demonstrated here. **Ohana's own IT consultant, David Levett**, confirmed that they already had administrative access to the systems in question, yet **Ohana** proceeded to mislead the court.

119 **Reciprocal Penalties Doctrine**: The court should impose daily penalties on **Ohana & M&S**, equivalent to those they sought against **Dillon-Capps** (\$2,500 per day). These penalties serve as a necessary **deterrent** against future bad-faith litigation and ensure that **Ohana & M&S** bears the financial consequences of their misconduct.

### RECIPROCAL ATTORNEY'S FEES

120 The **Memorandum of Law for Reciprocal Attorney's Fees** further argues that **Maryland courts** have the authority to award **attorney's fees** to a prevailing defendant in cases involving **fraudulent lawsuits**, even in the absence of a specific statute. **Ohana's lawsuit**—based on **perjury, misrepresentation, and procedural abuse**—fits squarely within Maryland's existing framework for awarding attorney's fees under **Rule 1-341**.

121 **Fraudulent Lawsuits as Abuse of Process**: Fraudulent lawsuits are an abuse of the judicial process, and Maryland courts have a strong policy against such behavior. By awarding

reciprocal attorney's fees, the court ensures that **Ohana and M&S**, not **Dillon-Capps**, bears the cost of defending against baseless and malicious claims.

### EQUITY AND JUDICIAL EFFICIENCY

122 Both memoranda emphasize the need for **equity** and the protection of judicial efficiency. Allowing **Ohana** to escape the consequences of their actions would not only be unjust but would also undermine the integrity of the judicial process. **Reciprocal relief** ensures that **Ohana** and their counsel, **Miles & Stockbridge**, are held accountable for their attempts to misuse the court system for retaliatory purposes.

### CONCLUSION: RECIPROCAL RELIEF AND ATTORNEY'S FEES ARE ESSENTIAL

123 Given the overwhelming evidence of **Ohana's fraudulent conduct**, the imposition of **reciprocal penalties** and **attorney's fees** is not only appropriate but necessary to restore fairness and integrity to the legal process. **Ohana's** bad-faith litigation tactics, including filing false claims and misleading the court, have caused significant financial, emotional, and reputational harm to **Dillon-Capps**. The court should impose:

1. **Daily penalties** equivalent to those sought by **Ohana** (\$2,500 per day) as a deterrent against future misconduct.
2. **Reciprocal attorney's fees** to ensure that **Dillon-Capps** is not burdened with the costs of defending against a fraudulent lawsuit.

124 By holding **Ohana Growth Partners** and their counsel accountable, the court will send a clear message that **bad-faith litigation** will not be tolerated, and those who misuse the legal system will face significant consequences.

## IX OVER FOUR MONTHS OF CONSEQUENCES

### RULE 11 SANCTIONS FOR FRIVOLOUS FILINGS: ANCHORED IN UNCLEAN

#### HANDS DOCTRINE

125 The **unclean hands doctrine** serves as the foundation of the **Defendant's primary argument** for dismissal and sanctions. **Ohana Growth Partners LLC**, through its representatives—most notably **Richard Hartman**—commenced this litigation with **unclean hands**, effectively **invalidating** their claims from the moment this lawsuit was filed. In **Richard Hartman's affidavit**, he admits on **page 4** to **violating the Family and Medical Leave Act (FMLA)**, a federal labor law designed to protect employees from retaliation for taking medical leave. This admission of illegal conduct by **Ohana's leadership** fundamentally undermines their entire legal standing and renders their claims **moot** under the doctrine of **unclean hands**.

#### UNCLEAN HANDS DOCTRINE AS A BAR TO EQUITABLE RELIEF

126 The **unclean hands doctrine** is a well-established principle in both **federal** and **Maryland law**, preventing a party from seeking **equitable relief** when they themselves have acted unethically or in bad faith regarding the issue at hand. **Ohana's lawsuit** is built on false claims, perjury, and the **violation of FMLA rights**, disqualifying them from seeking any form of relief. From the very beginning, **Richard Hartman's affidavit** reveals a confession of **retaliation against Dillon-Capps** for requesting family and medical leave, a clear **violation of federal law**. This admission proves that **Ohana's hands were unclean** from the outset, making their entire case invalid.

1. **Legal Precedent: In *Keystone Driller Co. v. General Excavator Co.*, 290 U.S. 240 (1933), the U.S. Supreme Court held that a party cannot obtain equitable relief if**

they have acted unethically in relation to the subject of the lawsuit. This principle applies here, as **Ohana's FMLA violations** disqualify them from seeking relief.

2. **Maryland Application:** In **Manown v. Adams**, 328 Md. 463, 615 A.2d 611 (1992)\*\*, the **Maryland Court of Appeals** affirmed that parties with **unclean hands** are barred from seeking equitable remedies. **Hartman's admission** of retaliation violates both **FMLA** and **Maryland labor laws**, reinforcing that **Ohana's claims** should be dismissed.

#### **RULE 11 SANCTIONS AMPLIFIED BY UNCLEAN HANDS DOCTRINE**

127 Building on the **unclean hands doctrine**, **Ohana's subsequent filings** over the course of four months were not only **frivolous** but also submitted in **bad faith** to harass **Dillon-Capps** and obscure the fact that **Ohana's leadership** had already **violated federal law**. Every document filed in support of their fraudulent claims only serves to compound their **unclean hands** and further justify **Rule 11 sanctions**.

128 **Federal Rule 11** and **Maryland Rule 1-311** require attorneys and parties to certify that their filings are grounded in **law and fact**. Yet, **Ohana's filings** are based on misrepresentations, including **false claims** about system access, non-compliance, and administrative actions. These filings are compounded by **Richard Hartman's** admission of FMLA violations, which alone should have **disqualified them from initiating this lawsuit**. Each filing adds to a cumulative pattern of frivolous litigation, warranting severe **sanctions**.

1. **Frivolous Filings: Ohana's claims of non-compliance**, which form the basis of their lawsuit, are undermined by the very fact that their actions constituted **illegal**

**retaliation. Richard Hartman's admission** of FMLA violations invalidates the entire premise of the lawsuit, making every filing **frivolous** and without merit.

2. **Sanctions Sought:** Given the **frivolous nature** of each filing, **Ohana** and their counsel, **Miles & Stockbridge**, should be sanctioned under **Rule 11**. These sanctions should include **monetary penalties**, dismissal with prejudice, and referral for further investigation into potential criminal violations, including perjury.

#### THE ROLE OF PERJURY AND BAD FAITH IN STRENGTHENING THE CASE FOR SANCTIONS

129 **Ohana's bad faith conduct** is further evidenced by the **perjury** committed by **Justin Drummond** and **Richard Hartman**, as detailed in the **Affidavit of Perjury** and **Affidavit of Bad Faith**. These false statements were made to shift the blame for **Ohana's security and compliance failures** onto **Dillon-Capps**, despite the fact that **Ohana's leadership** had already violated **FMLA protections**. This pattern of **bad faith filings** is precisely the type of conduct that **Rule 11 sanctions** are designed to punish.

#### SANCTIONS SOUGHT UNDER RULE 11 AND UNCLEAN HANDS DOCTRINE

130 Because **Ohana's lawsuit** was fundamentally flawed from its inception due to their **unclean hands**, the following sanctions are appropriate:

1. **Dismissal of all claims with prejudice**, as **Ohana's violation of FMLA** bars them from seeking any equitable relief under the **unclean hands doctrine**.
2. **Monetary penalties** for each **frivolous filing** under **Rule 11** and **Maryland Rule 1-311**, imposed on both **Ohana** and their counsel, **Miles & Stockbridge**, for knowingly filing false and harassing claims.



3. **Referral for criminal investigation** into the **perjury and FMLA violations** committed by **Ohana's representatives**, specifically **Richard Hartman** and **Justin Drummond**, as their actions involve both fraudulent litigation and violations of federal law.

### CONCLUSION: UNCLEAN HANDS DOCTRINE DISQUALIFIES OHANA FROM SEEKING RELIEF

131 From the moment this lawsuit was filed, **Ohana Growth Partners LLC** acted with **unclean hands**. **Richard Hartman's admission** of violating **FMLA protections** on **page 4 of his affidavit** disqualifies **Ohana** from seeking any equitable relief and invalidates the legal grounds for their claims. Every filing made after that admission has only compounded their misconduct, making each one **frivolous, retaliatory**, and deserving of **Rule 11 sanctions**.

132 By dismissing this case with prejudice, imposing **severe sanctions**, and initiating an investigation into **Ohana's fraudulent actions**, the court will uphold the principles of **justice** and deter future misuse of the legal system by parties who attempt to **litigate in bad faith** while knowingly violating **federal labor laws**.

### LEGAL STANDARD

133 The imposition of sanctions for **frivolous filings** and **bad-faith litigation** is grounded in both **federal law** and **Maryland law**, which grant courts the authority to punish parties that misuse the judicial process. **Federal Rule of Civil Procedure 11** and **Maryland Rule 1-311** require that all documents submitted to the court be **well-grounded in law and fact**, and not filed for improper purposes such as **harassment, delay**, or **needlessly increasing litigation costs**. Courts have consistently held that parties who engage in bad-faith litigation tactics, such

as submitting false or frivolous claims, may be sanctioned. These sanctions can include **fin****es**, **dismissal of claims**, and other punitive measures designed to deter further abuse of the legal system.

I. CHAMBERS V. NASCO, INC., 501 U.S. 32 (1991)

134 In **Chambers v. NASCO, Inc.**, the **U.S. Supreme Court** affirmed the court's **inherent authority** to impose sanctions on parties that engage in **bad-faith litigation practices**. In this case, the defendant had repeatedly filed meritless motions and engaged in tactics designed to **delay** the litigation, **obstruct justice**, and force the opposing party to incur unnecessary legal fees. The **Supreme Court** held that when a party files repeated **frivolous filings** without legitimate grounds for relief, the court may impose sanctions, even beyond the scope of **Rule 11**.

1. **Chambers** affirmed that the court's inherent power to punish parties for abusing the legal process is **essential** to preserving the integrity of the judicial system. This case underscores that courts can use **sanctions** to protect the judicial process from being manipulated for **improper purposes**, including harassment and delay.

II. KLUPT V. KRONGARD, 126 MD. APP. 179, 728 A.2D 727 (1999)

135 In **Klupt v. Krongard**, the **Maryland Court of Special Appeals** upheld sanctions against a plaintiff for filing **frivolous claims**. The case involved a plaintiff who pursued legal action despite the **lack of a factual or legal basis** for the claims being made. The court ruled that sanctions were appropriate when a party continues to file meritless claims without legal justification, and especially when the litigation serves no purpose other than to harass or delay the opposing party.

1. The **Klupt** decision reinforces the principle that **legal claims** must be grounded in both **fact and law**, and that **persistent litigation** without a proper foundation will result in sanctions. This ruling highlights the court's authority to punish parties who exploit the judicial system for **improper purposes**, such as **personal vendettas, retaliation**, or **financial gain** through legal harassment.

### III. APPLICATION OF LEGAL STANDARD IN THE PRESENT CASE

136 In the current case, every single filing by **Ohana Growth Partners, LLC** and their counsel, **Miles & Stockbridge**, over the past four months is unfounded, frivolous, and made with the **intent to harass** and **retaliate** against **Ryan Dillon-Capps**. These filings, as shown in the **Affidavit of Bad Faith** and **Affidavit of Perjury**, were based on **false claims** and **perjured testimony**, with no legitimate legal or factual basis. The **admission by Richard Hartman** that **Ohana violated FMLA protections** on page 4 of his affidavit invalidates their entire legal standing. Despite this, **Ohana** continued to file claims, misrepresent facts, and submit documents designed to **obscure the truth** and force **Dillon-Capps** into further litigation.

1. **Frivolous Filings:** Each filing made by **Ohana** during this four-month period was made in bad faith. The claims of **non-compliance** with PCI DSS standards, **system access**, and **administrative control** were all based on fabrications, and **Ohana's leadership** engaged in **deliberate obstruction** by refusing to provide accurate information. These filings were intended to cause financial, emotional, and reputational harm to **Dillon-Capps**, not to resolve a legitimate legal dispute.

2. **Cumulative Impact of Frivolous Filings:** The cumulative impact of multiple frivolous filings strengthens the case for **severe sanctions**. As the court in **Klupt**

emphasized, **persistent meritless claims** increase the burden on both the opposing party and the court. In this case, **Dillon-Capps** has been forced to defend against fraudulent and retaliatory claims, causing unnecessary financial and emotional distress.

#### IV. COURT'S AUTHORITY TO IMPOSE SANCTIONS

137 Under **Rule 11** and **Maryland Rule 1-311**, the court has the authority to impose **sanctions** for each instance of a **frivolous filing** or **bad-faith litigation**. This includes the power to:

1. **Impose monetary fines** on **Ohana Growth Partners** and their counsel, **Miles & Stockbridge**, for their repeated and baseless filings.
2. **Dismiss all claims with prejudice**, as **Ohana's lawsuit** is predicated on **fraudulent claims, perjured testimony, and admitted violations of federal law**, specifically **FMLA protections**.
3. **Refer the matter for criminal investigation**, given the evidence of **perjury, obstruction, and fraudulent representations** made by **Ohana** and their legal team.

138 The court's power to sanction not only serves to punish **bad-faith litigation** but also acts as a **deterrent** to future misuse of the judicial system. By imposing sanctions, the court protects the integrity of the judicial process and ensures that **frivolous claims** do not further waste court resources or inflict undue harm on innocent parties.

#### CONCLUSION

139 The legal standard for imposing **Rule 11 sanctions** is clear: parties must certify that their filings are grounded in **fact and law**, and if they fail to do so, the court has the authority to impose severe penalties. **Ohana Growth Partners**, through **Miles & Stockbridge**, has filed

**frivolous claims** and **misleading documents** for the sole purpose of harassing **Dillon-Capps**.

These actions, compounded by the **admission of FMLA violations**, render **Ohana's lawsuit** frivolous and abusive from the outset.

**The court should:**

1. Impose monetary penalties on Ohana Growth Partners and Miles & Stockbridge for their repeated violations of Rule 11.
2. Dismiss the case with prejudice, recognizing the bad faith and unclean hands of Ohana Growth Partners.
3. Refer the matter for criminal investigation, given the evidence of perjury, fraud, and FMLA violations.

140 In doing so, the court will uphold the principles of **justice**, deter future **bad-faith litigation**, and restore integrity to the judicial process.

### ABUSE OF PROCESS

141 **Abuse of process** occurs when a party uses the legal system for **improper purposes**, such as to **harass, delay, or extort** another party, rather than pursuing a legitimate legal claim. While a lawsuit or legal filing may be technically valid, if the underlying **intent** behind the use of legal proceedings is improper, it constitutes **abuse of process**. This can include actions such as using litigation to force an **unjust settlement**, increase **costs for the opposing party**, or achieve goals **unrelated to the case's legal merits**. Each filing made with an improper purpose is considered an independent act of **abuse of process** and can give rise to sanctions or damages.

142 In this case, **Ohana Growth Partners LLC**, with the assistance of their counsel **Miles & Stockbridge**, has weaponized the judicial system to **harass** and **financially burden Ryan Dillon-Capps**. Over the course of four months, they have repeatedly filed **meritless claims**, relied on **perjured testimony**, and engaged in **bad-faith litigation practices**. The filings are not aimed at pursuing legitimate legal relief but rather at **retaliating** against Dillon-Capps for exposing their internal violations, including **violations of FMLA protections**, as admitted by **Richard Hartman** in his affidavit.

#### LEGAL STANDARD FOR ABUSE OF PROCESS

143 The elements of **abuse of process** are well-established in **Maryland law**, and courts have consistently recognized that the misuse of the legal system for **illegitimate purposes** warrants **sanctions** or **damages**.

#### I. **WALKER V. AMERICAN SECURITY CORP.**, 237 MD. 80, 205 A.2D 302 (1964)

144 In **Walker v. American Security Corp.**, the **Maryland Court of Appeals** defined **abuse of process** as the use of legal proceedings for a purpose other than that which the process was designed to achieve. The court made clear that even if the legal filing is **technically valid**, the process is **abused** if it is used for an **illegitimate purpose**, such as to harass, delay, or extort the opposing party. **Walker** sets forth that the underlying **intent** behind the use of the legal process is the key factor in determining whether abuse has occurred.

1. In **Walker**, the plaintiff used a valid legal mechanism but with the improper intent to harm the defendant financially, leading the court to find that **abuse of process** had occurred. The **Maryland Court of Appeals** concluded that legal actions brought with

ulterior motives, or for a purpose other than resolving legitimate legal disputes, would be considered an **abuse of process**.

## II. APPLICATION OF LEGAL STANDARD IN THE PRESENT CASE

145 **Ohana Growth Partners** has used this lawsuit as a tool for **retaliation**, not to seek legal resolution, but to burden **Dillon-Capps** with **financial strain**, **emotional distress**, and **reputational damage**. Despite having **no legitimate claims**, as evidenced by **Richard Hartman's admission** of violating **FMLA rights** and the **fraudulent filings** submitted by **Ohana's representatives**, they have continued to misuse the legal system. This constitutes **abuse of process** under **Maryland law**.

1. **Improper Purpose:** The primary motive behind **Ohana's lawsuit** is **retaliation** for **Dillon-Capps' exposure** of internal violations. Rather than pursuing a valid legal remedy, **Ohana** is seeking to inflict harm on **Dillon-Capps** through continuous and **frivolous filings**. This pattern of behavior mirrors the improper use of legal process seen in **Walker**.

2. **Separate Acts of Abuse:** Each filing submitted by **Ohana** over the course of the litigation, whether regarding system access, personnel records, or non-compliance, has been designed to create **unnecessary costs** for **Dillon-Capps**. Courts have found that when a party makes **repeated filings** for an improper purpose, each filing constitutes an independent act of **abuse of process**.

### III. CONSEQUENCES OF ABUSE OF PROCESS

146 Courts have the authority to impose **sanctions** or award **damages** for **abuse of process**, particularly when it results in **financial harm** or an **undue burden** on the defendant. In this case, **Dillon-Capps** has faced significant **financial loss**, as well as emotional and reputational damage, due to **Ohana's continuous abuse** of the legal system. The improper use of the judicial process to delay resolution and force a settlement constitutes an abuse of process for which **Ohana** and their counsel must be held accountable.

1. **Financial Harm:** As a direct result of **Ohana's abuse of process**, **Dillon-Capps** has incurred significant legal fees, emotional distress, and other costs associated with defending against **frivolous claims**. The improper intent behind **Ohana's filings** has created an **undue burden** on the defendant, warranting severe **sanctions** and **damages**.
2. **Undue Burden on Judicial Resources:** The continued filing of meritless claims has also placed an undue burden on the judicial system, requiring the court to devote time and resources to handling claims that have no legal basis. By filing claims designed to harass and delay, **Ohana** has wasted valuable court resources, further justifying the imposition of **sanctions**.

### IV. SANCTIONS SOUGHT FOR ABUSE OF PROCESS

147 Given the **persistent abuse** of the judicial system by **Ohana Growth Partners LLC** and their counsel, **Miles & Stockbridge**, the court should impose the following sanctions:

1. **Monetary sanctions** for each filing made with an **improper purpose**, designed to retaliate against **Dillon-Capps** or delay the litigation without a legitimate legal basis.



2. **Dismissal of all claims with prejudice**, as the lawsuit has been shown to be **retaliatory**, based on **perjury**, and designed solely to harass.

3. **Referral for further investigation** into the role of **Ohana's** representatives in filing **fraudulent claims** and using the legal system as a tool for **extortion** and **retaliation**.

### CONCLUSION

148 **Ohana Growth Partners LLC's** continued litigation, despite the lack of a legitimate claim, is a clear case of **abuse of process**. By using the court system for **improper purposes**, including retaliation, harassment, and inflicting financial harm, **Ohana** has misused the judicial process in violation of **Maryland law**.

149 The court should impose **severe sanctions** to prevent further **abuse of process** and to ensure that **Ohana** and their counsel, **Miles & Stockbridge**, are held accountable for their actions. **Monetary damages** should be awarded to **Dillon-Capps** for the undue financial burden placed on him, and all claims should be **dismissed with prejudice**.

### VEXATIOUS LITIGATION AND PATTERN OF MISCONDUCT

150 **Vexatious litigation** occurs when a party persistently files **meritless lawsuits** or continues to pursue claims that **cannot be granted relief**, for the purpose of **harassing** the opposing party, **delaying proceedings**, or otherwise **abusing the legal process**. This pattern of conduct places an **undue burden** on the courts, the opposing party, and the judicial system as a whole. In this case, **Ohana Growth Partners LLC** and their counsel, **Miles & Stockbridge**, have engaged in **vexatious conduct** from the outset, filing **meritless claims** based on **falsehoods**

and **perjured testimony** in an effort to delay the proceedings and **financially drain** the defendant, **Ryan Dillon-Capps**.

151 Over the course of the last **four months**, it has become abundantly clear that **Ohana's claims lack any legitimate basis**. The **foundational claim of the lawsuit**—that **Dillon-Capps obstructed access to the Global Administrator accounts**—has been exposed as **fraudulent**. The evidence, including the **Affidavit of Daniel Levett**, demonstrates that **Ohana always had access to these accounts**. The fact that **Ohana** persisted in their litigation despite having full knowledge of this fact shows that this case was filed and pursued in bad faith, with no objective other than to **harass, delay, and exert financial pressure** on **Dillon-Capps**.

#### LEGAL STANDARD FOR VEXATIOUS LITIGATION

152 Courts have the authority to impose **severe sanctions** when a party engages in **vexatious litigation**, including barring the party from filing future claims without prior judicial approval. The purpose of these sanctions is to protect both the **judicial system** and the **opposing party** from the continued burden of **frivolous filings**.

#### I. **SAFIR V. U.S. LINES, INC.**, 792 F.2D 19 (2D CIR. 1986)

153 In **Safir v. U.S. Lines, Inc.**, the **Second Circuit** established the factors courts should consider when determining whether litigation is **vexatious**. These factors include:

1. The **party's motive** for pursuing the lawsuit.
2. Whether the claims are **legitimate** or **meritless**.
3. Whether the **litigation imposes an undue burden** on the opposing party.
4. Whether the filings have **prolonged the litigation unnecessarily**.

154 In **Safir**, the court ruled that when litigation is pursued with **improper motives**, such as harassment or delay, and when the claims are clearly without merit, the litigation becomes **vexatious**, and the court is justified in imposing sanctions to prevent further abuse of the legal process.

1. In this case, **Ohana's persistence** in filing groundless claims, despite knowing they lacked any factual or legal basis, reflects their **improper motive** to harass and impose financial and emotional strain on **Dillon-Capps**. The **Safir standard** supports the conclusion that **Ohana's litigation** is vexatious and warrants severe sanctions.

## II. TUCKER V. WOOLERY, 99 MD. APP. 295, 637 A.2D 482 (1994)

155 In **Tucker v. Woolery**, the **Maryland Court of Special Appeals** held that **repeated, groundless litigation** is an abuse of the judicial process and warrants **severe sanctions**. The court noted that when a party files claims that are **frivolous** and lacks merit, and when the repeated filings serve no legitimate purpose other than to **prolong litigation** or **harass the opposing party**, the court has the authority to impose significant penalties, including **injunctive relief** to prevent future filings without judicial oversight.

1. The **Tucker** case illustrates the **Maryland courts' stance** on **vexatious litigation**. Here, **Ohana's meritless filings** have caused significant harm to **Dillon-Capps**, not only by delaying the resolution of the case but by also **increasing legal costs** and causing **emotional distress**. Each filing has further prolonged the litigation without serving any legitimate legal purpose, echoing the vexatious conduct condemned in **Tucker**.

### III. APPLICATION TO THE PRESENT CASE

156 The facts of this case demonstrate a clear and ongoing pattern of vexatious litigation by Ohana Growth Partners and their counsel, Miles & Stockbridge. The foundational claim that Dillon-Capps obstructed access to the Global Administrator accounts has been shown to be false, as the Affidavit of Daniel Levett proves that Ohana always had access to these accounts, contrary to the claims made in their filings. Despite this, Ohana continued to pursue the lawsuit for the purpose of harassing and financially harming Dillon-Capps.

1. **Improper Motives:** The persistence of **Ohana** in filing false claims despite the clear evidence that they had full access to the accounts reflects a deliberate attempt to **delay the proceedings** and force **Dillon-Capps** into a position where he would either be **financially drained** or pressured into a settlement. These improper motives are the very essence of **vexatious litigation**.
2. **Prolonging Litigation:** Each filing made by **Ohana** over the course of four months has prolonged the litigation unnecessarily. Rather than resolving the dispute, **Ohana's** filings have introduced false claims, **perjured testimony**, and misleading statements, all designed to increase the complexity of the case and exhaust **Dillon-Capps'** resources. The **cumulative effect** of these filings clearly demonstrates a pattern of vexatious conduct, which justifies the imposition of severe sanctions.

### SANCTIONS SOUGHT FOR VEXATIOUS LITIGATION

157 Given the ongoing **vexatious litigation** pursued by **Ohana Growth Partners**, the court should impose the following sanctions to protect both the judicial system and **Dillon-Capps** from further abuse:

1. **Monetary sanctions** for each filing that was made with the improper motive of **harassment** or **delay**, including those based on **false claims** of administrative access and compliance.
2. **Dismissal of all claims with prejudice**, as the **false and perjured testimony** used to support these claims renders the entire lawsuit meritless.
3. **Injunctive relief barring further filings**: The court should issue an order preventing **Ohana Growth Partners** and **Miles & Stockbridge** from filing any further claims without prior judicial approval, to prevent continued **abuse of the judicial system**.
4. **Referral for criminal investigation**: The perjured statements and false claims submitted by **Ohana** and their representatives should be referred for **criminal investigation**, as their conduct goes beyond mere litigation tactics and constitutes **fraudulent behavior**.

### CONCLUSION

158 The actions of **Ohana Growth Partners LLC** and **Miles & Stockbridge** over the past four months constitute a clear pattern of **vexatious litigation**. Each filing has been made with the intent to **harass, delay**, and **financially harm Dillon-Capps**, rather than to pursue legitimate legal claims. This pattern of misconduct has wasted valuable judicial resources and caused significant harm to the defendant.

**The court should:**

1. Impose **monetary sanctions** for each meritless filing made with improper motives.
  2. **Dismiss the case with prejudice**, recognizing that the lawsuit was filed and pursued in **bad faith**.
  3. Issue an **injunctive order** barring **Ohana** and their counsel from filing further claims without prior judicial approval.
  4. **Refer the matter for criminal investigation** to address the fraudulent conduct and perjury committed by **Ohana** and their representatives.
- 159 By imposing these sanctions, the court will protect the integrity of the judicial process and ensure that **vexatious litigation** of this kind is not tolerated.

#### CONTEMPT OF COURT

160 When a party continues to file **frivolous motions** in the face of clear evidence that the case is **fraudulent** and **baseless**, this constitutes **litigation misconduct**. Such conduct not only **wastes judicial resources** but also **violates the court's authority**, undermining the integrity of the legal system. The court has the power to impose **civil and criminal contempt sanctions** to stop parties from engaging in **misconduct** that disobeys court orders or continues to manipulate the legal process.

161 In this case, **Ohana Growth Partners LLC** and their counsel, **Miles & Stockbridge**, have engaged in persistent **litigation misconduct** by filing **frivolous motions** over a four-month period, despite overwhelming evidence that their claims are fraudulent and lack any legal or factual basis. Each filing further contributes to their pattern of bad-faith litigation and

demonstrates a blatant disregard for the court's authority. Such misconduct must be addressed with **severe sanctions** to protect the judicial process and prevent further abuse.

#### LEGAL STANDARD FOR LITIGATION MISCONDUCT AND CONTEMPT OF COURT

162 The court has the authority to impose sanctions for **litigation misconduct** and **contempt of court** when a party knowingly engages in bad-faith litigation tactics, disobeys court orders, or acts to delay or disrupt the judicial process. **Contempt sanctions** are designed to be **coercive** and **punitive**, ensuring that parties adhere to the proper use of legal proceedings and do not abuse the system.

#### I. INTERNATIONAL UNION, UNITED MINE WORKERS OF AMERICA V. BAGWELL, 512 U.S. 821 (1994)

163 In *International Union, United Mine Workers of America v. Bagwell*, the U.S. Supreme Court affirmed that courts have the inherent authority to impose both civil and criminal contempt sanctions when a party engages in litigation misconduct or disobeys court orders. The Court held that when a party's actions amount to misuse of the legal process, courts may impose escalating sanctions—including fines, imprisonment, or other coercive measures—to stop further misconduct.

1. In **Bagwell**, the party engaged in a pattern of disobedience and frivolous conduct, prompting the court to issue escalating penalties in the form of **coercive fines** and **imprisonment** to ensure compliance with court orders and to protect the judicial process from further harm.

2. The **Bagwell** case highlights the **broad authority** of courts to **sanction litigation misconduct** and protect the integrity of the legal system by issuing sanctions that escalate in severity if the misconduct continues.

## II. APPLICATION OF LEGAL STANDARD IN THE PRESENT CASE

164 In the present case, **Ohana Growth Partners LLC** and **Miles & Stockbridge** have consistently engaged in **litigation misconduct** by filing **frivolous motions** and continuing to pursue **baseless claims**, despite the clear evidence presented through the **Affidavits of Bad Faith, Perjury**, and **Daniel Levett** proving that their claims are **fraudulent**. This persistent filing of meritless motions is not just an abuse of the legal process but a violation of the court's authority.

1. **Continued Frivolous Filings:** Over the course of **four months**, **Ohana** has submitted multiple **frivolous motions** based on false assertions about **system access**, **compliance**, and **non-existent Global Administrator accounts**. Despite knowing that their claims were meritless, **Ohana** persisted in filing documents designed to **delay proceedings** and **harass Dillon-Capps**. Each filing represents a separate act of **litigation misconduct**, which should be treated as **contempt of court** under the standards set forth in **Bagwell**.

2. **Violation of Court Authority:** By continuing to file **frivolous motions**, **Ohana** has **disobeyed the court's inherent authority** to oversee a fair and efficient judicial process. The repeated abuse of the court's resources reflects a **disregard for the legal system**, which warrants escalating penalties, including fines and other coercive measures to stop further misconduct.



### III. ESCALATING SANCTIONS FOR CONTEMPT AND MISCONDUCT

165 Under **Bagwell**, the court has the authority to impose **escalating sanctions** for **litigation misconduct** and **contempt of court**. In this case, the court should consider imposing the following sanctions to address the persistent abuse of the legal process:

1. **Monetary fines** for each frivolous filing submitted by **Ohana** and **Miles & Stockbridge**. These fines should escalate with each additional filing to deter future misconduct and ensure that **Ohana** faces the financial consequences of their abuse.
2. **Imprisonment** or **coercive sanctions** for continued violations. If **Ohana** and their counsel continue to engage in **litigation misconduct**, the court should consider imprisonment as a means of halting further abuse of the judicial system.
3. **Referral for criminal contempt**: The court may refer **Ohana's representatives** and their counsel for **criminal contempt proceedings** if the misconduct persists, ensuring that their actions are held to the highest standard of legal accountability.

### IV. PATTERN OF LITIGATION MISCONDUCT

166 The **cumulative effect** of **Ohana's frivolous filings** demonstrates a clear **pattern of misconduct**, which has caused significant harm to **Dillon-Capps** and has placed an undue burden on the judicial system. Each filing was intended to **delay the resolution** of the case, increase **litigation costs**, and **exhaust the resources** of the defendant. **Ohana's** refusal to cease this **pattern of misconduct** should lead to the imposition of severe **sanctions**, including **contempt penalties**.

1. **Financial Harm:** The continuous filing of baseless motions has imposed significant financial strain on **Dillon-Capps**, who has been forced to defend against **fraudulent claims** at great expense. The court should impose **monetary fines** on **Ohana** and their counsel to compensate for the financial harm caused by their actions.
2. **Emotional and Reputational Damage:** The ongoing **litigation misconduct** has also caused emotional distress and reputational harm to **Dillon-Capps**. The court has a responsibility to address the **non-financial harms** caused by **Ohana's bad faith conduct**, further justifying the imposition of **coercive sanctions**.

V. SANCTIONS SOUGHT FOR LITIGATION MISCONDUCT

167 Given the **persistent litigation misconduct** by **Ohana Growth Partners** and their counsel, **Miles & Stockbridge**, the court should impose the following sanctions to halt further abuse of the legal process:

1. **Escalating monetary fines** for each instance of frivolous filing, to deter further misconduct and ensure **Ohana** faces the financial consequences of their actions.
2. **Imprisonment or coercive sanctions** if the misconduct continues, as authorized under **Bagwell**, to ensure compliance with court orders and to protect the judicial process from further abuse.
3. **Referral for criminal contempt** for continued violations, to hold **Ohana** and their representatives accountable for their deliberate abuse of the court's resources.

CONCLUSION

168 The ongoing **litigation misconduct** by **Ohana Growth Partners LLC** and their counsel constitutes a clear violation of the court's authority and an abuse of the judicial process. Their persistent filing of **frivolous motions** serves no legitimate legal purpose and is designed solely to **delay** the proceedings, **harass Dillon-Capps**, and **waste judicial resources**. The court has the authority under **Bagwell** to impose escalating sanctions, including fines, imprisonment, and criminal contempt proceedings, to stop this abuse.

**The court should:**

1. Impose **monetary fines** for each frivolous filing submitted by **Ohana** and **Miles & Stockbridge**.
2. Consider **imprisonment or coercive sanctions** if the misconduct persists, in accordance with the court's inherent authority to protect the judicial process.
3. Refer the matter for **criminal contempt proceedings** to address the continued violation of court orders and the ongoing abuse of the legal system.

169 By imposing these sanctions, the court will protect the integrity of the judicial system and ensure that **litigation misconduct** of this nature is not tolerated.

**IMPOSING SANCTIONS FOR BAD-FAITH LITIGATION**

170 Courts possess **inherent authority** to impose sanctions on parties or attorneys who engage in **bad-faith litigation tactics**, even when such conduct is not explicitly addressed by procedural rules like **Rule 11**. This inherent power is essential for maintaining the integrity of the judicial system, ensuring that parties do not abuse the legal process to pursue **frivolous claims**, cause **unnecessary delays**, or otherwise **manipulate the court** for improper purposes.

171 **Ohana Growth Partners LLC** and their counsel, **Miles & Stockbridge**, have engaged in a pattern of **bad-faith litigation**, filing **meritless claims** and **frivolous motions** for the purpose of **harassment**, **delaying proceedings**, and **forcing financial hardship** on the defendant, **Ryan Dillon-Capps**. Despite clear evidence of the **fraudulent nature of their claims**—including admissions from **Richard Hartman** regarding **FMLA violations**—they have continued to abuse the legal process, showing a blatant disregard for the ethical and professional standards required of litigants. Such bad-faith conduct justifies the imposition of **serious sanctions**, including **fines**, **dismissal of the case**, and **preclusion from filing further claims** in this matter.

#### LEGAL STANDARD FOR SANCTIONS IN BAD-FAITH LITIGATION

172 The **inherent authority** of courts to sanction parties for **bad-faith conduct** is a well-established principle in both federal and state law. Courts are empowered to punish parties who abuse the judicial process through conduct that violates **ethical standards** or undermines the integrity of the judicial system, even if such conduct is not explicitly covered by formal procedural rules.

#### I. **ROADWAY EXPRESS, INC. v. PIPER**, 447 U.S. 752 (1980)

173 In **Roadway Express, Inc. v. Piper**, the **U.S. Supreme Court** upheld the inherent power of courts to impose sanctions on parties or attorneys who engage in **bad-faith conduct**. The Court emphasized that while **Rule 11** and other formal rules provide mechanisms for sanctioning improper conduct, courts retain **inherent authority** to sanction parties outside of those rules when their behavior threatens the integrity of the legal system. In particular, the Court noted that **bad-faith litigation tactics**, such as **filing frivolous claims**, **delaying litigation**, or engaging in

**abusive discovery practices**, could justify significant sanctions, including **fin**es, **attorney's fees**, and **dismissal of claims**.

1. In **Roadway Express**, the plaintiff's attorneys engaged in **delay tactics** and **frivolous motions** designed to obstruct the judicial process. The Court's ruling affirmed that **courts must have the power** to sanction such conduct in order to protect the judicial system from abuse and ensure that parties who engage in **bad faith** face appropriate consequences.

## II. BLANTON V. EQUITABLE BANK, NAT. ASS'N, 542 F. SUPP. 1112 (D. MD. 1982)

174 In *Blanton v. Equitable Bank*, the Maryland District Court sanctioned a party for bad-faith litigation tactics, reaffirming that courts have inherent power to punish abusive litigation practices. The case involved a party that filed groundless motions and used frivolous arguments to delay the proceedings and burden the opposing party. The court found that such tactics were a clear abuse of the judicial process, warranting sanctions even though the conduct was not specifically covered by formal rules such as Rule 11.

1. The **Blanton** case highlights the **Maryland court's willingness** to punish parties who engage in **bad-faith litigation**, emphasizing that the courts' **inherent authority** extends to all forms of misconduct that disrupt the fair administration of justice. Sanctions in **Blanton** included both **monetary fines** and **preclusion from further filings** in the case.

### III. APPLICATION TO THE PRESENT CASE

175 **Ohana Growth Partners** and their counsel, **Miles & Stockbridge**, have demonstrated a clear pattern of **bad-faith litigation** through their continued filing of **meritless claims** and **frivolous motions**. These filings, which span a **four-month period**, are not grounded in law or fact and serve no legitimate purpose other than to **harass Dillon-Capps**, cause **unnecessary delays**, and force him to expend significant financial resources in defending against fraudulent claims.

1. **Improper Motive:** The **bad-faith motivation** behind **Ohana's filings** is clear.

The lawsuit is based on false assertions about **Global Administrator accounts**, with **Ohana** and their counsel knowingly pursuing claims that were unsupported by the evidence. Despite the **admission of FMLA violations** by **Richard Hartman**, **Ohana** persisted in filing **meritless motions**, with the clear intent to **delay proceedings** and force a settlement through litigation fatigue.

2. **Pattern of Frivolous Filings:** Over four months, **Ohana** submitted multiple motions, each designed to prolong the litigation and force **Dillon-Capps** into a defensive posture, despite the lack of legal or factual support for their claims. Each of these motions constitutes **bad-faith conduct**, warranting escalating sanctions to prevent further misuse of the court's resources.

### IV. ESCALATING SANCTIONS FOR BAD-FAITH LITIGATION

176 The court's **inherent power** to sanction **bad-faith litigation** allows for the imposition of penalties that escalate in severity to deter future misconduct. In this case, the court should

consider the following sanctions to address the **persistent bad-faith conduct** of **Ohana Growth Partners** and **Miles & Stockbridge**:

1. **Monetary fines** for each meritless filing made with bad-faith motivations. These fines should be substantial enough to deter **Ohana** and their counsel from engaging in further litigation misconduct.
2. **Dismissal of the case with prejudice**: Given the **fraudulent nature** of **Ohana's claims**, and the continued abuse of the legal system through bad-faith filings, the court should dismiss the lawsuit in its entirety, with prejudice, to prevent any further litigation on these meritless claims.
3. **Preclusion from further filings**: The court should impose an order barring **Ohana** and their counsel from filing any further motions or claims in this matter without prior judicial approval, to ensure that the judicial process is not further abused.
4. **Attorney's fees**: The court should award **Dillon-Capps** attorney's fees for the costs incurred in defending against these **bad-faith claims**, ensuring that he is compensated for the financial harm caused by **Ohana's misconduct**.

#### V. PRECEDENT FOR SANCTIONS IN BAD-FAITH LITIGATION

177 Both **Roadway Express** and **Blanton** set clear precedent for courts to exercise their **inherent authority** to impose **sanctions** on parties that engage in **bad-faith litigation practices**. By filing **frivolous claims** over an extended period, **Ohana Growth Partners** has abused the legal process, demonstrating a pattern of conduct that warrants **severe penalties** to protect both the defendant and the judicial system from further harm.

## CONCLUSION

178 **Ohana Growth Partners LLC** and **Miles & Stockbridge** have engaged in a sustained campaign of **bad-faith litigation**, using the court system to harass, delay, and inflict financial hardship on **Dillon-Capps**. The court possesses **inherent authority** to impose sanctions in response to this misconduct, as established by **Roadway Express** and **Blanton**.

179 The court should:

1. Impose **monetary fines** for each instance of bad-faith filing submitted by **Ohana** and their counsel.
2. **Dismiss the case with prejudice**, recognizing that the lawsuit is based on **fraudulent claims** and **meritless arguments**.
3. Issue an order barring **Ohana** from filing further motions or claims in this matter without prior judicial approval, to prevent continued abuse of the legal process.
4. Award **attorney's fees** to **Dillon-Capps**, compensating him for the costs incurred as a result of **Ohana's bad-faith litigation**.

180 By imposing these sanctions, the court will uphold the integrity of the judicial process and ensure that parties who engage in **bad-faith conduct** face appropriate consequences.

## RULE 41(B) DISMISSAL FOR FAILURE TO PROSECUTE

181 **Federal Rule of Civil Procedure 41(b)** and its **Maryland counterpart (Rule 2-507)** empower courts to **dismiss a case for failure to prosecute** or when a party engages in conduct that prevents the case from moving forward in a productive manner. This rule is designed to protect the judicial process from being misused by parties who file **frivolous claims** or repeatedly engage in procedural misconduct that delays the resolution of the case. When a party



fails to prosecute their case in good faith, dismissal—particularly **dismissal with prejudice**—becomes warranted.

182 In this case, **Ohana Growth Partners LLC** and their counsel, **Miles & Stockbridge**, have engaged in a pattern of **procedural misconduct** and **frivolous filings** that demonstrate their failure to move the case forward in a **meaningful or productive way**. Over a four-month period, they have submitted **meritless motions** and continued to litigate despite having no legal or factual basis for their claims. This conduct constitutes a **failure to prosecute**, and the court should exercise its authority to dismiss the case under **Rule 41(b)** or **Maryland Rule 2-507**.

#### LEGAL STANDARD FOR DISMISSAL UNDER RULE 41(B)

183 **Federal Rule 41(b)** allows for the **involuntary dismissal** of a case when a party fails to prosecute or comply with the rules of procedure. This includes situations where a party engages in **frivolous litigation** or repeatedly fails to move the case forward in a substantive way. Similarly, **Maryland Rule 2-507** provides for dismissal when a party **fails to advance the case**, such as by filing **meritless motions** without addressing the core issues of the case.

#### I. **LINK V. WABASH R.R. CO.**, 370 U.S. 626 (1962)

184 In **Link v. Wabash R.R. Co.**, the **U.S. Supreme Court** held that a court may dismiss a case for **failure to prosecute** under **Rule 41(b)** without a motion by the defendant. The Court emphasized that the power to dismiss for failure to prosecute is inherent in a court's ability to manage its docket and ensure the efficient administration of justice.

1. **Link** affirmed that courts must have the ability to dismiss cases where a party engages in conduct that prevents the case from moving forward, such as **filing frivolous**

**claims or failing to pursue the case in good faith.** This ruling supports dismissal where a plaintiff repeatedly obstructs progress through procedural misconduct.

## II. POWELL V. BRESLIN, 430 MD. 52, 59 A.3D 531 (2013)

185 In **Powell v. Breslin**, the **Maryland Court of Appeals** reiterated the court's authority under **Rule 2-507** to dismiss cases for **failure to prosecute**. The case involved a party who failed to move the case forward, instead engaging in **procedural delays** by filing **oppositions** and **motions** without addressing the substantive issues of the case. The court ruled that such conduct amounted to a **failure to prosecute**, justifying dismissal under Maryland Rule 2-507.

1. **Powell** makes clear that parties cannot delay the progress of a case by filing motions or oppositions that do not advance the case toward resolution. When a party files **meritless claims** or engages in **repeated procedural misconduct**, dismissal under Rule 2-507 is appropriate.

## III. APPLICATION TO THE PRESENT CASE

186 In the current case, **Ohana Growth Partners LLC** has demonstrated a persistent **failure to prosecute** by filing **frivolous claims** and engaging in **procedural misconduct** for over four months. Despite the **admission of FMLA violations** by **Richard Hartman** and the evidence proving the fraudulent nature of their claims—such as the **Affidavit of Daniel Levett** showing that **Ohana had access to the Global Administrator accounts**—Ohana has continued to file **meritless motions** that do not advance the case in a meaningful way. This conduct mirrors the behavior seen in **Link** and **Powell**, where dismissal was warranted due to the **failure to move the case forward**.

1. **Frivolous Filings:** Ohana's continued filing of **meritless claims** regarding system access, compliance, and non-existent administrative issues reflects a deliberate effort to **delay the case**. By failing to address the central issues and instead relying on **frivolous motions**, Ohana has failed to prosecute the case in good faith.

2. **Procedural Misconduct:** The four-month period of **repeated procedural misconduct**, including false claims and perjured testimony, further justifies dismissal. Ohana's actions have **wasted court resources** and caused **significant harm** to **Dillon-Capps**, who has been forced to defend against fraudulent claims with no legal merit.

#### IV. GROUND FOR DISMISSAL UNDER RULE 41(B) AND MARYLAND RULE 2-507

187 The court has clear grounds to **dismiss the case** under **Rule 41(b)** and **Maryland Rule 2-507** due to **Ohana's failure to prosecute**. Their conduct over the last four months demonstrates a complete disregard for the judicial process and an unwillingness to move the case forward in a meaningful way. Each filing has been made with the intent to **delay proceedings**, rather than to resolve the legal dispute, which amounts to a **failure to prosecute**.

1. **Dismissal with Prejudice:** Given the **fraudulent nature of Ohana's claims**, the court should dismiss the case with prejudice to prevent further abuse of the legal process. **Ohana's bad-faith litigation tactics**, including their failure to prosecute the case in good faith, warrant the **most severe penalty**—dismissal with prejudice.

2. **Involuntary Dismissal:** As established in **Link**, the court can dismiss the case on its own motion without requiring **Dillon-Capps** to file for dismissal. The court's **inherent authority** to manage its docket and prevent further **procedural abuse** supports the involuntary dismissal of the case under Rule 41(b).

#### V. SANCTIONS FOR FAILURE TO PROSECUTE

188 In addition to dismissal, the court should consider imposing sanctions for **Ohana's failure to prosecute**. The repeated filing of **frivolous motions** over the course of four months has caused **significant financial and emotional harm** to **Dillon-Capps** and has wasted valuable judicial resources. Sanctions could include **monetary penalties** for each instance of frivolous filing, as well as an award of **attorney's fees** to compensate **Dillon-Capps** for the costs incurred in defending against these meritless claims.

#### CONCLUSION

189 The pattern of frivolous filings and procedural misconduct demonstrated by Ohana Growth Partners LLC and their counsel, Miles & Stockbridge, constitutes a clear failure to prosecute under Federal Rule 41(b) and Maryland Rule 2-507. For over four months, Ohana has failed to move the case forward in a meaningful or productive way, relying instead on meritless motions that have caused unnecessary delays and inflicted financial harm on Dillon-Capps.

#### **The court should:**

1. **Dismiss the case with prejudice** under **Rule 41(b)** and **Maryland Rule 2-507**, as Ohana has failed to prosecute the case in good faith.
2. Impose **monetary sanctions** for each frivolous filing made by **Ohana** and their counsel.
3. Award **attorney's fees** to **Dillon-Capps** to compensate him for the costs incurred as a result of Ohana's failure to prosecute the case in a meaningful way.

190 By imposing these sanctions and dismissing the case, the court will protect the integrity of the judicial process and ensure that **parties who engage in bad-faith litigation** face appropriate consequences.

## X FINAL CONCLUSION

191 For over four months, **Ohana Growth Partners, LLC** and their counsel, **Miles & Stockbridge**, have engaged in a **persistent pattern of bad-faith litigation**, filing **frivolous claims** and pursuing **meritless motions**. These actions have not only imposed significant **financial, emotional, and reputational harm** on the defendant, **Ryan Dillon-Capps**, but have also wasted valuable **court resources**. Most critically, **Richard Hartman's admission** of violating **FMLA rights** invalidates the very foundation of this lawsuit from its commencement, barring **Ohana** from seeking any equitable relief under the **unclean hands doctrine**.

192 Each of **Ohana's filings** represents an act of **misconduct**, warranting escalating sanctions under **Rule 11**, **abuse of process**, and **contempt of court**. The continued litigation in light of these clear admissions of bad faith underscores the need for swift and decisive action by the court.

### A Motion to Dismiss with Prejudice for a June 13<sup>th</sup> Worth of Reasons

193 This case, initiated by **Ohana Growth Partners LLC** and their counsel, **Miles & Stockbridge**, is built entirely on **frivolous claims**, **perjury**, and **bad-faith litigation**. Since the lawsuit's inception, **Ohana** has engaged in repeated procedural misconduct, knowingly submitted false evidence, and continued to file meritless motions with the primary intent of harassing the defendant, **Ryan Dillon-Capps**, rather than seeking legitimate legal relief.

194 The lawsuit is fundamentally flawed from its commencement, rooted in **Richard Hartman's admission of violating FMLA rights** on page 4 of his affidavit, which provides grounds for immediate dismissal under the **unclean hands doctrine**. Further, Ohana's sustained use of the judicial system for improper purposes over the last four months represents a clear abuse of process, warranting **dismissal with prejudice** and severe **sanctions**.

195 Here are the **eight primary grounds** supporting the **dismissal with prejudice**:

1 **Unclean Hands Doctrine – Invalidating the Lawsuit**

196 The cornerstone of Ohana's misconduct lies in their **admitted violation of FMLA rights**, as reflected in **Richard Hartman's affidavit**. Under the **unclean hands doctrine**, parties who engage in unlawful or unethical behavior cannot seek equitable relief from the court. Hartman's admission of illegal retaliation against **Dillon-Capps** disqualifies **Ohana** from pursuing this lawsuit from the outset, making any request for injunctive relief or equitable remedy legally void.

197 **Keystone Driller Co. v. General Excavator Co.**, 290 U.S. 240 (1933) emphasized that **equitable relief** is barred for parties with unclean hands.

198 This case should therefore be dismissed, and **Ohana** should be prohibited from receiving any equitable remedy.

2 **Bad-Faith Litigation – Four Months of Frivolous Filings**

199 Since the filing of this lawsuit, **Ohana Growth Partners** has engaged in a pattern of **bad-faith litigation**, including filing **frivolous motions** and submitting **false evidence**. These actions demonstrate **Ohana's intent** to delay proceedings and inflict financial and emotional harm on **Dillon-Capps** rather than pursuing legitimate legal claims.

200 **Rule 11 sanctions** are appropriate here, as Ohana's repeated actions violate the rule's requirement that filings be grounded in **law and fact**.

3 **Failure to Prosecute – No Substantive Progress in Four Months**

201 Despite filing multiple motions and oppositions, **Ohana** has **failed to prosecute the case in good faith**. The continuous submission of meritless motions, all aimed at delaying the litigation, constitutes **failure to prosecute** under **Federal Rule 41(b)** and **Maryland Rule 2-507**. This prolonged inaction, combined with **Ohana's** bad-faith conduct, has caused significant harm to **Dillon-Capps** and wasted valuable court resources.

202 **Link v. Wabash R.R. Co.**, 370 U.S. 626 (1962) allows for dismissal when a party fails to meaningfully move the case forward.

4 **Abuse of Process – Intent to Harass and Delay**

203 **Ohana** has used the judicial system not to resolve a legitimate dispute but to harass and delay, making this a clear case of **abuse of process**. Every filing was designed to burden the defendant financially, emotionally, and reputationally. Courts have consistently held that such behavior constitutes **abuse of process**, warranting both dismissal and **sanctions**.

204 **Walker v. American Security Corp.**, 237 Md. 80 (1964) established that using legal proceedings for improper purposes constitutes abuse.

5 **Fraudulent and Perjurious Claims**

205 The foundation of **Ohana's lawsuit** is based on **fraudulent claims** and **perjured testimony**. **Richard Hartman** and **Justin Drummond** made knowingly false statements under oath, including claims about system access and compliance. The evidence—including **Daniel**

**Levett's affidavit**—directly contradicts these assertions, proving that **Ohana** had administrative access all along, invalidating their claim for relief.

206 Fraud and perjury are **serious violations**, and the court cannot allow claims built on such misconduct to proceed.

#### 6 Criminal Violations – Perjury, Fraud

207 **Ohana** and its representatives have engaged in criminal violations, including **perjury**, **fraud**, and potentially **witness tampering**. The **Affidavit of Randal Romes** suggests that Ohana manipulated witness testimony to further their fraudulent claims. The court should refer these matters for **criminal investigation** to hold the responsible parties accountable.

208 Maryland's perjury statute (Md. Code Ann., Crim. Law § 9-101) directly applies to Ohana's fraudulent conduct.

#### 7 Failure to State a Valid Claim – Rule 12(b)(6)

209 Even aside from the ethical misconduct, **Ohana** has **failed to state a claim for relief** under **Federal Rule 12(b)(6)**. Their central allegation—lack of access to critical systems—has been proven false. Without a valid legal basis, their claims must be dismissed.

210 **Ashcroft v. Iqbal**, 556 U.S. 662 (2009) emphasized that **plausible claims** must be based on **facts**, not mere assertions.

#### 8 Judicial Economy – Preventing Further Waste of Court Resources

211 Allowing **Ohana's** baseless lawsuit to continue would waste court resources and reward **bad-faith litigation**. Judicial economy demands the **immediate dismissal** of this case to prevent further exploitation of the court system.



## 9 Vexatious Litigation

212 **Ohana Growth Partners LLC** has continuously pursued **meritless and retaliatory claims**, knowing that their lawsuit was based on falsehoods. This persistent filing of **frivolous motions** over a **four-month** period, without any legitimate basis for relief, has caused **undue harm** to the defendant and wasted **judicial resources**.

213 **Legal Precedent:** In **Safir v. U.S. Lines, Inc.**, the court outlined factors to determine **vexatious litigation**, including **motive** and the **merit** of claims. Ohana's **fraudulent claims** fit squarely within these factors, and they have used the courts to harass **Ryan Dillon-Capps**.

214 The court should issue an **injunction** barring Ohana from filing further claims without judicial approval to prevent **future abuse** after they dismiss with prejudice.

## 10 Intentional Infliction of Emotional Distress (IIED)

215 The intentional and retaliatory nature of **Ohana's litigation** has caused significant **emotional** and **physical harm** to **Dillon-Capps**, resulting in **severe emotional distress**. Ohana's deliberate actions, including using litigation as a weapon, have caused **mental and financial exhaustion**.

216 **Maryland Law:** The **IIED** tort under **Maryland law** provides a basis for damages when actions are **deliberate** and **malicious**. Ohana's behavior, specifically the **false imprisonment attempts** and **harassing litigation**, fits this definition – along with the basis to dismiss with prejudice

## 11 Pattern of Fraud and Misrepresentation

217 Ohana's entire lawsuit is based on **fraudulent claims** and **perjured statements**, particularly by **Richard Hartman** and **Justin Drummond**. The **Affidavit of Daniel Levett**

proves that **Ohana** had the necessary **Global Administrator access**, contradicting their central claim. This fraud constitutes a **complete lack of factual basis** for the lawsuit.

218 **Legal Grounds: Federal Rule 12(b)(6)** requires dismissal when the plaintiff **fails to state a valid claim**. Since the lawsuit is built on **fabrications**, it should be dismissed with prejudice

## 12 Violation of the Supremacy Clause

219 Ohana's admitted violation of **FMLA protections** undermines the legal foundation of their lawsuit. This directly violates the **Supremacy Clause** of the **U.S. Constitution**, which precludes any relief for parties acting in violation of **federal law**. Ohana has attempted to shift the blame for their own illegal retaliation.

220 **Legal Precedent:** In **Cooper v. Aaron**, the **U.S. Supreme Court** reinforced the principle that **federal law** overrides state actions, barring relief to violators like **Ohana**, and resulting in the court dismissing of this case with prejudice.

## 13 Witness Tampering

221 **Ohana** and **Miles & Stockbridge** are implicated in **witness tampering**, as demonstrated by the **Affidavit of Randal Romes**, which suggests that testimony was manipulated to advance **Ohana's false claims**. This type of misconduct, aimed at falsifying evidence, strikes at the heart of the judicial process and must not be tolerated. Witness tampering alone provides sufficient grounds for **dismissal with prejudice** and referral for **criminal investigation**.

222 **Legal Standard:** Witness tampering is both a **criminal act** and a **clear ethical violation**, warranting **severe sanctions** and dismissal.

## SUMMARY AND CONCLUSION

223 Based on the facts presented and the evidence supporting **Ohana's bad-faith conduct**, there are now **13 independent grounds** for dismissing this case with prejudice:

1. **Unclean Hands Doctrine – Invalidating the Lawsuit**

- **Ohana's admission of FMLA violations** renders them ineligible to seek any form of equitable relief under the **unclean hands doctrine**.

2. **Bad-Faith Litigation – Four Months of Frivolous Filings**

- **Ohana's repeated meritless filings** and use of the court system for retaliatory purposes over the past four months justify dismissal under **Rule 11** sanctions.

3. **Failure to Prosecute – No Substantive Progress**

- Despite multiple filings, **Ohana** has **failed to advance** the case substantively, amounting to **failure to prosecute** under **Rule 41(b)** and **Maryland Rule 2-507**.

4. **Abuse of Process – Intent to Harass and Delay**

- **Ohana's filings** were not designed to resolve legitimate claims but to harass and delay, constituting **abuse of process**.

5. **Fraudulent and Perjurious Claims**

- **Ohana's lawsuit** is built on **falsehoods** and **perjured testimony**, particularly by **Richard Hartman** and **Justin Drummond**, invalidating their claims.

6. **Criminal Violations – Perjury, Fraud**

- **Ohana** and its representatives engaged in **criminal violations**, including **perjury** and **fraud**, justifying dismissal and **criminal referral** for investigation.

7. **Failure to State a Valid Claim – Rule 12(b)(6)**

- **Ohana's central claims** are based on provably false assertions, failing to meet the standard for a valid legal claim under **Rule 12(b)(6)**.

#### 8. **Judicial Economy – Preventing Further Waste of Court Resources**

- Allowing **Ohana's baseless lawsuit** to continue would waste **judicial resources** and reward **bad-faith litigation**, violating the principle of **judicial economy**.

#### 9. **Vexatious Litigation**

- **Ohana** engaged in **vexatious litigation**, pursuing **meritless claims** to harass **Dillon-Capps** over the four-month period. Dismissal with prejudice is essential to prevent further abuse.

#### 10. **Intentional Infliction of Emotional Distress (IIED)**

- **Ohana's retaliatory actions** were designed to cause **emotional and physical harm** to **Dillon-Capps**, leading to **severe emotional distress**.

#### 11. **Pattern of Fraud and Misrepresentation**

- **Ohana's entire lawsuit** is built on **fraudulent claims** and **perjured statements**, undermining the factual basis for the lawsuit.

#### 12. **Violation of the Supremacy Clause**

- **Ohana's violation of federal FMLA law** disqualifies them from seeking relief under the **Supremacy Clause**, making their claims invalid from the start.

#### 13. **Witness Tampering**

- **Ohana** and their counsel engaged in **witness tampering**, as evidenced by **Randal Romes’ affidavit**, warranting **dismissal with prejudice** and **criminal referral**.

224 The overwhelming evidence of **fraud, perjury, retaliatory litigation, and witness tampering** leaves no doubt that this case was pursued in **bad faith** from the very beginning. The court must act decisively to:

1. **Dismiss this case with prejudice**, preventing **Ohana** from seeking any further claims.
2. **Impose severe sanctions** on **Ohana** and **Miles & Stockbridge** for their **bad-faith litigation** and **procedural misconduct**.
3. **Refer the matter for criminal investigation** due to **perjury, fraud, and witness tampering** throughout these proceedings.

225 The dismissal with prejudice is necessary to protect the integrity of the court, uphold **judicial economy**, and deter future abuse of the legal system. The **13 grounds** presented are not only legally sound but also essential for ensuring **justice** and **fairness** in this case.

#### B Motion to Disqualify Miles & Stockbridge for Ethical Violations and Misconduct

226 The **disqualification of Miles & Stockbridge** as counsel for **Ohana Growth Partners LLC** is not only warranted but essential to uphold the integrity of this court and the legal system. From the outset of this litigation, **Miles & Stockbridge** has knowingly engaged in **bad-faith litigation**, submitted **false affidavits**, and perpetuated **fraudulent claims**. Their actions, which have misled this court and caused significant harm to the defendant, **Ryan Dillon-Capps**,

represent a clear violation of their ethical duties under both the **Maryland Rules of Professional Conduct** and **federal standards** governing attorney conduct.

227 The evidence overwhelmingly supports the conclusion that **Miles & Stockbridge** have actively facilitated **perjury**, obstructed the judicial process, and engaged in a sustained effort to prevent the defendant from receiving a fair trial. Their participation in the submission of **fraudulent evidence**, including **false statements** by **Richard Hartman** and **Justin Drummond**, constitutes a **breach of ethical duties** and raises serious questions about their fitness to continue as legal counsel in this case.

#### 1 Active Participation in Bad-Faith Litigation

228 **Miles & Stockbridge** knowingly pursued **frivolous claims** and filed **baseless motions** designed to harass and delay. Over the course of four months, their filings were intended not to seek justice but to obstruct the judicial process and retaliate against **Dillon-Capps** for his lawful actions in exposing **Ohana's internal violations**, including their **FMLA** violations. Under **Rule 11** and the **unclean hands doctrine**, **Miles & Stockbridge's** actions justify severe sanctions, including **disqualification**.

#### 2 Submission of False Evidence and Perjury

229 The law firm submitted **perjured affidavits** from **Hartman** and **Drummond**, knowingly presenting **false testimony** to this court. Their failure to correct these falsehoods and their continued reliance on **fraudulent statements** represent a **willful breach** of their **duty of candor** toward the court, in violation of **Model Rule of Professional Conduct 3.3**. This violation of basic ethical duties undermines the legitimacy of the entire legal process.

### 3 Conflict of Interest and Ethical Breaches

230 By participating in the **fraudulent claims** of **Ohana, Miles & Stockbridge** created a clear **conflict of interest**. Their representation of a client engaged in illegal actions—including **perjury** and **witness tampering**—renders them incapable of upholding their obligations to both their client and the court. The court should also consider **waiving the attorney-client privilege** between **Ohana** and **Miles & Stockbridge**, as their communications may reveal further unethical conduct.

### 4 Witness Tampering and Obstruction of Justice

231 Evidence suggests that **Miles & Stockbridge** engaged in **witness tampering**, particularly regarding **Randal Romes' affidavit**, which showed signs of influence or manipulation. By obstructing the presentation of truthful evidence, **Miles & Stockbridge** not only violated ethical standards but engaged in actions that could warrant **criminal investigation**. Their role in presenting **fraudulent claims** constitutes **obstruction of justice** and further supports their **disqualification**.

### 5 Breach of Ethical Standards under Maryland Law

232 Under **Maryland's Rules of Professional Conduct**, attorneys must act in a manner that upholds the integrity of the legal process. **Miles & Stockbridge** failed to do so by facilitating a lawsuit based on **perjury**, **fraud**, and **misrepresentation**. The court should refer **Miles & Stockbridge** for an **ethical review** by the **Maryland State Bar** to determine the appropriate level of **disciplinary action**.

6 Disqualification to Preserve Judicial Integrity

233 The court has a duty to maintain the integrity of the judicial system. Allowing **Miles & Stockbridge** to continue as counsel in this matter would further compromise the fairness and transparency of these proceedings. Their **disqualification** is essential to ensuring that the defendant receives a fair trial and that the judicial process is not further abused by their **bad-faith actions**.

DISQUALIFICATION OF MILES & STOCKBRIDGE IS NECESSARY

234 The facts overwhelmingly show that **Miles & Stockbridge** have breached their ethical duties and engaged in **fraudulent litigation practices**. Their involvement in **perjury**, **witness tampering**, and the filing of **frivolous claims** disqualifies them from continuing as counsel for **Ohana Growth Partners LLC**. The court must act decisively to:

1. **Disqualify Miles & Stockbridge** as counsel for **Ohana Growth Partners LLC**.
2. **Refer the firm for ethical review** by the **Maryland State Bar**.
3. **Waive attorney-client privilege** to allow for the full discovery of their participation in the **fraudulent conduct**.
4. **Refer for criminal investigation** regarding **perjury**, **witness tampering**, and **obstruction of justice**.

235 **Disqualification** is not only justified but essential to preserving the integrity of these proceedings and ensuring that justice is served.

C Motion for A Better Maryland with Reciprocal Relief



236 **Ohana Growth Partners LLC** and their counsel, **Miles & Stockbridge**, have engaged in a baseless lawsuit rooted in **fraud, perjury, and deliberate misrepresentation**. Despite the clear evidence that **Ohana** already had administrative access to the systems in question—evidence confirmed through **David Levett’s testimony**—they falsely claimed that **Ryan Dillon-Capps** was non-compliant. These fraudulent claims were not brought in pursuit of justice but were aimed at **weaponizing the court system** to financially cripple **Dillon-Capps** in retaliation for his lawful actions, including exercising his rights under **FMLA** and **ADA**.

237 Furthermore, **Ohana** and their counsel sought to impose severe financial penalties on **Dillon-Capps**, demanding daily fines of **\$2,500 per day** for alleged non-compliance, knowing full well that their claims were fabricated. This blatant attempt to manipulate the judicial process for personal and retaliatory gain demands **reciprocal relief**—imposing on **Ohana** the very penalties and costs they sought to unjustly inflict on **Dillon-Capps**.

1 [Reciprocal Penalty of \\$2,500 Per Day Per Person for 13 Key Individuals](#)

238 **Ohana** initially sought to impose a **\$2,500 daily penalty** on **Dillon-Capps** based on false claims of non-compliance and obstructed access. Given that these accusations have been thoroughly debunked by the facts, it is both equitable and just that the same **\$2,500 daily penalty** be imposed on **Ohana** for each of the 13 individuals involved in advancing these fraudulent claims.

239 The following individuals played direct roles in perpetuating this fraudulent litigation and should each be subject to the **\$2,500 per day penalty**:

1. Glenn Norris
2. Victor Brick
3. Richard Hartman

4. Justin Drummond
5. Ryan Brooks
6. David Levett
7. Randall Romes
8. Robert Brennen
9. Steven Frenkil
10. Holly Butler
11. Kim Edwards
12. Jessica Duvall
13. Victoria Klein

240 For each day since the **false claims** were filed, these individuals should collectively bear the **\$2,500 daily penalty** that they sought to unjustly impose on **Dillon-Capps**. The **financial burden** they attempted to inflict through procedural abuse and lies should now be **reciprocally applied** to them.

## 2 Reciprocal Relief for All of Ohana and Miles & Stockbridge's Legal Costs

241 In addition to the penalties, **Ohana** and **Miles & Stockbridge** sought to use litigation as a weapon of **financial destruction**, making unjust demands for **legal fees, costs, and fines** based on fabricated claims. These costs were not sought to remedy legitimate harm but to punish **Dillon-Capps** for exercising his legal rights. As such, the same **reciprocal relief** should now apply to **Ohana** and their counsel.

242 The court should impose reciprocal financial liability on **Ohana** and **Miles & Stockbridge** for:

1. All **legal fees and costs** they sought to recover from **Dillon-Capps**, despite the fraudulent basis of their lawsuit.
2. The **full legal expenses** of **Miles & Stockbridge**, billed while advancing a fabricated case, should now be borne entirely by **Ohana**.

243 Under **Deleon Enterprises, Inc. v. Zaino**, Maryland law permits the recovery of attorney's fees when litigation is pursued in bad faith. In this case, **Ohana** and their counsel sought **unjust enrichment** through a lawsuit based on false premises. Therefore, they should be held financially responsible for all reciprocal costs, including their own counsel's fees, which were incurred while advancing fraudulent and retaliatory claims.

244 **Reciprocal relief** is the **most equitable remedy**. Since **Ohana** falsely pursued litigation and demanded penalties grounded in **falsehoods**, they should bear the **total cost** of all legal expenses they sought to impose on **Dillon-Capps**. This includes covering their own counsel's fees, as these were incurred to further fraudulent claims.

### 3 Establishing a Critical Precedent for Maryland

245 Granting **reciprocal relief** in this case serves a crucial public interest by establishing a **precedent** for all litigants in **Maryland**. When bad-faith litigants attempt to **misuse the court system** to harass or financially harm others, they should face **equivalent penalties**. The court must be empowered to **reciprocate the costs and penalties** that bad-faith litigants seek to impose on others.

**By granting reciprocal relief, this court will:**

1. **Protect the integrity of Maryland's judicial system**, signaling that Maryland courts will not tolerate parties who file **frivolous lawsuits** based on lies and procedural gamesmanship.
2. **Deter future misuse** of the court system by ensuring that litigants who abuse the legal process face the **same financial and legal burdens** they sought to impose on others.

3. **Promote fairness and justice** by ensuring that no party can exploit the legal process for **retaliatory purposes** without being held accountable for the harm they cause.

#### 4 Public Policy Justifications for Reciprocal Relief

##### 246 Ensuring Judicial Integrity and Deterring Frivolous Litigation

The integrity of the judicial system depends on the court's ability to distinguish between legitimate claims and those brought for improper purposes. By granting reciprocal relief, this court will establish a critical precedent that sends a strong message to future litigants: Fraudulent lawsuits brought in bad faith will result in significant financial consequences.

1. **Judicial resources are finite.** If courts allow **frivolous litigation** to proceed without strong sanctions, it creates a **ripple effect** that not only harms the immediate parties but also **clogs the legal system**, delaying justice for those with legitimate claims. **Reciprocal penalties** of \$2,500 per day per person will dissuade future litigants from misusing the judicial process as a weapon.

##### 247 **Preserving Access to Justice for All Litigants**

Frivolous litigation not only burdens the courts but also **prevents access to justice** for other parties with valid claims. By imposing significant **financial penalties** on **Ohana** and their counsel, this court will protect the **accessibility of the courts**, ensuring that individuals and businesses are not dissuaded from pursuing **legitimate claims** due to fear of **retaliatory lawsuits**.

1. **Garay v. Overholtzer** demonstrates that when litigation is used for **harassment or retaliation**, sanctions are necessary to **restore fairness**. In this case, **Dillon-Capps** was targeted for exercising his **FMLA** and **ADA** rights. Reciprocal relief will not only

compensate him but also **restore equity** by holding those who weaponized the courts accountable.

248 Establishing Maryland as a Forum Free from Legal System Abuse

The court's decision here has the power to set an important precedent for Maryland. By granting reciprocal relief, this court will signal that Maryland courts are not venues for frivolous or retaliatory litigation. This will deter future bad actors and protect Maryland's legal environment, ensuring it remains a forum for legitimate disputes.

**RECIPROCAL RELIEF IS THE ONLY JUST REMEDY**

249 The actions of **Ohana Growth Partners LLC** and their counsel, **Miles & Stockbridge**, have been shown to be **fraudulent** and **unjustifiable**. Their demands for **\$2,500 daily penalties** and recovery of **legal fees** were based on **fabricated claims** designed to punish **Dillon-Capps** for defending his rights. The reciprocal application of these penalties and costs is **not only equitable** but **necessary** to **restore balance** and **protect the judicial system** from further abuse.

**Accordingly, this court should:**

1. Impose daily penalties of \$2,500 per day per person on each of the 13 individuals involved in Ohana's fraudulent litigation, retroactive to the date of the initial claims.
2. Require Ohana Growth Partners LLC and Miles & Stockbridge to bear all legal costs and fees that they sought to impose on Dillon-Capps, ensuring that the financial burden of their bad-faith litigation is fully reciprocated.
3. Establish a precedent for Maryland courts that will deter future litigants from using the legal system as a weapon of harassment and financial harm, ensuring that parties acting in bad faith face severe reciprocal consequences.

250 This **reciprocal relief** will not only compensate for the harm caused but will safeguard  
Maryland's judicial system from future abuse.

D Motion to Impose Sanctions not Sanction Fraudulent Lawsuits

251 List of Potential Causes for Sanctions Against Ohana Growth Partners and Miles &  
Stockbridge:

1 Fraud and Perjury

252 Ohana Growth Partners, LLC, and their representatives, Richard Hartman and Justin  
Drummond, deliberately provided false testimony under oath regarding system access and  
compliance. These falsehoods were made to intentionally mislead the court, constituting perjury  
in violation of Maryland's perjury statute (Md. Code Ann., Crim. Law § 9-101).

2 Abuse of Process

253 The lawsuit filed by Ohana Growth Partners, LLC was not intended to resolve a  
legitimate legal dispute but instead was wielded as a tool for harassment and delay. The repeated  
filing of meritless claims, designed to impose financial and emotional burdens on the defendant,  
constitutes clear abuse of process.

3 Bad-Faith Litigation

254 For over four months, Ohana Growth Partners engaged in bad-faith litigation by filing  
frivolous motions and advancing fraudulent claims. These actions were pursued with the intent to  
retaliate against the defendant, in violation of Federal Rule 11 and Maryland Rule 1-341, both of  
which prohibit filings unsupported by proper legal and factual grounds.

#### 4 Obstruction of Evidence

255 Miles & Stockbridge deliberately obstructed the defendant's access to critical evidence, particularly the transcript from the June 26, 2024 hearing. By imposing improper conditions on its release, they prevented the defendant from obtaining key documents essential to his defense, violating Rule 3.4(a) on fairness in evidence.

#### 5 Unclean Hands Doctrine

256 Richard Hartman's explicit admission in his affidavit of violating FMLA rights irrevocably disqualifies Ohana Growth Partners from seeking any form of equitable relief. The unclean hands doctrine bars any party from obtaining relief when their conduct in connection with the case has been fraudulent or unethical.

#### 6 Conspiracy to Commit Fraud

257 Ohana Growth Partners, LLC, and their counsel, Miles & Stockbridge, conspired to submit false claims and misrepresentations in court. They jointly created and relied upon fraudulent documentation to support a meritless lawsuit. This collaboration to knowingly present false information is a violation of ethical and legal standards, fully warranting sanctions.

#### 7 Obstruction of Justice

258 Ohana Growth Partners and their counsel deliberately obstructed justice by withholding key evidence and manipulating witness testimony. Their actions, including potential witness tampering and refusal to release crucial transcripts, violated the integrity of the judicial process and impaired the defendant's ability to mount an effective defense.

## 8 False Imprisonment (Attempted)

259 Ohana Growth Partners wrongfully attempted to use judicial sanctions to incarcerate Ryan Dillon-Capps by pursuing fraudulent claims. The Second Show Cause Order, which threatened imprisonment without legal merit, constitutes a clear attempt at false imprisonment under the guise of judicial authority.

## 9 Fraudulent Lawsuit

260 The lawsuit initiated by Ohana Growth Partners was entirely fraudulent, relying on false allegations that Dillon-Capps obstructed access to critical systems. David Levett's affidavit unequivocally demonstrated that Ohana had full access to these systems, making their claims baseless and fraudulent. This blatant misuse of the judicial system demands sanctions for filing a fraudulent lawsuit.

## 10 Vexatious Litigation

261 Ohana Growth Partners engaged in a sustained pattern of vexatious litigation, filing frivolous motions and baseless claims with the sole intent of harassing and financially crippling Ryan Dillon-Capps. This conduct reflects a gross misuse of the legal system, fully justifying sanctions to deter such abuse in the future.

## 11 Reckless Endangerment and Negligence

262 Ohana Growth Partners, LLC, and Miles & Stockbridge recklessly exposed Ryan Dillon-Capps to significant emotional, financial, and physical harm by pursuing a baseless lawsuit and engaging in continuous bad-faith litigation. Their reckless disregard for the truth and the consequences of their actions demonstrates negligence and reckless endangerment, fully justifying sanctions.



## 12 Legal Malpractice

263 Miles & Stockbridge committed legal malpractice by knowingly filing and pursuing frivolous claims on behalf of Ohana Growth Partners. Their conduct violated their professional duty to ensure that their legal representations were truthful and factually supported. This breach of ethical obligations under the Maryland Rules of Professional Conduct demands sanctions, including potential disqualification.

## 13 Estoppel

264 Ohana Growth Partners engaged in conduct that prevented Dillon-Capps from fulfilling his legal obligations while accusing him of non-compliance. This created a legal estoppel, barring them from claiming any failure on Dillon-Capps' part, as they intentionally obstructed his ability to comply. This manipulation of the legal process further justifies sanctions.

## 14 Intentional Infliction of Emotional Distress (IIED)

265 The malicious and retaliatory tactics employed by Ohana Growth Partners and Miles & Stockbridge caused severe emotional distress to Ryan Dillon-Capps. Their deliberate misuse of the legal system, including false imprisonment threats and bad-faith litigation, justifies punitive sanctions under the claim of Intentional Infliction of Emotional Distress (IIED).

## 15 Judicial Economy

266 Ohana's continuous misuse of the court system has wasted valuable judicial resources and significantly delayed justice. Their filing of meritless claims and engagement in bad-faith litigation has imposed unnecessary strain on the court. Sanctions are necessary to preserve judicial economy and prevent further waste of resources.

## 16 Witness Tampering

267 Ohana Growth Partners and Miles & Stockbridge are implicated in potential witness tampering, specifically regarding the manipulation of Randal Romes' affidavit. While the evidence is circumstantial, it suggests that Ohana may have influenced or altered testimony to support their false claims. Witness tampering is a serious violation that undermines the integrity of the judicial process and justifies severe sanctions if substantiated.

## 17 Criminal Violations – Perjury and Fraud

268 In addition to civil misconduct, Ohana Growth Partners and its representatives committed potential criminal violations, including perjury and fraud. By submitting false affidavits and knowingly advancing fraudulent claims, they violated Maryland criminal statutes, warranting referral for criminal investigation. These violations reinforce the need for significant sanctions in the current civil proceedings.

## 18 Contempt of Court

269 Ohana Growth Partners and their counsel engaged in repeated contempt of court by disobeying court orders and continuing to file frivolous motions and fraudulent claims. Their blatant disregard for the court's authority and the judicial process constitutes contempt, justifying sanctions, including fines or imprisonment, to halt their ongoing misconduct.

## 19 Failure to State a Valid Claim – Rule 12(b)(6)

270 Ohana Growth Partners failed to state a valid legal claim, as their allegations were grounded in falsehoods. The claim regarding lack of access to systems was conclusively disproven by the affidavit of David Levett. Without a valid legal basis, their lawsuit should have

been dismissed at an early stage, and their pursuit of this baseless case warrants sanctions under Rule 12(b)(6).

## 20 Violation of the Supremacy Clause

271 Ohana Growth Partners' admitted violation of the Family and Medical Leave Act (FMLA) directly undermines their legal standing. Federal law, as established by the Supremacy Clause of the U.S. Constitution, preempts state actions that conflict with federal statutes. Ohana's violation of federal law bars them from seeking equitable relief, fully justifying sanctions.

## 21 Malicious and Bad-Faith Defamation Claims

272 Ohana Growth Partners and their representatives made defamatory statements during litigation, falsely accusing Ryan Dillon-Capps of misconduct. These defamatory claims were made in bad faith as part of their retaliatory strategy, damaging Dillon-Capps' reputation. This malicious defamation further justifies sanctions.

## 22 False Imprisonment (Attempted)

273 Ohana Growth Partners attempted to falsely imprison Dillon-Capps by pursuing baseless judicial orders, including the Second Show Cause Order, which threatened incarceration based on fraudulent claims. This misuse of judicial authority for wrongful purposes constitutes an attempted false imprisonment and warrants severe sanctions.

## 23 Vexatious Litigation – Retaliatory in Nature

274 The entire lawsuit filed by Ohana Growth Partners was retaliatory in nature, aimed at harassing Dillon-Capps for exposing their internal misconduct, including violations of the Family and Medical Leave Act (FMLA). This pattern of vexatious litigation was intended to

punish rather than resolve legitimate disputes, fully justifying sanctions and dismissal with prejudice.

24     Failure of Legal Obligations – PCI DSS Compliance

275     Ohana Growth Partners failed to meet their legal obligations, including compliance with PCI DSS standards. Affidavit evidence shows that their failure to secure sensitive data and adhere to legal standards was central to their retaliatory actions against Dillon-Capps. This reckless disregard for legal obligations justifies sanctions.

25     Breach of Contract and Fraudulent Contract Claims

276     Ohana’s lawsuit is built on fraudulent contract claims. Their reliance on incomplete or misrepresented contracts, coupled with their bad-faith litigation, constitutes a breach of contract under Maryland law. These fraudulent contract claims, pursued in bad faith, warrant sanctions and dismissal of their case.

E     Motion to Vacatur the Temporary Restraining Order

277     The Temporary Restraining Order (TRO) and Preliminary Injunction obtained by Ohana Growth Partners, LLC were secured through fraudulent claims, perjured statements, and bad-faith litigation. The basis of their claims was entirely fraudulent, as proven by David Levett’s affidavit, which clearly disproves Ohana’s central allegations, particularly regarding system access. Furthermore, Ohana’s conduct—including Richard Hartman’s admission of violating the Family and Medical Leave Act (FMLA)—bars them from seeking any equitable relief under the doctrine of unclean hands.

278     Ohana’s bad-faith conduct, marked by FMLA violations and compounded by perjury and obstruction of evidence, disqualifies them from maintaining any injunctive relief. The wrongful

imposition of judicial restraints on Dillon-Capps' rights and business activities, based on knowingly false claims and a fraudulent foundation, compels the immediate vacatur of the TRO and Preliminary Injunction. To allow these fraudulently obtained orders to stand would be a miscarriage of justice and a blatant abuse of the judicial process.

**279 Therefore, the Temporary Restraining Order and Preliminary Injunction must be vacated in their entirety, with prejudice.**

280 Ohana's fraudulent actions in securing the TRO, through perjured statements and deliberate misrepresentations, alongside their disqualification from relief due to FMLA violations, fully justify vacatur. The evidence provided by Daniel Levett not only exposes the baselessness of their claims but confirms that the TRO was unjustly obtained through fraud and false testimony.

281 The court must acknowledge both Ohana's violation of FMLA and their reliance on fraudulent claims and perjured statements, invalidating their entitlement to any injunctive relief. To preserve the integrity of the judicial process, the TRO should be vacated, with clear recognition of the fraudulent and unethical means by which it was secured.

**282 Accordingly, the Temporary Restraining Order should be vacated immediately, with the court explicitly noting that it was obtained through perjured statements, misrepresentation, and barred by unclean hands due to FMLA violations.**

#### **F Motion for Injunction to Prevent Future Abuse of Court Process**

283 Given the egregious and sustained abuse of the judicial process by Ohana Growth Partners, LLC, and Miles & Stockbridge, it is necessary to issue an injunction that goes beyond this case alone. Ohana and their counsel have engaged in vexatious litigation, knowingly filed

fraudulent claims, and acted in bad faith, all with the intent to harass and harm Ryan Dillon-Capps. Their conduct has not only undermined this specific case but poses an ongoing threat to the judicial system if left unchecked.

284 Therefore, the court should issue an injunction barring Ohana Growth Partners, LLC, and Miles & Stockbridge from filing any further claims or motions not only in this case but also in any future litigation involving Ryan Dillon-Capps, without prior judicial approval.

**This injunction should extend to the following:**

1. **In this case:** No further claims or motions may be filed without explicit court approval, to prevent continued vexatious filings.
2. **In any future litigation against Ryan Dillon-Capps:** Ohana and their counsel must seek judicial approval before filing any new lawsuits or motions involving Dillon-Capps to prevent harassment through legal abuse.
3. **In any representation involving litigation with Dillon-Capps:** Should Miles & Stockbridge or any other representative of Ohana pursue litigation related to Dillon-Capps, judicial oversight is required to ensure the integrity of the court system.
4. **For all new lawsuits filed by Ohana:** Given the extent of the misconduct in this case, judicial approval should be required for Ohana Growth Partners to file any new lawsuits against any party, to prevent further misuse of the court system.

285 This expanded injunction is necessary to protect both Dillon-Capps and the broader judicial system from future abuse. Ohana and their counsel have demonstrated a pattern of bad-faith litigation, perjury, and fraudulent conduct, justifying this broad preventative measure.

Without such judicial oversight, they pose a serious risk of continuing their vexatious and abusive practices.

286 Accordingly, the court should issue a broad injunction requiring judicial approval before Ohana Growth Partners, LLC, and Miles & Stockbridge can file any further legal actions—whether in this case, in future litigation involving Ryan Dillon-Capps, or in any new lawsuits they seek to initiate.

### G Referral for Criminal & Ethical Investigation

287 Based on a comprehensive review of the document and relevant Maryland criminal statutes, here is a **comprehensive list of potential criminal violations** that could be referred for investigation based on the conduct of Ohana Growth Partners, LLC, their representatives (including Richard Hartman, Glenn Norris, Victor Brick, and Justin Drummond), and their counsel:

#### 1 Perjury (Md. Code Ann., Crim. Law § 9-101)

288 **Key Violations:** Ohana representatives, particularly Richard Hartman and Justin Drummond, provided false statements under oath regarding system access and compliance. These knowingly false statements amount to perjury.

#### 2 Fraud (Md. Code Ann., Crim. Law § 8-101)

289 **Key Violations:** Ohana Growth Partners engaged in fraudulent conduct by knowingly filing false claims in court, including fabricating allegations about the defendant obstructing access to critical systems. Their intent to mislead the court and gain an unjust advantage makes this a clear case of fraud.

3      Witness Tampering (Md. Code Ann., Crim. Law § 9-305)

290      **Key Violations:** Evidence suggests that Ohana, through its representatives or counsel, manipulated or influenced Randal Romes' affidavit to support their false claims. This constitutes witness tampering, as it involves an attempt to obstruct the presentation of truthful testimony.

4      Obstruction of Justice (Md. Code Ann., Crim. Law § 9-306)

291      **Key Violations:** By withholding critical evidence, particularly the transcript from the June 26, 2024 hearing, and engaging in misleading actions to block discovery efforts, Ohana and their counsel actively obstructed justice, hindering the defendant's ability to defend himself effectively.

5      False Imprisonment (Md. Code Ann., Crim. Law § 3-701)

**Key Violations:** Ohana's efforts to pursue baseless judicial sanctions that included threats of incarceration against the defendant through fraudulent claims amount to attempted false imprisonment under Maryland law.

6      Conspiracy to Commit Fraud (Md. Code Ann., Crim. Law § 8-107)

292      **Key Violations:** Ohana Growth Partners, along with their legal counsel, conspired to create and submit false claims, misrepresentations, and fraudulent documentation to the court. This conspiracy involved multiple parties working together to knowingly deceive the judicial system.

7      Computer Fraud – Exceeding Authorized Access (Md. Code Ann., Crim. Law § 7-302)

293      **Key Violations:** There is evidence that Ohana and its agents engaged in unauthorized access or manipulation of computer systems, violating data security protocols and state laws.



This violation, in conjunction with their other actions, reinforces the need for criminal investigation.

8 Deceptive Trade Practices – Misrepresentation of Compliance (Md. Code Ann., Com. Law § 13-301(9))

294 **Key Violations:** Ohana falsely represented their compliance with PCI DSS and other legal standards while engaging in practices that violated those standards. This constitutes a deceptive trade practice, designed to mislead both the court and opposing parties.

9 FMLA Violations (29 U.S.C. § 2615)

295 **Key Violations:** Ohana admitted to violating the Family and Medical Leave Act (FMLA), constituting a federal offense. This violation not only impacts civil liability but further disqualifies them from equitable relief under the unclean hands doctrine.

10 Retaliation (29 U.S.C. § 2615(a)(2))

296 **Key Violations:** Ohana's litigation against Dillon-Capps, including the false claims and threats of legal action, was in retaliation for his exercise of rights under the FMLA. Such retaliatory conduct is prohibited under federal law and warrants investigation.

11 Forgery (Md. Code Ann., Crim. Law § 8-601)

297 **Key Violations:** If any documents submitted to the court were falsified, including affidavits or other official filings, this could constitute forgery. The manipulation of evidence or documents to mislead the court would qualify as a violation of forgery statutes.

12 Perverting the Course of Justice (Obstruction of Legal Process) (Md. Code Ann., Crim. Law § 9-306)

298 **Key Violations:** Beyond simple obstruction, Ohana's actions—including submitting fraudulent claims, manipulating evidence, and withholding documents—can be viewed as an attempt to pervert the course of justice by corrupting legal proceedings and misleading the court.

13 Submission of False Documents to the Court (Md. Code Ann., Crim. Law § 8-606)

299 **Key Violations:** Ohana Growth Partners, through their legal counsel, may have submitted false or fraudulent documents to the court as part of their litigation strategy. This includes any forged or knowingly false affidavits, contracts, or compliance documents.

14 Fraudulent Misrepresentation (Md. Code Ann., Crim. Law § 8-103)

300 **Key Violations:** Ohana repeatedly made false statements regarding Dillon-Capps' conduct, system access, and other crucial matters to deceive both the court and third parties, such as service providers or technical experts. This pattern of fraudulent misrepresentation reinforces their criminal liability.

15 Coercion (Md. Code Ann., Crim. Law § 3-701 et seq.)

301 **Key Violations:** If Ohana or their representatives used threats of legal action or incarceration (through false claims) to coerce Dillon-Capps into compliance with unlawful demands, it could constitute coercion, especially if these threats were used to force actions that violate his rights.

16     Defamation (Md. Code Ann., Crim. Law § 10-402)

302     **Key Violations:** In pursuing their fraudulent claims, Ohana made defamatory statements about Dillon-Capps' professional conduct and integrity. If these false allegations were knowingly made to harm his reputation, both civil and criminal defamation claims could be pursued.

17     Malicious Prosecution (Civil, but with Criminal Implications)

303     **Key Violations:** Ohana's litigation was based on false claims, pursued with the intent to harm Dillon-Capps rather than resolve legitimate disputes. While traditionally a civil claim, in cases of malicious prosecution rooted in fraudulent or criminal behavior, criminal penalties may also be sought.

18     Unlawful Retaliation (29 U.S.C. § 215(a)(3) - FLSA Retaliation)

304     **Key Violations:** Besides violating the FMLA, Ohana Growth Partners may have violated the Fair Labor Standards Act (FLSA) if they engaged in retaliation for asserting legal rights regarding working conditions, including time off or workplace complaints. This falls under unlawful retaliation against an employee for engaging in protected activities.

19     Criminal Conspiracy (Md. Code Ann., Crim. Law § 1-202)

305     **Key Violations:** If Ohana Growth Partners, Miles & Stockbridge, and their representatives worked together to fabricate evidence, coordinate perjury, or interfere with legal proceedings, this could constitute criminal conspiracy. Criminal conspiracy exists when two or more people agree to commit an unlawful act and take steps toward completing it.

20     Subornation of Perjury (Md. Code Ann., Crim. Law § 9-102)

306     **Key Violations:** This offense occurs when one party induces another to commit perjury.

If Ohana's legal counsel or representatives encouraged others, such as witnesses or employees, to provide false testimony, this would constitute subornation of perjury.

21     Fraudulent Use of Legal Process (Md. Code Ann., Crim. Law § 9-302)

307     **Key Violations:** The misuse of judicial processes for improper purposes, such as harassing or harming Dillon-Capps, could fall under this statute. Ohana's repeated filing of fraudulent claims and requests for judicial sanctions with no legitimate basis may violate this statute.

22     Extortion (Md. Code Ann., Crim. Law § 3-701 et seq.)

308     **Key Violations:** If Ohana's actions or threats—such as their attempts to use false claims to force Dillon-Capps into financial harm, a settlement, or cooperation—were intended to wrongfully obtain money, property, or services, they may have committed extortion. The use of legal threats based on fraudulent premises can constitute extortion if done to obtain an unfair advantage.

23     False Pretenses (Md. Code Ann., Crim. Law § 8-103)

309     **Key Violations:** Ohana Growth Partners may have violated this statute by obtaining court orders or judicial actions under false pretenses. Their fraudulent representations to the court about system access and Dillon-Capps' conduct may fit the legal definition of false pretenses.

24     Attempt to Obtain Property by Deception (Md. Code Ann., Crim. Law § 8-301)

310     **Key Violations:** Ohana's attempts to extract legal fees, penalties, or settlements from Dillon-Capps based on fraudulent legal claims may qualify as an attempt to obtain property by

deception. If they sought financial compensation or other benefits through deception, this offense would apply.

## 25 Contempt of Court (Inherent Judicial Power)

311 **Key Violations:** Though not necessarily a criminal statute, contempt of court can be pursued if Ohana and its counsel disobeyed court orders, violated procedural rules, or engaged in conduct that undermined the judicial process. This includes failure to comply with discovery obligations, obstructing legal proceedings, or defying court instructions.

## 26 Racketeering (Potential Federal RICO Violation)

312 **Key Violations:** If Ohana's fraudulent actions and use of the court system represent a broader pattern of unlawful activity, this could potentially fall under the Racketeer Influenced and Corrupt Organizations (RICO) Act (18 U.S.C. § 1961). Although typically used in organized crime cases, RICO can apply to businesses or legal entities engaged in an ongoing pattern of fraudulent behavior, including filing meritless lawsuits as part of a scheme to defraud.

## 27 Obstruction of Federal Statutory Rights (18 U.S.C. § 245)

313 **Key Violations:** Ohana's retaliation and obstruction of Dillon-Capps' rights under federal laws like the FMLA and potentially the Americans with Disabilities Act (ADA) could be seen as an obstruction of federally protected rights, triggering criminal liability under this statute.

## 28 Civil Rights Violations (42 U.S.C. § 1983)

314 **Key Violations:** If Ohana, acting under color of law, deprived Dillon-Capps of his federally protected rights (such as retaliation for taking FMLA leave), there could be civil rights claims that also involve potential criminal investigations, especially if this conduct was egregious or retaliatory in nature.

29     Intimidation or Coercion to Prevent Testimony (Md. Code Ann., Crim. Law § 9-303)

315     **Key Violations:** If there was any attempt to intimidate, coerce, or otherwise interfere with witnesses, including attempts to prevent testimony or cooperation with legal proceedings, this could qualify as a criminal offense under Maryland law.

30     Intentionally Withholding or Destroying Evidence (Spoliation of Evidence)

316     **Key Violations:** If Ohana or their counsel deliberately withheld or destroyed critical evidence, including emails, transcripts, or documents relevant to the discovery process, this could be pursued as evidence tampering or spoliation of evidence, which may have criminal implications.

31     Malicious Use of Process (Md. Code Ann., Crim. Law § 9-306)

317     **Key Violations:** Ohana's intent in filing this lawsuit appears to be based on retaliation, fraud, and harassment rather than a legitimate claim. Maryland recognizes malicious use of legal process when a party knowingly uses legal proceedings for improper purposes, causing harm to another party.

32     Civil Conspiracy

318     **Key Violations:** While this is often a civil claim, Ohana Growth Partners and their counsel, Miles & Stockbridge, could be liable for civil conspiracy if they worked together to commit wrongful acts such as perjury, fraud, or witness tampering. This could also be the basis for sanctions or disqualification of counsel. Criminal conspiracy (addressed earlier) could be pursued if criminal intent is proven, but the civil counterpart reinforces the coordinated effort to abuse legal proceedings.

### 33 Fraudulent Inducement

319 **Key Violations:** If Ohana Growth Partners induced Dillon-Capps or third parties into agreements, settlements, or actions based on fraudulent claims or misrepresentations, this could constitute fraudulent inducement. This may apply to any contracts or negotiations affected by their false representations.

### 34 Failure to Maintain Proper Recordkeeping (PCI DSS Violations)

320 **Key Violations:** If Ohana violated PCI DSS standards, particularly by failing to maintain proper access logs, audit trails, or other records, they may be in violation of federal and state data security laws. This can have serious legal consequences, especially in cases involving consumer data protection, where breaches of standards can lead to both civil and criminal penalties.

### 35 Violation of Federal Trade Commission (FTC) Regulations

321 **Key Violations:** The Federal Trade Commission enforces regulations concerning deceptive business practices and data security. If Ohana's actions involved deceptive practices related to system access or customer data security (such as non-compliance with PCI DSS), they could face enforcement under FTC laws, including fines and possible referral for criminal prosecution depending on the scope of the misconduct.

### 36 Antitrust Violations (Potential Market Manipulation)

322 **Key Violations:** If Ohana's litigation or other actions were part of an attempt to undermine Dillon-Capps' business operations or manipulate market conditions (e.g., by disrupting competitors through litigation abuse), antitrust laws could be implicated. While this would require evidence of broader anti-competitive behavior, it is worth considering if their actions had any market-related motivations. Glenn Norris, Justin Drummond, and Richard

Hartman had first hand knowledge of my business and it's intentions as they were given an opportunity to benefit from a reduced version of one of the solutions custom built for them.

37 Unauthorized Practice of Law (Md. Code Ann., Bus. Occ. & Prof. § 10-601)

323 **Key Violations:** If any of Ohana's representatives, not licensed to practice law, gave legal advice, submitted filings, or otherwise engaged in legal activities, this would constitute the unauthorized practice of law. This could be relevant if non-attorney employees of Ohana improperly took on legal roles during the proceedings.

38 Breach of Fiduciary Duty

324 **Key Violations:** If Ohana's leadership, such as Richard Hartman or Justin Drummond, owed fiduciary duties to Dillon-Capps in any prior professional capacity, and their actions violated those duties (e.g., by filing fraudulent claims or manipulating business dealings), this could form the basis for both civil and criminal liability. Breaches of fiduciary duty often tie into fraud and misrepresentation claims.

39 Retaliatory Discharge or Employment Discrimination

325 **Key Violations:** Beyond FMLA retaliation, if Dillon-Capps was terminated or discriminated against in other ways due to his exercise of legal rights (such as whistleblowing or filing workplace complaints), this could constitute retaliatory discharge or employment discrimination under state or federal laws like the Americans with Disabilities Act (ADA) or Title VII of the Civil Rights Act.

40 Federal Wire Fraud (18 U.S.C. § 1343)

326 **Key Violations:** If any fraudulent communications were transmitted across state lines via electronic means (e.g., emails, phone calls, or digital filings), this could potentially rise to the



level of federal wire fraud. Given the nature of modern litigation and communication, wire fraud is a possible avenue for federal investigation.

41     Mail Fraud (18 U.S.C. § 1341)

327     **Key Violations:** If any fraudulent materials were sent through the U.S. Postal Service or other mail carriers, this could fall under federal mail fraud statutes. Misleading court filings, notices, or other fraudulent communications sent by mail could trigger federal criminal charges.

42     Unlawful Retention of Property

328     **Key Violations:** If Ohana Growth Partners improperly retained any of Dillon-Capps' property or assets through fraudulent means, this could amount to theft by deception or conversion. This might involve company property, intellectual property, or financial assets wrongfully withheld.

43     Consumer Protection Violations (Md. Code Ann., Com. Law §§ 13-101 et seq.)

329     **Key Violations:** If Ohana's actions involved deceptive practices that harmed consumers or third parties, such as false claims about their compliance with industry standards or misrepresentations about their legal standing, Maryland's consumer protection laws could be implicated.

44     Ethical Violations for Attorneys (ABA Model Rules of Professional Conduct)

**Key Violations:** Miles & Stockbridge, as legal counsel, may face professional discipline for violating ethical rules, including engaging in fraudulent litigation, failing to disclose material facts, and obstructing justice. These violations may result in disbarment, suspension, or other disciplinary actions. The rules implicated include:

1.     Rule 3.3: Candor toward the tribunal

2. Rule 3.4: Fairness to opposing party and counsel

3. Rule 4.1: Truthfulness in statements to others

45 Fraudulent Litigation as an Ongoing Enterprise (Potential State RICO Charges)

330 **Key Violations:** If there is evidence that Ohana's fraudulent litigation is part of a larger pattern of illegal activity, such as using litigation to extract settlements or financial gain from multiple parties, state-level RICO (Racketeer Influenced and Corrupt Organizations Act) charges may be applicable. These charges could apply if Ohana engaged in a pattern of fraudulent lawsuits to achieve business gains.

REMINDER OF THIS CAUTIONARY TALE

331 The breadth of potential criminal and civil violations highlights the serious legal and ethical breaches committed by Ohana Growth Partners, LLC, and their counsel, Miles & Stockbridge, including perjury, fraud, conspiracy, retaliation, and abuse of legal processes. A thorough criminal investigation could uncover even more misconduct, especially if these actions are indicative of a broader, systemic pattern of fraudulent activity. Furthermore, Miles & Stockbridge, particularly Holly Drumheller Butler, Robert Brennen, and Steven Frenkil, may face significant professional repercussions for their active role in facilitating these fraudulent claims.

332 As I previously stated regarding Onsite Solutions, Inc., the facts and evidence presented to Ohana, and M&S were not circumstantial they were verified with a confession in writing. Holly Drumheller Butler, from Miles & Stockbridge, PC, was tasked with conducting a fraud investigation but instead used it as a pretext to assist Ohana Growth Partners in fabricating a

fraudulent basis for terminating Ryan Dillon-Capps. This lawsuit emerged as a desperate attempt to cover up their missteps.

333 To date, no proper investigation into the true nature of Ohana's misconduct has been conducted. The actions of both the Plaintiff and the law firm compel further inquiry to determine whether their conduct reflects the standard operating procedure or if it reveals deeper, more pervasive wrongdoing.

RESPECTFULLY SUBMITTED

October 23, 2024

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 23, 2024, a copy of **Reply to Opposition to Defendant's Motion for Expedited Discovery** via email to rbrennen@milesstockbridge.com and served on via first-class mail, postage prepaid on:

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/s/Ryan Dillon-Capps

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