No. 25-11621

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

RYAN DILLON-CAPPS

Plaintiff-Appellant,

v.

OHANA GROWTH PARTNERS, LLC *et al*

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

NO. 1:24-CV-03744-BAH

INFORMAL BRIEF FOR RYAN DILLON-CAPPS AS APPELLANT

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LOCAL RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1(a) and Fourth Circuit Local Rule 26.1, Ryan Dillon-Capps is proceeding in forma pauperis and exempt from filing disclosure statement under 4th Circ. R. 26.1(a)(1)(A).

Signature: /S/ Ryan Dillon-Capps (Pro Se) Date: April 16, 2025

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JURISDICTION

On Friday, December 27, 2024, Ryan Dillon-Capps personally filed civil action 1:24-cv-3744-BAH at the United States District Court for the District of Maryland, Northern Division, located at 101 West Lombard Street, Baltimore, Maryland 21201.

This is Ryan Dillon-Capps first appeal, and is appealing the following:

(1) The missing and undocketed portions of the original December 27, 2024, filing, which the District Court directed the Clerk of Court not to docket without a court order;

(2) District ECF 18-0 (January 8, 2025)

(a) the dismissal with prejudice of:

(i) All state-employed defendants: Desimone Jr., Truffer, Barranco, Alexander, Battista, Mayer, Stringer, Robinson Jr., Ensor, DaGonia II, Bernstein, and the State of Maryland;

(ii) Claims described as "conspiracy claim[s] under any of the federal statutes or state common law doctrines";

(iii) Claims described as "claims contesting the rulings in the state action," though no such claims were brought;

(iv) Additional "remaining claims" connected to dismissed defendants, for which the District Court made "no findings," effectively resulting in de facto dismissal.

(b) The denial of motions identified as ECF 3, 4, 5, and 6;

(c) The "otherwise" denied portions of ECF 2;

(3) District ECF 22-0 (January 29, 2025): Denial of the motion for reconsideration of the January 8 memorandum and order;

(4) District ECF 27-0 (February 12, 2025): Denial of the Temporary Restraining Order and Preliminary Injunction without a hearing. A motion for reconsideration was filed on February 13, 2025, and remains pending without a ruling.

INTRODUCTORY ISSUES STATEMENT

Corruption is the betrayal of trust. It requires nothing more than a person acting for the benefit of a wrongdoer, often at the expense of duty, law, or the public interest. When such conduct is tolerated or replicated across institutions, it evolves into systemic corruption, where misconduct is no longer isolated but embedded within the structure of authority itself.

Self-preservation fuels the escalation of wrongdoing. It breeds aggression and animosity toward those perceived as threats, culminating in malicious and vindictive efforts to eliminate truth-tellers.

[Issue 1] Procedural Due Process and Irreconcilable Contradictions

On Friday, December 27, 2024, Ryan Dillon-Capps personally filed civil action 1:24-cv-3744-BAH at the United States District Court for the District of Maryland, Northern Division, located at 101 West Lombard Street, Baltimore, Maryland 21201. At the time of filing, the Court Clerk informed him that, because he was not a Maryland-barred attorney, all digitally certified and signed documents

required a "wet ink" signature. Accordingly, Mr. Dillon-Capps signed all documents in the presence of the Clerk.

The Clerk further explained that the District of Maryland does not permit pro se litigants to use their PACER accounts for filing purposes. To receive notices electronically, Mr. Dillon-Capps was required to complete the "Consent by Self-Represented Litigant to Receive Notices of Electronic Filing" form (District ECF 8-0), which he completed, signed, and filed at that time.

Under the District of Maryland's procedures, self-represented parties in civil cases may submit documents using one of three methods: (1) by mail, (2) in person at the courthouse, or (3) electronically through the Electronic Document Submission System (EDSS). The Court's guidance explicitly uses the term "submission" to distinguish the act of uploading documents through EDSS from formal "filing," which is completed only upon review and docketing by the Clerk's Office.

Represented parties, as well as self-represented incarcerated litigants, are not permitted to use EDSS. Additionally, all new civil cases must be initiated either by mail or in person at the courthouse and cannot be submitted through EDSS. These procedures are set forth in the Electronic Document Submission System (EDSS) Administrative Procedures, as referenced on the Court's EDSS webpage.

After filing, Mr. Dillon-Capps remained at the courthouse in anticipation of an emergency ex parte hearing "pursuant to Federal Rules of Civil Procedure 65(b), 26(c), and 6(c)(1)(C)," seeking:

(5) "an [in-camera review] to secure testimony and evidence under seal [with a Magistrate Judge] due to the sensitive nature of the information involved";
(6) appointment of a special master, proposed "Timony E. Allen," to "investigate systemic misconduct and ensure transparency," and who "should meet with [Ryan Dillon-Capps] and a Magistrate Judge" within 48 hours to "review a proposed investigative process [and] facilitate necessary orders to support the investigation";
(7) a temporary restraining order:
  (a) "notifying all Maryland courts, clerks, and the Judicial Information Systems (JIS) department to halt all non-emergency maintenance and preserve all records [to] ensure comprehensive discovery and prevent inadvertent destruction of evidence",
  (b) "Removing [court record] access for [judge, clerk, DeGonia II, and Bernstein defendants to] preserve all related records", and
  (c) "bar [judge, clerk, DeGonia II, and Bernstein defendants] from acting under color of state authority"; and
(8) the initiation of "State-level negotiations to address and rectify systemic injustices, ensuring collaborative good faith efforts to restore rule of law".

See District ECF 6-0; 3-3; see also District ECF 1-11 (Timony E. Allen); 3-1 (meet & confer letter). However, no hearing was held before the courthouse closed for the day, and the emergency request remained unaddressed.

On Monday, December 30, 2024, Ryan Dillon-Capps followed up with the Court Clerk after observing that nothing had yet been docketed in PACER, which

permits pro se litigants to view and download documents but not to file them. The Clerk informed him that "the judge has everything" and stated that the Clerk's Office was still working on processing the filing.

Later that day, the Clerk's Office docketed District ECF entries 1 through 8, along with deficiency notices filed as District ECF 9 through 13, and a Clerk's Office letter providing case information as District ECF 14. The deficiencies noted in District ECF 10 through 13 were based on alleged missing signatures. Mr. Dillon-Capps contacted the Clerk's Office to explain that he had signed all documents in person on December 27, 2024, and that the accepting Clerk had confirmed at the time that all required signatures were present. Upon review, the Clerk's Office located and confirmed the existence of the original "wet ink" signatures for all documents and accordingly voided the deficiency notices in District ECF 10 through 13.

District ECF 9 pertained to a missing U.S. Marshals Service Form (Form USM-285) for defendant Victoria Hoffberger. Mr. Dillon-Capps submitted the completed form the same day, and it was docketed as District ECF 15-1.

Following the initial filing, Ryan Dillon-Capps contacted the Court Clerk daily to inquire about the status of the emergency ex parte hearing. Several of these calls also addressed concerns regarding missing portions of the original December

27, 2024, filing. In each instance, the Clerk responded that "the judge has everything" and indicated that no further action could be taken at that time.

On January 2 or 3, 2025, Mr. Dillon-Capps asked the Clerk whether there was anything he—or anyone else—could do to move the matter forward. The Clerk responded, "Ryan Dillon-Capps could file something, but no one else can do anything." Acting on that advice, Mr. Dillon-Capps filed a "Notice of Urgency" on Friday, January 3, 2025 (District ECF 17-0). During a follow-up call, the Clerk informed him that the notice was being denied due to a claim that it lacked a "wet signature." The call was transferred to the Clerk's supervisor, who confirmed that the document had, in fact, been properly signed.

Before Mr. Dillon-Capps was able to log in to PACER to check the status of the notice, District ECF series 16 (exhibits) and 17 (Notice of Urgency) were docketed, each bearing the docket date of January 3, 2025. However, the documents comprising District ECF series 16 were originally filed on December 27, 2024, as exhibits attached to the initial complaint.

During a follow-up call between Friday, January 3 and Tuesday, January 7, Case Administrator Baylee Wilson informed Mr. Dillon-Capps that "the judge"—understood from context to be Judge Hurson—had directed the Clerk's Office not to docket the remainder of the original December 27, 2024, filing, specifically the signed physical CD and the thousands of pages of exhibits in PDF format

contained on that CD. The Clerk continued to state that "the judge has everything" and reiterated that there was nothing further the Clerk's Office could do.

On January 8, 2025, the District Court granted Mr. Dillon-Capps leave to proceed in forma pauperis but denied all other requested relief—without addressing the request for copy services or acknowledging the exclusion of the signed physical CD and its contents. No order has been docketed explaining or authorizing the omission of the CD or the materials it contained. See District ECF 18-0, at 2, 21 (denial); District ECF 2, at 2 (copy services request).

This sequence indicates that the Clerk's Office found no procedural deficiency with the undocketed exhibits submitted as part of the original December 27, 2024, filing. If the District Court believed that any portion of the submission was deficient or improper, it was required to issue and docket an order stating as much. The Clerk's Office has repeatedly stated that it could not take further action, and this appeal presents the first opportunity for the issue to be formally reviewed and addressed.

I Federal Rules of Civil Procedures

Federal Rule of Civil Procedure 3 provides that "[a] civil action is commenced by filing a complaint with the court." Rule 5(d)(2)(A) further defines the "filing" of a paper not filed electronically as accomplished "by delivering it to the clerk," while Rule 5(d)(4) mandates that "[t]he clerk must not refuse to file a

paper solely because it is not in the form prescribed by these rules or by a local rule or practice." Rule 5(d)(3)(B)(ii) also provides that an unrepresented person may be required to file electronically "only by court order, or by a local rule that includes reasonable exceptions."

As explained in Wright & Miller, "[t]he first step in a civil action in a United States district court is the filing of the complaint with the clerk or the judge. Filing a complaint requires nothing more than delivery of the document to a court officer authorized to receive it." 4 Fed. Prac. & Proc. Civ. § 1052 (4th ed. 2022).

The Court Clerk's duties are governed by Federal Rule of Civil Procedure 79(a)(2), which requires that filings "must be marked with the file number and entered chronologically in the docket," including: (A) papers filed with the clerk; and (C) appearances, orders, verdicts, and judgments. The integrity of the docket is not discretionary.

As the Fourth Circuit has explained, "[w]ithin ten days of receiving a copy of the order," a party must act to preserve a claim of error, and "[s]everal courts have held that a party must comply with this statutory provision in order to preserve a claim of error." Wells v. Shriners Hosp., 109 F.3d 198, 200 (4th Cir. 1997).

Instructing the Clerk's Office not to docket portions of the original December 27, 2024, filing—specifically, the signed physical CD and thousands of

pages of exhibits—and failing to issue any order justifying or authorizing that directive is not a ministerial or non-judicial act. The omission has caused significant procedural uncertainty and irreparable harm, including the permanent loss of a vehicle. Without a docketed order explaining or formalizing the exclusion, there was no ruling to respond to, and therefore no procedural mechanism by which to "preserve a claim of error."

II Undocketed Exhibits

A Undocketed signed physical CD

The signed physical CD contained digital files in PDF format that could not be docketed exclusively through conventional electronic filing procedures without risking the loss of materially relevant metadata and embedded digital elements. These digital properties cannot be fully evaluated or preserved simply by opening or viewing the files; their evidentiary value depends on maintaining the integrity of the original digital structure.

Because standard docketing procedures inherently alter metadata and may strip embedded content, these materials must be preserved and treated as a physical exhibit under appropriate evidentiary safeguards. Mr. Dillon-Capps informed the Court Clerk at the time of filing that the signed physical CD constituted a physical exhibit attached to the complaint and that it needed to be docketed accordingly.

B Undocketed PDF documents

As noted in District ECF 2, at 2 ¶ 4, Mr. Dillon-Capps requested copy services to ensure the completeness of the complaint and its bilaterally incorporated motions. This request was made in conjunction with his motion to proceed in forma pauperis, as he was financially unable to provide a full paper copy of the thousands of pages of exhibits included on the physical CD submitted on December 27, 2024.

Although the District Court granted in forma pauperis status, it denied all other relief without addressing the request for copy services. See District ECF 18-0, at 2, 21. As a result, the exhibits contained on the signed physical CD were not included in the traditional electronic docket, despite being submitted as part of the original filing.

Mr. Dillon-Capps informed the Court Clerk at the time of the filing that his in forma pauperis motion included a request for copy services and explained that the signed physical CD contained both digital duplicates of paper-filed materials and additional exhibits that could not be submitted in print form due to financial hardship. The thousands of additional pages in PDF format were submitted as exhibits attached to the complaint.

The Court Clerk acknowledged and accepted the signed physical CD as an exhibit and confirmed that the digital exhibits it contained were considered part of

the original filing. Subsequent phone calls with the Clerk's Office further confirmed that the CD had been received and was understood to contain exhibits submitted as attachments to the complaint.

The de facto denial of copy services was part of the District Court's broader ruling, which also dismissed all state defendants, claims, and motions. The ruling references them by name and cites portions of the filing, but the rulings are directed at a court-constructed adaptation—an interpretation that departs from objective reality and the intended meaning of the filing—as though the Court had inadvertently issued a ruling meant for a different case.

III Incorporated and Attached

Everything filed on December 27, 2024, by pro se plaintiff Ryan Dillon-Capps constitutes a complete complaint and its bilaterally incorporated motions. The leading document of the complaint, District ECF 1-0, explicitly incorporates by reference numerous additional filings (see pp. 2, 6, 9, 17, 21, 24–27), and expressly incorporates them on page 2. Additionally, District ECF 1-4, 1-5, 1-6, 1-7, 1-10, 3-1, 3-3, 4-1, 4-2, 5-2, and 6-0 each begin with a clear statement of bilateral incorporation.

Each of these documents contains language to the effect of: "Plaintiff incorporates all subsequent sections and attachments herein by reference as though fully stated in this main document." The term "main document" refers to the filing

titled "Complaint" (District ECF 1-0), and the other documents—except District ECF 3-1 (the Meet and Confer Letter)—are titled "Complaint Integrated Appendix," reflecting their functional and legal integration into the complaint. This structure also establishes bilateral incorporation, ensuring that the complaint and accompanying motions would be reviewed together, as a unified submission encompassing all materials filed on December 27, 2024.

Additionally, District ECF 1-12 is a table of exhibits, providing a structured index of the submitted materials. It identifies each exhibit by number and includes a summary statement for each, further reinforcing the organizational coherence and completeness of the original filing.

Under Federal Rule of Civil Procedure 10(c), "[a] statement in a pleading may be adopted by reference elsewhere in the same pleading or in any other pleading or motion. A copy of a written instrument that is an exhibit to a pleading is a part of the pleading for all purposes." Because Mr. Dillon-Capps is a pro se litigant, the documents he submitted to the Clerk must be construed liberally and interpreted to effectuate their intended legal function. See Jackson v. Lightsey, 775 F.3d 170, 176 n.2 (4th Cir. 2014) ("[A] pro se complaint, however in artfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.").

IV Undocketed Resubmission and Replacement Filings

The District Court acknowledged the material relevance of the state court record that was not docketed: "The court record stands as a body of evidence reflecting bias against the Plaintiff and favoritism toward the law firm and employer." (District ECF 1-0, at 19 ¶ 72; cited in District ECF 18-0, at 8).

In District ECF 1-0, at 9, State Court Record Event and Document Files are incorporated pursuant to Rule 10(c) as Exhibit 160 and 161. Transcripts from the hearing on June 26-27, 2024, are incorporated as Exhibit 163. These were not docketed with the December 27, 2024 filing.

Yet, In District ECF 18-0, the District Court's ruling determined that the "complaint suffers from a number of deficiencies" (p. 3), while simultaneously acknowledging the material relevance of the undocketed portions of the pleading through repeated expressions of uncertainty—using language such as "can piece together" (p. 3); "appears" (pp. 3, 12, 13); "appear to stem" (p. 11); "unclear" (p. 12); "difficult to discern" (p. 18); and "unable to tease apart" (p. 16).

District ECF Series 23 consists of the resubmission of key documents from the state court record, including the June 14, 2024, state court pleading (ECF 23-1 through 23-7 and 23-9), the June 17 ex parte order (ECF 23-8), the process server's affidavit documenting personal service of the pleading on June 17 (ECF 23-10), and the Miles & Stockbridge version of the June 26–27 hearing transcripts (ECF

23-11 and 23-12). District ECF 24-0 is a supplemental affidavit submitted to replace other filings that were never docketed.

These filings are necessary to support District ECF Series 25, which includes the motion for a temporary restraining order and preliminary injunction against Ohana Growth Partners, LLC, seeking to restore the status quo in light of undisputed FMLA violations.

District ECF Series 38 and 40 includes affidavits submitted to supplement for other undocketed filings and were filed with the resubmission of a 707-page exhibit from the state court record.

A Irreconcilable Docketing Errors

District ECF Series 31 and 32 were submitted to correct Court Clerk docketing errors found in District ECF 16-12 (which contained missing pages) and 16-13 (which included pages out of order). While drafting this brief, it was discovered that page 119 of District ECF 16-0 is missing and 118 is not legible. These issues did not exist in the original filings, nor are they present on the signed Physical CD's twin—the signed physical backup CD. A backup created to ensure an original record was created at the same time to prevent a repeat of the state court. Signed and unsigned example: District ECF 1-0, at 29 compared to District ECF 1-0, at 6.

The District Court docketed a mix of both signed and unsigned versions of the original filing. The unsigned versions could only have originated from the signed physical CD. The signed versions of documents exhibit significant quality degradation, likely caused by scanning errors. These issues also affect digital highlighting applied throughout the exhibits. Ryan Dillon-Capps is unable to reconcile these discrepancies and respectfully raises serious concerns regarding the integrity of the District Court record and, by extension, the accuracy of the record transmitted to this Court.

V The District Court Proceedings

In District ECF 18-0, When the District Court was dismissing conspiracy claims stated, "Upon reviewing the complaint and all of its attachments, the Court concludes that [Ryan Dillon-Capp's] allegations that the defendants, including their employer, state court judges and staff, opposing counsel, and professional ethics bodies conspired against [him] resulting in adverse rulings in the state case do not plausibly rise to the level of asserting a conspiracy claim under any of the federal statutes or state common law doctrines asserted" (p.16).

A In District ECF 18-0, when the District Court was dismissing:

Ensor stated that "Plaintiff's claims against the Clerk appear to stem from the deficiency notices issued in the underlying state case" (p.11) ;

Degonia II and Bernstein stated that "Plaintiff appears to allege that each failed to investigate the complaints Plaintiff made against the defendant judges and counsel"(p.12);

Judges stated

(1) "Judges are not liable to civil actions for their judicial acts including under§1983" (pp.9-10),
(2) That "Plaintiff asserts that the state court acted without jurisdiction because its injunction (and all subsequent rulings) violated an [Anti-Injunction Act] (p.10),
(3) That an [Anti-Injunction Act] "applicability here is otherwise doubtful as the underlying injunction does not concern organized labor, it plainly does not apply to the state court that issued the rulings" (pp.10-11), and
(4) "the [state court] injunction (and subsequent rulings) did not violate the [Anti-Injunction Act], so [Ryan Dillon-Capps] contention that the state court acted outside its jurisdiction is without merit" (p.11);

"Claims contesting the rulings in the state action" (p.9) stated "Fundamentally, Plaintiff contests the state court's granting of the preliminary injunction against them and the contempt rulings that followed" (p.8).

B In District ECF 18-0, when the District Court denied:

(1) 42 U.S.C. §1983 injunctive relief, stated
  (a) "[Ryan Dillon-Capps] seeks an order—
    (i) "appointing a special master to investigate the Maryland Judiciary" (p.17),
    (ii) "halt[ing] [all] nonemergency maintenance" of the Maryland Judicial Information Systems and direct[ing] the Maryland Judiciary to preserve all records" (p.17); and

(iii) "[Ryan Dillon-Capps] has not pointed the Court to any authority (and the Court seriously doubts any exists) that would permit this Court, at the request of a pro se litigant, to essentially take over the Maryland Judiciary" (p.17).

(2) Summary Judgement quoted Ryan Dillon-Capps "[granting the employer's] voluntary dismissal following months of delays and procedural stalling further emphasizes their intent to evade accountability" (p.18).

B In District ECF 18-0, when the District Court:

(1) Directed Ryan Dillon-Capps to file an amended complaint, it stated:

(a) Ryan Dillon-Capps contends that the employer and state defendants "turn[ed] a civil lawsuit into a series of systemic human rights abuses that induced dissociative episodes and dissociative amnesia" (p. 4);

(b) "[Ryan Dillon-Capps] will be directed to file an amended complaint that does not include the causes of action or defendants the Court dismisses herein" (p. 16).

(2) Dismissed "The State of Maryland" as a defendant, the Court quoted Ryan Dillon-Capps's argument on what constitutes equitable relief:

(a) "[The defendants] would have been unable to accomplish life-threatening harm, reputational destruction, and financial ruin."

(3) In conclusion, the Court stated:

(a) "Affidavit of [Caroline Dillon-Capps], ECF 7-1, contains troubling details regarding [Ryan Dillon-Capps's] well-being, which the Court will not repeat here but has thoroughly reviewed" (p. 20); and

(b) "[Caroline Dillon-Capps's] affidavit also highlights many of [Ryan Dillon-Capps's] positive attributes, including that [he] has always been the person that others turn to in their darkest moments—a steady and reliable presence when no one else is there" (p. 20).

C In District ECF 22-0, when the District Court denied the motion to reconsider, it stated:

(1) "A district court may reconsider a non-final order […] Pursuant to Rule 54(b), 'any order or other decision . . . that adjudicates fewer than all the claims

or the rights and liabilities of fewer than all the parties . . . may be revised at any time before the entry of [final judgment]'" (p.1);

(2) "Motions for reconsideration of interlocutory orders are not subject to the strict standards applicable to motions for reconsideration of a final judgment" (p.1);

(3) "Having reviewed Plaintiff's motion to reconsider and its attachments, the Court finds that reconsideration is not warranted" (p.2); and

(4) "In recognition that this order comes two days before Plaintiff's deadline to file an amended complaint that complies with the January 8, 2025 memorandum and order. (p.2)"

D In *District ECF 27-0*, when the District Court denied the motion for a Temporary Restraining Order and Preliminary Injunction, it stated:

(1) "[Ryan Dillon-Capps] requests a hearing, [but] the Court finds that no hearing is necessary" (p.1);

(2) "The purpose of a TRO is to preserve the status quo only until a preliminary injunction hearing can be held" (p.1);

(3) "[Ryan Dillon-Capps] appears to seek a preliminary injunction altering the status quo" (p.1);

(4) "It is not entirely clear to the Court when [Ryan Dillon-Capps] was terminated," citing "ECF 24, at 35 ¶ 80" (p.2);

(a) ECF 24, at 35 ¶ 80 states: "On July 30, 2024, Ohana Growth Partners, LLC terminated [Ryan Dillon-Capps's employment]… and stated that [his] termination demanded that [he] adhere to the provisions of [his] January 8, 2020 employment agreement," citing the termination letter at "ECF 16-0, at 142";

(5) "It is clear that [Ryan Dillon-Capps] has not been employed by Ohana Growth Partners, LLC for at least six months, so the injunction here would necessarily alter the status quo. Mandatory injunctions alter the status quo…" (p.2);

(6) "[Ryan Dillon-Capps] seeks immediate reinstatement of":

(a) "to active payroll at the post-2024 raise salary level, including full salary payments beginning from the date of this Court's order and continuing until this matter is resolved"; "back pay from the date of termination through the present, including wages, bonuses, and reimbursements, to be paid in full within [3] business days of this Court's order"; "[s]tatutory damages"; "[r]estor[ation of] all of Plaintiff's insurance policies"; "[r]einstate[ment of] all employment benefits";

(b) an order directing defendants to: "cease all coercive legal and financial actions, including any further interference with Plaintiff's wages, credit, or financial stability, until this matter is fully litigated"; and "preserve all evidence" (p.3);

(7) "Ryan Dillon-Capps appears to measure back pay from June 13, 2024, even though an affidavit submitted separately notes that Plaintiff was terminated on July 30, 2024" (p.3, *1);

(8) "Plaintiff appears to use both 'he' and 'they' pronouns in the motion" (p.3, *2);

(9) "Plaintiff does not appear to seek reinstatement of their job, only their pay and benefits" (p.5, *4);

(10) "While [Ryan Dillon-Capps] has certainly detailed financial hardship, [he] has not demonstrated irreparable harm" (p.4); and

(11) "What [Ryan Dillon-Capps] really seeks is plainly an award of monetary damages prior to a judgment, prior to any defendants having responded to the complaint, and prior to any defendants having been served with process" (p.4).

E Ensor

The District Court misrepresents defendant Ensor's allegations. It is akin to saying that a shooting victim's claims against the shooter "appear to stem from the gun registration issued to the shooter." Just as a victim's claim concerns what the shooter did with the weapon, Mr. Dillon-Capps's claim concerns what the Clerk did with the deficiency notices.

Similarly, in the state court proceedings, defendant Jan Marshall Alexander (JMA) responded to a request for clarification on a motion for extension of time by asserting that "[Ryan Dillon-Capps] claims counsel unexpectedly resigned from case yet record reflects no counsel ever entered appearance to represent [him]." The attorney was unable to enter an appearance due to "family bereavement and scheduling conflicts," and the clarification makes no mention of the second argument raised.

For the past nine months, Mr. Dillon-Capps lacked access to a legal research platform capable of producing consistently accurate citations. However, citation error does not nullify the applicability of the correct legal standard, nor does it justify judicial mischaracterization of the filing's substance. Both the state and District Court rulings reflect a pattern of selectively construing the record, disregarding unrebutted evidence, and distorting the plain meaning of filings to fit preordained outcomes. Misstating the law or a party's argument does not erase the objective truth reflected in the factual record.

Additional Examples: Appendix F – State Level Negotiations; Appendix G – Special Master and Magistrate Judge; Appendix H – Equitable Relief; Appendix I – State of Maryland

F DeGonia II and Bernstein

The District Court misrepresents the allegations against DeGonia II and Bernstein for neglecting to prevent a conspiracy to interfere with civil rights under 42 U.S.C. §1986, while simultaneously acknowledging that the heads of the

professional oversight bodies failed to investigate and prevent the underlying conduct giving rise to the claims asserted under 42 U.S.C. §1983 and §1985.

Similarly, in the state court proceedings, defendant Stringer denied a motion seeking to add Steven Frenkil as counsel of record (District ECF 16-5, at 32). Yet approximately two weeks later, on the evening of November 8, 2024, Frenkil was silently added to the case when it was administratively updated as closed (see District ECF 16-1, at 9 (Sept. 28 ledger), 28 (Nov. 8 ledger)).

G State Court Jurisdiction

The District Court concluded that it lacked subject matter jurisdiction to review the state court's granting of injunctive relief, yet immediately proceeded to engage in a merit-based evaluation—determining that the injunction did not concern a labor dispute—and, based on that evaluation, concluded that the state court did not act outside its jurisdiction.

Similarly, in the state court proceedings, during the June 26–27 hearing, defendant Barranco responded to arguments raised by Ryan Dillon-Capps, including:

(1) A reference to another individual involved in the labor dispute—IT Coordinator Darren Koritzka—who had been placed on involuntary leave. In response, Barranco stated, "That has nothing to do with why we're here today" (District ECF 23-11, at 17); and

(2) Jurisdiction challenges to the state action. Barranco summarily dismissed the issue, stating: "Even if there were federal defenses, I'm not sure the case is

removable 'cause it doesn't—the complaint doesn't, on its face, state any federal claim, it hasn't been removed to federal court. The Court has jurisdiction over the claim, so that's not an argument, I'm just telling you right now" (District ECF 23-11, at 56).

H 42 U.S.C. §1983 Injunctive Relief

The District Court asserted that judges are immune from liability under 42 U.S.C. § 1983, yet simultaneously claimed that Mr. Dillon-Capps failed to cite "any authority" permitting injunctive relief to preserve court records, and further stated that the Court "seriously doubts" such authority exists.

Similarly, in the state court proceedings, on November 7, 2024, defendant Robinson Jr. denied a motion requesting enforcement of a hearing that had been granted on October 11, 2024, by Judge Finifter. In doing so, he stated that the motion was "denied – insufficient legal or factual basis for the [r]elief requested," and further noted that "a voluntary dismissal was filed [on October 24] and that the case is closed" (District ECF 16-5, at 54).

I Special Master

The District Court acknowledged that Ryan Dillon-Capps was seeking an order to appoint a Special Master to investigate, yet simultaneously misrepresented the request as an attempt by "a pro se litigant" to "essentially take over the Maryland Judiciary"

Similarly, in the state court proceedings, defendant Barranco misrepresented a motion related to the June 26–27 hearing and dismissed it as "entirely incoherent

and unintelligible". The dismissed motion containing allegations against Barranco. (District ECF 16-5, at 51).

J Plausibility and Pattern of Judicial Evasion

The District Court's ruling effectively rejected and vacated the state court's order granting the employer's voluntary dismissal, which had vitiated the underlying state action, and then recast Ryan Dillon-Capps as the state court loser. The Court engaged in a quasi-appellate review of the state court's decision—without having been asked to do so and despite lacking jurisdiction—and concluded that its reversal was more "plausible" than the objective record, which includes thousands of pages of evidence and the following well-pleaded factual allegations:

(1) That the employer, attorneys, judges, court clerk, bar counsel, and the director of investigation conspired to secure a mutually beneficial outcome motivated by institutional self-preservation; and
(2) That these actors effectuated this outcome by granting the employer's notice of voluntary dismissal without prejudice, then altering the court record to ensure that the official record no longer supported the substantive allegations.

Similarly, in the state court proceedings, the employer submitted no opposing evidence throughout five months of litigation. Nonetheless, the judge defendants issued a series of conclusory rulings denying relief using boilerplate language such as: "based on insufficient basis for relief," "insufficient legal or factual basis for the [r]elief requested," "not a sufficient legal or factual basis for

[the] relief requested," and "[the] argument that there is 'no truth' to the [employer's] claims and that the [employer's] suit is fraudulent… is contrary to the conclusions of the [June 26–27 hearing]" (see *District ECF 16-5, at 19, 54, 56–58, 65*).

Defendant Stringer's granting of the employer's voluntary dismissal was docketed on November 6. After Stringer voided the state action, he continued to rule on voided filings, citing the June 26–27 hearing as having resolved the underlying issues, despite the employer having submitted no supporting evidence. Many of the denied motions were efforts to compel production of that very evidence from the employer. Mayer, Robinson Jr., and Stringer collectively ruled long after the case had already been vitiated, with the final rulings being docketed on December 2. See Appendix E – Fraudulent Lawsuit.

K False Procedural Record

The District Court instructed the Clerk's Office not to docket all materials attached to the complaint, then assertion that it was dismissing claims "upon reviewing the complaint and all of its attachments". This is objectively misleading and creates a false procedural record.

Similarly, in the state court proceedings, attorney, judge, and clerk defendants relied on objectively misleading statements and procedural manipulation to create a false procedural record. By the time the case was

voluntarily dismissed without prejudice the defendants could only make conclusionary statements rejecting "facts" and "law" and relying on the outcome of the June 26-27 hearing. See Appendix D – False Procedural Record.

L Reconsideration of Dismissed with Prejudice

The District Court asserted that interlocutory orders are not subject to the strict standards applicable to reconsideration of a final judgment.

However, the prior order under reconsideration explicitly dismissed certain defendants and claims and further directed Ryan Dillon-Capps not to include them in any amended complaint. This directive constitutes a dismissal with prejudice and directly contradicts the Court's subsequent assertion that the dismissals did not function as a final judgment.

Similarly, in the state court proceedings, defendants Robinson Jr. and Stringer relied on the premature granting of default judgment, notice of voluntary dismissal, withdrawal of a second petition for constructive civil contempt, and the later vacating of the default judgment—to summarily rule that approximately 8 to 12 motions were "moot" (District ECF 16-5, at 26, 30, 46, 53, 60–64).

M Employer Injunctive Relief

The District Court quoted the requested relief, which explicitly detailed all essential elements of employment, yet nevertheless concluded that Ryan Dillon-Capps "does not appear to seek reinstatement of their job, only their pay and

benefits," and that he "sought an award of monetary damages prior to a judgment." Additionally, the Court's fact-finding—based on its citation to Ryan Dillon-Capps's affidavit, which quoted the July 30 termination letter referencing the January 8, 2020 employment agreement—was that it was "clear" Ryan Dillon-Capps "has not been employed […] for at least six months." The Court relied on both of these errors in determining that Ryan Dillon-Capps was seeking a mandatory preliminary injunction to alter the status quo, and denied the TRO and preliminary injunction without a hearing, stating that "it wasn't necessary."

The first line of reasoning is akin to ordering a sandwich, fries, and a drink at a drive-thru, only to be told you didn't order a "combo meal." Both rationales misrepresent the nature of the prohibitory injunctive relief sought—to restore, and maintain, the status quo during the pendency of the litigation.

N Gender

The District Court, unprompted and without necessity, inserted a footnote mid-order that was entirely dedicated to discussing Ryan Dillon-Capps's gender pronouns.

Similarly, in the state court proceeding, Richard Hartman's affidavit included an equally unprompted and unnecessary statement—also inserted mid-affidavit—entirely focused on Mr. Dillon-Capps's gender pronouns. In District

ECF 23-5, at 2, Hartman falsely stated: "As of at least June 2, 2024, Dillon-Capps asked to be referred to using plural pronouns."

The District Court's footnote prompted Mr. Dillon-Capps to spend nearly two pages responding in order to "explain" his gender and pronouns. See District ECF 28-0, at 2–3.

O Expert Eye-Witness Affidavit

The District Court cited and quoted from Caroline Dillon-Capps's affidavit, which provides detailed accounts of the "induced dissociative episodes and dissociative amnesia" previously quoted by the Court from another portion of the filing. Yet, the Court asserted that it was not repeating the harm described—despite having explicitly quoted the very harm substantiated by Caroline Dillon-Capps's expert eyewitness affidavit.

Similarly, in the state court proceedings, Caroline Dillon-Capps—a licensed clinical social worker (LCSW-C) with eight years of experience in outpatient therapy (District ECF 7-1, at 1)—provided expert eyewitness testimony during the June 26–27 hearing. Nevertheless, immediately afterward, defendant Barranco asserted that he "has[n't] heard any testimony from any mental health professional" (District ECF 23-12, at 56).

P Irreparable Harm

The District Court misrepresented Ryan Dillon-Capps's claims of "financial ruin" as mere "detailed financial hardship" and concluded that he had not demonstrated irreparable harm. Yet, in a prior ruling, the Court acknowledged that the alleged harm included "reputational destruction," quoted references to "induced dissociative episodes and dissociative amnesia," and cited Caroline Dillon-Capps's affidavit—which not only substantiates those psychological injuries but also describes life-threatening malignant catatonia symptomatology.

Similarly, in the state court proceedings defendant Barranco accepted Ryan Dillon-Capps PTSD as established fact not in dispute during the June 26 hearing., stating "I don't want to cause you anymore PTSD" and "you suffer from PTSD and memory issues, and I'm guessing that being in court and having a judge lecture to you probably doesn't help the PTSD. And I'm not trying to exacerbate any condition" (District ECF 23-11, at 68 and 88). On June 27 hearing, "He testified that he has, uh, yesterday, that he has PTSD, and, erm, and it -- it's clear that the defendant may have some issues, but I don't think that -- I'm not finding that the defendant is incompetent" and "He appears to the Court to understand the importance of, uh, of finding the key fob, but seems to have a selective memory, erm, when it comes to exactly what happened to it"

Q IFP U.S. Marshall Service

The District Court granted Ryan Dillon-Capps leave to proceed in forma pauperis, and the Court Clerk accepted and docketed the summonses and U.S. Marshals personal service forms for all defendants. Nevertheless, the Court denied injunctive relief to restore the status quo, asserting that the defendants had not been personally served by the U.S. Marshals—despite the fact that the District Court was responsible for issuing the summonses and forwarding them, along with the personal service forms, to the U.S. Marshals Service.

VI District Court's Selective Citation

In District ECF 18-0, the District Court listed the portions of the December 27, 2024, filing that were docketed (pp. 1–2), acknowledged that District ECF series 16 contains over 2,000 pages of exhibits, and noted that ECF 1-7 includes counts and sub-counts designated as "causes of action" (pp. 2–3). The January 8 ruling contains a total of just 25 citations across the 265-page complaint and integrated motions: ECF 1-0 is cited fourteen times (pp. 3, 4, 7, 8, 10, 11); ECF 1-5 five times (pp. 5, 12–14); ECF 1-10 once (p. 14); ECF 3-3 once (p. 17); ECF 4-2 once (p. 18); ECF 5-2 once (p. 18); ECF 6-0 once (p. 19); and ECF 7-1 is referenced only in the conclusion (p. 20).

There is not a single citation to the more than 2,000 pages of exhibits contained in District ECF series 16, nor any reference to the counts, statements of fact, or requested relief set forth in District ECF 1-7. The only mention of Caroline

Dillon-Capps's affidavit (District ECF 7-1) appears in the conclusion of the ruling and is not applied to any legal or factual determination. The District Court's ruling also omits entirely any reference to District ECF 4-1 (Memorandum in Support of the Interlocutory Judgment), District ECF 1-4 (Appendix: Pretext – Statement of Facts Timeline), District ECF 1-6 (Appendix: Coverup – Statement of Facts Timeline), District ECF 7-2 (Affidavit of Ryan Dillon-Capps – Financial Harm), and District ECF 3-1 (Meet and Confer Letter).

The District Court selectively extracted summary statements from a comprehensive record of factual allegations and exhibits, portraying the filing as conclusory and implausible. However, the resulting memorandum and order are irreconcilably contradictory—both internally and in relation to the undisputed contents of the record.

VII Nuanced Understanding

When denying the motion for interlocutory summary judgment (District ECF 4-2), the District Court stated there had been a "declination to rule on the motion in that case." However, District ECF 4-2, only references:

(1) requests for injunctive relief, adjudication of facts,
(2) "motions,"
(3) Exhibits 100–110 and 160–163,
(4) both affidavits, and
(5) exhibits stored in ZIP files on the physical CD.

Additionally, no other part of the original filing appears to offer a plausible basis for the District Court's nuanced understanding that one specific motion was not ruled on and is uniquely connected to interlocutory summary judgement. This includes the memorandum, lead complaint document, aggregate of ruling pages, and the ruling summary which lists more than a dozen unresolved motions. See District ECF 4-1; 1-0; 16-15;16-1, at 4-5, 7-8)

This is especially concerning given the Court's fact-finding elsewhere had resulted in numerous irreconcilable contradictions. While sufficient information exists in the record to support this insight, it could not have come from the same factfinder who explicitly and repeatedly asserted an inability to understand.

VIII Testing Sufficiency of a Complaint

The evaluation used by this Court for testing the sufficiency of a complaint is generally limited to a review of the allegations of the complaint itself and includes consideration of documents that are explicitly or expressly incorporated into the complaint by reference with those attached to complaint as exhibits. However, courts may consider a document submitted by the movant that was not attached to or expressly incorporated in a complaint, so long as the document was integral to the complaint and there is no dispute about the document's authenticity. See Goines v. Valley Cmty. Servs. Bd., 822 F.3d 159, 165–66 (4th Cir. 2016).

When evaluating exhibits, This Court applies the Exhibit-Prevails rule standard and recognizes that Rule 10(c) does not require a plaintiff to adopt every word in an exhibit as true merely because it is attached to the complaint in support of an alleged fact. Before the courts treat the contents of an attached or incorporated document as true, the district court should consider why the plaintiff attached or incorporated the document, such as who authored it and its reliability. This includes documents incorporated for purposes other than the truth of its contents, which are inappropriate to treat as being adopted as true. Documents prepared by a third party and attached to show how the plaintiff became aware of certain facts are not automatically adopted, in whole or part, as true. Documents prepared by or for the defendants may contain self-serving statements, and automatically treating its contents as true would undermine the pleading standards. See *Goines v. Valley Cmty. Servs. Bd.*, 822 F.3d 159, 167–68 (4th Cir. 2016).

IX Standard of Review

This Court reviews legal conclusions de novo and fact findings as clear error. Clear error review is a deferential standard that does not disturb the district court's fact finding when they are "plausible in light of the record viewed in its entirety".

This Court has held that clear error review is deferential, not toothless, because factual findings made by the district courts are not "so sacrosanct as to

evade review," and this Court may reverse those findings when it is definitively and firmly convinced the district courts were mistaken. The District Court has deprived this Court of a full record to review. While still incomplete, the refiled exhibits and supplemental affidavits should be sufficient for this Court to see that the District Court's errors are plainly wrong and are replete with self-contained, irreconcilable contradictions that are only presented as being grounded on credibility determinations. See Heyer v. United States Bureau of Prisons, 984 F.3d 347, 355 (4th Cir. 2021); Jiminez v. Mary Washington Coll., 57 F.3d 369, 378–79 (4th Cir. 1995).

[Issue 2] Rooker-Feldman - Complete Absence of Jurisdiction

Ohana Growth Partners, LLC filed a civil action in the Circuit Court for Baltimore County, and it was voluntarily dismissed without prejudice on November 6th. District ECF 1, at 2. In District ECF 18-0, The District Court determined (1) that the "now-closed state civil action" (p.3); (2) "was voluntarily dismissed sometime in October or November 2024" (p.4).

State Court Case is Void: Maryland law is clear that "a voluntary dismissal vitiates and annuls all prior proceedings and orders in a case". Baltimore & Ohio R. Co. v. Equitable Bank, N.A., 77 Md. App. 320, 328 (1988); See also Habtemariam v. Neda, No. 0134, Sept.term,2020, 2021 WL 1038276, at *2 (Md. Ct. Spec. App. Mar. 18, 2021) (appeal dismissed as moot) (unreported).

This Court has also held that when a State Court Case is void it has no effect. Field v. Berman, 526 F. App'x 287, 288 (4th Cir. 2013).

Prevailing Party: The order granting the employer's voluntary dismissal without prejudice did not include any stipulation regarding attorney's fees. (District ECF 16-5, at 55). Under Maryland Rule 2-506(e), the dismissing party is responsible for all costs unless otherwise provided by stipulation or court order. As the prevailing defendant, Ryan Dillon-Capps is entitled to recover attorney's fees.

The state court action brought by Ohana Growth Partners, LLC is void under Maryland law and carries no legal effect. As the prevailing party in that proceeding, Ryan Dillon-Capps is entitled to compensation from the losing party.

Rooker-Feldman Doctrine: The Rooker-Feldman doctrine does not apply in this context for multiple independent reasons: (1) it applies only to state-court losers, not prevailing parties; (2) a void judgment cannot support Rooker-Feldman or any other preclusion doctrine; (3) it is not reasonable to suggest that a prevailing party would attempt to overturn a favorable outcome, especially when doing so would result in a less favorable legal position; and (4) the doctrine does not apply when the state fails to provide due process.

Complete Absence of Jurisdiction: Ryan Dillon-Capps's claims did not require the District Court to review or invalidate the state court's rulings, and the District Court lacked jurisdiction to do so. In *District ECF 18-0*, at 5–12, the

District Court repeatedly asserted that it lacked jurisdiction to perform a quasi-appeal, while simultaneously ruling to vacate the state court's vitiation of the state action.

This Court has held that the burden of establishing subject matter jurisdiction rests on the party invoking it. Here, the District Court Judge acted unilaterally to review and reject the state court's grant of the employer's voluntary dismissal without prejudice. *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir. 1982).

Ryan Dillon-Capps filed a motion for reconsideration, respectfully informing the District Court that its ruling resulted in manifest injustice (*District ECF 19-0*). The District Court expressly acknowledged its understanding of the motion, stating: "[Ryan Dillon-Capps] essentially argues that reconsideration is warranted because the Court made a clear error resulting in manifest injustice." Specifically, he argues "that the Court improperly applied the Rooker-Feldman doctrine" (*District ECF 22-0*, at 2).

Instead of correcting the error, the Court misrepresented its dismissal with prejudice as a non-final order, asserting that it was "not subject to the strict standards applicable to motions for reconsideration of a final judgment" (p. 1). It then denied the motion for reconsideration, concluding: "Having reviewed [Ryan Dillon-Capps's] motion to reconsider and its attachments, the Court finds that reconsideration is not warranted" (p. 2).

The District Court acted in contradiction to the factual allegations and supporting evidence when it chose to "conjure up questions never presented to them." Beaudett v. City of Hampton, 775 F.2d 1274, 1278 (4th Cir. 1985).

As this Court held in Field v. Berman, 526 F. App'x 287, 292 (4th Cir. 2013), "in the context of the Rooker–Feldman doctrine, the term 'state-court judgments' is used in its broadest sense to include all final decisions of state judicial proceedings." This necessarily includes the state court's grant of the employer's voluntary dismissal, which vitiated the underlying state action.

I Standard of Review

We review the Rule 12(b)(1) dismissal of a claim in a complaint for lack of subject matter jurisdiction de novo. Field v. Berman, 526 F. App'x 287, 291 (4th Cir. 2013)(citing *Pitt Cnty. v. Hotels.com, L.P.,* 553 F.3d 308, 311 (4th Cir.2009)).

[Issue 3] Non-Judicial Ultra Vire Acts

In District ECF 18-0, The District Court granted Ryan Dillon-Capps motion to proceed in forma pauperis (p.2, 21), performed an initial screening of the complaint pursuant to § 1915(e)(2)(B) (p.2), concluded it lacked subject matter jurisdiction under the Rooker-Feldman doctrine (pp.5, 7-9), and "directed [Ryan Dillon-Capps] to file an amended complaint that does not include the causes of action or defendants the Court dismisses herein" (p.16).

Dismiss Without Prejudice: This Court has held that "a dismissal based on a defect in subject matter jurisdiction must be one without prejudice, because a court that lacks jurisdiction has no power to adjudicate and dispose of a claim on the merits". Goldman v. Brink, 41 F.4th 366, 369 (4th Cir. 2022) (cleaned up);

The Supreme Court concurs and held that a dismissal with prejudice for lack of subject matter jurisdiction is only proper when the claim is "so insubstantial, implausible, foreclosed by prior decisions of [the Supreme Court], or otherwise completely devoid of merit as to not involve a federal controversy". Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 94 (1998) (quoting Ex parte McCardle, 7 Wall. 506, 514 (1868)).

Jurisdiction: The presumption is that a federal court lacks jurisdiction in a particular case unless it is demonstrated that jurisdiction exists. In Lehigh Min. & Mfg. Co. v. Kelly, 160 U.S. 327, 336-37 (1895).

Deciding cause of action before resolving whether the court has Article III jurisdiction, the doctrine of "hypothetical jurisdiction", carries a federal court "beyond [the] bounds of authorized judicial action and thus offend[s] fundamental principles of separation of powers" and is nothing more than an "advisory opinion". Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 101(1998).

Article III Standing: The Supreme Court held in Reed v. Goertz, 598 U.S. 230, 242 (2023) that Article III standing and the Rooker-Feldman doctrine are two

intertwined principles of federal jurisdiction divided by original and appellate jurisdiction. "The jurisdiction possessed by the District Courts is strictly original." Rooker v. Fidelity Trust Co., 263 U.S. 413, 416 (1923).

Fed. R. Civ. P. 12: Lack of Subject-Matter Jurisdiction. If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.

The District Court's conclusion that the Rooker-Feldman doctrine applied amounts to a determination that appellate jurisdiction was required to proceed. It is therefore an irreconcilable contradiction for the District Court to have proceeded further, as doing so would necessarily require original jurisdiction under Article III—jurisdiction the Court had already disclaimed. At no point in the subsequent rulings did the District Court provide any basis for belief that it found Article III standing, and "[f]or a court to pronounce upon the meaning or the constitutionality of a state or federal law when it has no jurisdiction to do so is, by very definition, for a court to act ultra vires." Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 101–02 (1998).

The Supreme Court precedents that give shape to American judicial immunity can be traced back to Lord Coke's three foundational principles: (1) the need for finality; (2) the need to maintain public confidence in the justice system;

and (3) the need to preserve judicial independence. Floyd v. Barker, 77 Eng. Rep. 1305 (Star Chamber 1607).

Lord Coke later refined the doctrine in The Marshalsea, 77 Eng. Rep. 1027 (Star Chamber 1612), which held that actions taken by a court lacking subject matter jurisdiction were coram non judice—before a person who was not a judge. By asserting that it lacked subject matter jurisdiction, the District Court effectively marked the point at which its proceedings ceased to be judicial in nature.

If the District Court had not already determined that it lacked subject matter jurisdiction—or if it had instead concluded that it had original jurisdiction over at least one claim—then it may have been permitted to assess Eleventh Amendment immunity or judicial immunity as part of determining whether subject matter jurisdiction existed.

However, that determination would have ultimately been favorable to Ryan Dillon-Capps because the original filing already satisfies the jurisdictional prerequisites for both forms of immunity.

II Standard of Review

We review the Rule 12(b)(1) dismissal of a claim in a complaint for lack of subject matter jurisdiction de novo. Field v. Berman, 526 F. App'x 287, 291 (4th Cir. 2013)(citing *Pitt Cnty. v. Hotels.com, L.P.,* 553 F.3d 308, 311 (4th Cir.2009)).

[Issue 4] Dismissal of Maryland and De Facto Dismissal of Claims

In District ECF 18-0, at 14,

(1) "Under the Eleventh Amendment of the United States Constitution, a state, its agencies, and its departments are immune from citizen suits in federal court absent state consent or congressional action" (p.13);
(2) "The State of Maryland has not waived such immunity for claims of constitutional violations brought under §1983" (p.13);
(3) "The claim for damages is barred by Eleventh Amendment sovereign immunity" (p.14);
(4) "Plaintiff has not plausibly alleged ongoing violations of federal law that can be properly redressed through prospective injunctive relief and would permit this action to proceed against the State of Maryland"(p.14); and
(5) "Accordingly, the State of Maryland must be dismissed as a defendant" (p.14).

The District Court dismissed the State of Maryland from the action with respect to the claim for injunctive relief under 42 U.S.C. § 1983. However, the State of Maryland is not a "person" under § 1983, and such claims are properly directed at state actors. In the context of judicial immunity, the appropriate target of such claims would be the judge as a representative of the state court institution.

The District Court further concluded that any claim for damages was barred by Eleventh Amendment immunity. It then declined to address the remaining claims on the basis that "[t]he Court is unable to tease apart the remaining claims against the remaining defendants," and clarified that it made "no finding as to the viability of any remaining claims." District ECF 18-0, at 16.

However, in its reconsideration order, the District Court stated it was not applying the strict standards of final judgment review, suggesting that its prior order was interlocutory. See District ECF 22-0, at 1. Yet, the January 8 order directed Ryan Dillon-Capps to file an amended complaint "that does not include the causes of action or defendants the Court dismisses herein" (District ECF 18-0, at 16). This instruction had the practical effect of converting the ruling into a final order as to those claims and parties, resulting in the de facto dismissal of multiple claims.

The original filing, however, included arguments addressing both the waiver of sovereign immunity by the State of Maryland and congressional abrogation through valid enforcement legislation. These arguments are set forth in the memorandum opposing immunity (District ECF 1-10) and the appendix of counts (District ECF 1-7).

I Employer

The Following comes from District ECF 16-3:

(1) The FMLA Notice of Eligibility, issued by the employer on January 8, 2024, confirms that Ryan Dillon-Capps was eligible for FMLA leave for his own serious health condition. The employer:
   (a) Requested healthcare provider certification and enclosed the appropriate form;
   (b) Classified Ryan Dillon-Capps as a "key employee," but indicated his leave could not be denied;

(c) Determined that restoring his employment after the conclusion of his FMLA leave would not cause the company substantial or grievous economic harm;
(d) Indicated that paid leave would be applied concurrently with the FMLA-designated leave;
(e) Included a certification due date that was initially shorter than allowed by law but later corrected;
(f) Initially stated that monthly certifications would be required, but later informed Ryan Dillon-Capps that such certifications would not be necessary, in compliance with applicable regulations for his condition. (pp. 4–7)

(2) The employer attempted to enforce a more restrictive leave policy that contradicted its own employee handbook (which was cited in the FMLA Notice of Eligibility) and deviated from the treatment of other employees. Ryan Dillon-Capps documented this discrepancy in an email sent to the employer on January 10, 2024. (pp. 8–9)

(3) Ryan Dillon-Capps's healthcare provider completed the certification form on January 22 and again on March 12. In response to the employer's request for clarification regarding the January 22 form, the provider submitted a follow-up letter dated January 31, 2024, which was accepted without further requests for information. (pp. 10–21)

(a) The certification and the January 31 letter confirmed that Ryan Dillon-Capps has a permanent and chronic condition that necessitates intermittent leave for regular treatment. His condition causes unpredictable "flare-ups" of varying severity, which at times impair his ability to perform routine daily activities. Although capable of working intermittently, he required the reasonable accommodation of working from home due to the hostile work environment created by the employer. Importantly, his long-term objective remained a return to in-office work.

A Gender & Disability Discrimination: Hostile Work Environment

What is not explicitly stated is that the hostile work environment included years of gender-based discrimination by another executive, Josh Gerber. Defendant

Glenn Norris had, over time, become increasingly responsive to Ryan Dillon-Capps's concerns regarding this conduct. However, after Ryan Dillon-Capps and the senior accountant reported accounting irregularities to Glenn Norris on October 16, 2023, all prior improvements in Josh Gerber's behavior were immediately undone—reverting to the discriminatory conditions present when Ryan Dillon-Capps began his employment on February 10, 2020.

For years, Ryan Dillon-Capps had observed slow but steady improvements due to Glenn Norris's attempts to address the gender-based harassment. As a result, he did not escalate the matter to a formal HR complaint until the regression occurred following the report of financial misconduct. In November 2023, Ryan Dillon-Capps filed a formal HR complaint against Josh Gerber for gender discrimination, and against three additional individuals whose involvement was later connected to unethical and unlawful conduct uncovered during the internal fraud investigation, which began in December 2023.The years of gender-based discrimination explains why Richard Hartman's affidavit asserted that Ryan Dillon-Capps had only "recently" indicated a pronoun preference. Ryan Dillon-Capps is unable to identify any legitimate basis for the District Court similarly drawing attention to pronoun usage. See District ECF 23-5, at 2; see also District ECF 28-0, at 2–3.

The retaliation and events that followed the October 2023 report of accounting irregularities severely impacted Ryan Dillon-Capps's health, ultimately requiring him to take protected FMLA leave. The employer agreed to the ADA accommodation, and Ryan Dillon-Capps worked from home throughout 2024. Ryan Dillon-Capps requested that the employer provide a record of how much time they had attributed to intermittent FMLA leave, but none was ever produced. However, the amount of time must be nominal because the employer interrupted every attempt to use intermittent FMLA leave. The two most notable instances occurred on June 12 and June 13.

On June 12, 2024, at 7:00 AM, Ryan Dillon-Capps notified his employer that he was utilizing his intermittent FMLA leave for the day (p.115). Undocketed emails show that Glenn Norris interrupted Ryan's leave and demanded he complete the same task that was later reassigned on June 13. Also undocketed are emails Ryan sent on June 12 to the same individuals he contacted the following day—none of whom responded. One of those recipients was defendant Daniel Levett. In an affidavit dated July 3, 2024 (District ECF 16-15, at 57-64) Levett stated: "[On] June 12, 2024, HEA was retained by Ohana Growth Partners, LLC ('Ohana') […] since that time I have been involved." This statement either constitutes perjury or affirms that Levett knowingly failed to respond—conduct

later used as a defense in the state court proceedings under the doctrine of estoppel by silence.

Following the June 12 interference with his FMLA leave and a subsequent email exchange in which the employer's position was effectively, "I disagree," Ryan Dillon-Capps sent another message to his employer (p.109), stating:

> "[I]formally request information regarding the legal representation retained by Ohana Growth Partners LLC concerning any and all matters that may involve or pertain to me. This includes, but is not limited to, the following issues:
> • Accounting irregularities
> • Unauthorized use of my name to attest compliance documents
> • Fabricated or altered emails/documents
> • Any other matters related to my employment
> • Any matters where I might be named or involved
> Specifically, I would like to know the name and contact information of the attorneys or law firms representing the company in these matters. This information is pertinent as I am seeking to engage in direct negotiations to resolve these issues amicably and efficiently. I believe that open communication can help us reach a mutually agreeable solution and prevent the need for more formal proceedings. Therefore, I would appreciate your prompt response to this request"

On June 13, 2024, at 7:12 AM, Ryan Dillon-Capps notified his employer that he would be unavailable for at least a few hours and would provide an update upon his return. He expressly stated that the absence was for FMLA leave, with the duration contingent upon "how well things go today" (p.14). Approximately two hours later, the employer acknowledged that Mr. Dillon-Capps was entitled to utilize his intermittent FMLA leave, while simultaneously demanding that he complete a work assignment by 3:00 PM that same day (p.25). At noon, Mr. Dillon-Capps responded, confirming his compliance and indicating that he was

awaiting a response from the relevant party. In the same communication, he also asserted his rights through a cease-and-desist notice (p.21). The remainder of the day escalated following a 2:05 PM communication to company ownership. In response, the employer placed Darren Koritzka—an employee unrelated to Mr. Dillon-Capps's FMLA request—on involuntary leave.

After the employer placed Darren Koritzka on involuntary leave, Ryan Dillon-Capps spent several hours in fear for his own safety, his wife's, and that of other employees involved in the labor dispute that had arisen from the employer's hostile work environment—an environment that had steadily deteriorated over the eight months following the October 16, 2023, report to Glenn Norris (pp. 27–65).

B Employer: FMLA, ADA, and Rehabilitation Act

In Cowgill v. First Data Techs., Inc., 41 F.4th 370, 379-380 (4th Cir. 2022), this Court held that a prima facia case of disability discrimination, a plaintiff must show (i) [they were] disabled, (ii) [they were] discharged, (iii) [they were] fulfilling her employer's legitimate expectations when she was discharged, and (iv) the circumstances of [their] discharge raise a reasonable inference of unlawful discrimination. *Rohan v. Networks Presentations LLC*, 375 F.3d 266, 272 n.9 (4th Cir. 2004). If the employee makes this showing, "the burden shifts to the employer to articulate a legitimate, nondiscriminatory reason for the adverse employment action." *Lettieri v. Equant*, 478 F.3d 640, 646 (4th Cir. 2007). To satisfy the fourth

element of a disability discrimination claim, a plaintiff must show that the adverse action occurred under circumstances that raise a reasonable inference of unlawful discrimination. *Rohan*, 375 F.3d at 272 n.9.

In Wilson v. Dollar Gen. Corp., 717 F.3d 337, 345 (4th Cir. 2013), this Court held that a prima facie case against his employer for failure to accommodate under the ADA, the plaintiff must show: " '(1) that [they were] an individual who had a disability within the meaning of the statute; (2) that the [employer] had notice of his disability; (3) that with reasonable accommodation he could perform the essential functions of the position ...; and (4) that the [employer] refused to make such accommodations.

The employer granted a reasonable accommodation to Ryan Dillon-Capps to work from home in connection with his FMLA leave for an ADA-qualifying disability. The employer does not dispute its interference with his FMLA leave. Ryan Dillon-Capps was complying with the employer's pretext-based demands and communicated his compliance. Nevertheless, he was suspended the same day, allegedly for failure to comply—an assertion contradicted by contemporaneous emails and text messages. The only reasonable conclusion is that the suspension during active FMLA leave and the failure to honor the reasonable accommodation for leave tied to an ADA-qualifying condition are not genuinely disputed.

The employer's lawsuit was based on this same pretext, and Richard Hartman's affidavit explicitly invoked Ryan Dillon-Capps's gender pronouns as a material fact, expressly demonstrating that the employer's actions were motivated by Ryan Dillon-Capps's gender.

On June 18, Ryan Dillon-Capps asserted his right to FMLA leave in correspondence with the employer's legal counsel, stating: "Technically, since I said I would tell them when I was back, my FMLA leave is still active […] please inform them that as a result of the escalated hostility, I will be on FMLA leave until further notice." He also asked whether he could provide additional access to the employer's Help Desk Manager, Dante Martinez, because Phil Leadore and Daniel Levett remained unresponsive.[1] District ECF 16-0, at 123-124.

Instead of accepting this offer, the employer and attorney defendants continued to rely on their pretextual refusal, and their legal counsel ultimately asserted that the employer had intentionally violated Ryan Dillon-Capps's FMLA rights. Ryan Dillon-Capps was terminated on July 30, after it had already been established that the employer's Help Desk Manager, Dante Martinez, possessed

[1] Ryan Dillon-Capps had forgotten that he made this request on June 18 until preparing this filing. Based on the known timeline of events from June 13 to June 18, he cannot determine whether the company equipment and security key fobs were removed during or after this email. All that is known is that, at the time he was writing to Phil Leadore and Robert Brennen on June 18, he believed he still had them.

sufficient administrative access to retrieve the email of accounts with Global Administrator privileges, use that access to complete the password self-reset process, and subsequently log in to assign Global Administrator roles to other users. The termination letter provided no explanation or justification for the termination. See District ECF 16-0, at 142–43 (termination letter); see also Appendix E – Fraudulent Lawsuit.

I June 26-27 Hearing

The authenticity of the June 26–27 transcripts is disputed due to textual irregularities and inconsistencies with fragmented memories of the hearings. However, because Ryan Dillon-Capps's memory from those two days remains incomplete, he cannot verify the discrepancies with full certainty.

In District ECF 23-11, The June 26 hearing began with Ryan Dillon-Capps informing Judge Barranco that he had "been asking to speak to the employer's attorney for weeks," and explaining that his employer had interfered with his use of FMLA leave on June 12 and 13 by forcing him to work on both days. Pleading with Barranco, "please let me have my FMLA time." Barranco dismissed the matter as irrelevant. (pp.4-5) Later in the hearing, Ryan Dillon-Capps stated that on June 13 he "was fearful for [his] life"[2] after Richard Hartman responded to a 2:05

[2] Ryan and Caroline Dillon-Capps fled their home because they believed Richard Hartman to be dangerous, especially after realizing the broader consequences of

PM email by placing Darren Koritzka, the IT Coordinator, on involuntary leave. (p.45).

In District ECF 23-11, June 21 transcript, Barranco explicitly acknowledging the show cause was granted by defendant Truffer on June 21, after Ryan Dillon-Capps said he "did not have a chance to defend" himself and had submitted the letter to Truffer. Barranco trying to legitimize the hearing by saying he was "actually surprised at how quickly -- often times after a TRO is entered the Assignment Office isn't always able to schedule a preliminary injunction hearing so promptly, and the TRO's are often extended either by consent or by motion, and then, it gets scheduled, but in this case it seems to me that it was scheduled, as it should be, I guess, prompt – fairly promptly before the TRO expired". District ECF 23-11, at 8, 11, 13.

Under Maryland Rule 15-206(c)(2), a show cause hearing must be scheduled with a minimum of 20 days' notice to ensure "a reasonable time for the preparation of a defense." The June 26 hearing began with Judge Barranco disregarding the fact that the no-notice ex parte order had been challenged under Md. Rule 15-

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his actions, which extended well beyond the events of June 13. As shown in District ECF 16-7, at 8–9, they made hotel reservations at a different location each night. Given the extraordinary efforts the employer has taken to protect Victor Brick's brother-in-law, Richard Hartman, and others involved in the preceding events, this level of precaution appears to have been entirely prudent.

504(f), which mandates a hearing to dissolve or modify such orders. Instead of scheduling the required hearing for Ryan Dillon-Capps and requiring the employer to meet its burden to justify continuation, that motion was denied. A show cause hearing was instead scheduled just 4 days after the June 21 ruling—16 days short of the statutory minimum—despite the only notice being sent to Ryan Dillon-Capps's work email, which Judge Barranco knew he no longer had access to. See District ECF 16-5, at 9.

In District ECF 23-11, Dillon-Capps described Hartman's conduct as erratic and stated that the employer's claims were entirely false. He specifically told Barranco: "They have an entire Help Desk team that are user admins, exchange admins. [They are] fully functional […] Their harm is not established, that's—it's a lie." In response to Barranco's comment that the employer claimed to have no admin access, Dillon-Capps replied, "They don't even understand what a global administrator is and what it does."(p.45) Moments later, Brennen acknowledged on the record that the FMLA interference and the employer's conduct on June 12 and 13 were true, not disputed, and established in the record. (p. 48)

In District ECF 23-11 and 23-12, the June 26–27 hearing transcripts demonstrate Ryan Dillon-Capps's consistent candor—openly providing the information he could recall, while honestly acknowledging what he could not "remember" or did not "know." See District ECF 23-11, at 6, 43, 75, 98; District

ECF 23-12, at 7, 8, 9, 14, 19, 22, 26, 27, 31, 34, 36–40, 42–43, 50. He repeatedly informed defendant Barranco of his memory and cognitive challenges throughout the proceedings. See District ECF 23-11, at 73, 88; District ECF 23-12, at 7, 15, 19–20, 23, 41. He told Barranco that he was "not even able to cognitively explain to [Barranco]" that he was "doing the best [he could]," noting that he used to rely on a "service dog [he had] for six years" and previously "couldn't even go outside without [him]." Ryan Dillon-Capps also stated he was "not capable [of] representing [himself] effectively" in a hearing for which he had only a few days' notice. See District ECF 23-12, at 16, 19. See also District ECF 16-3, at 3 (Service Dog ID)

A Affidavit of Harm

Retaining the emphasis from District ECF 16-7, Ryan Dillon-Capps describes his experience during the June 26–27 hearing.

From pages 1 and 2, under the heading Due Process Denied, he writes:

> **"During the June 26th and 27th hearings, Judge Barranco** informally evaluated my **mental health** and concluded that I was **not sufficiently disabled**, disregarding the complexity of my condition. As I continue to review the **transcripts** of these hearings, it is clear that my **memory of that day** is incomplete and fragmented. In fact, reading the transcript feels more like reading about someone else's experience rather than recalling something I lived through, illustrating the depth of my **cognitive impairments.** This lack of **full recollection** underscores the fact that I was not in a condition to effectively participate in the hearings. The court 's failure to recognize or accommodate my mental state during these proceedings is a clear violation of my **due process rights. Due process**, as guaranteed by the **Fourteenth Amendment,** ensures that parties have the right to fully participate in legal proceedings. In **Mathews v. Eldridge,** 424 U.S. 319

(1976), the **U.S. Supreme Court** ruled that due process requires meaningful participation, which was denied to me due to the court's failure to properly address my condition By continuing the proceedings without appropriate accommodations for my mental health, the court failed to uphold its obligations under the **Americans with Disabilities Act (ADA).** The **ADA** requires that individuals with disabilities be provided reasonable accommodations to ensure equal access to justice. In my case, the court neither acknowledged my condition nor provided the necessary accommodations, further contributing to my inability to fully engage with the legal process."

On page 3, Dillon-Capps further describes his treatment by defendant Barranco:

"Furthermore, when **Judge Barranco** attempted to evaluate my health on **June 26th and 27th**, it was clear that such a determination was made without the necessary training or expertise to properly assess the state of my mental health. This underscores a larger systemic issue: how many others have been denied basic rights and recognition of harm due to a similar lack of understanding about the human brain? It is crucial to remember that under **Titles I, II, and III of the ADA**, the question of disability and the need for accommodation are **not the court's decision** to make without proper medical evidence. Judges are not tasked with determining disability; the law already provides clear guidelines, removing the burden of such determinations from them. In my case, **medical documentation** was submitted to **Judge Truffer** on **June 18th,** and by **June 26th and 27th,** no further inquiry into my health was warranted. Yet I was subjected to an inquisition, as was my wife, who had to testify about witnessing my struggles. The pain I felt listening to her account was profound, and while the record captures only my words-"**I'm sorry"**-that moment held much more."

In the June 27 transcript, defendant Barranco stated that his fact-finding was based on his own observations. On page 4, Ryan Dillon-Capps describes what Barranco was observing under the header Twitching, Shaking, and Winning:

> "I walked into the courtroom on that day, carrying bags of papers, and I remember consciously trying to **look less injured.** I was trying to minimize the tremor-like shaking in my hands and arms as I clenched and stretched my fingers, seeking some futile relief. As my neck pulled, manifesting a tick-like twitch, my focus would shift from my hands to the courtroom around me, wondering if anyone was watching. I was embarrassed, but l forced myself not to show it."

On page 5, Ryan Dillon-Capps recaps three reasons he offered as jurisdictional challenges to defendant Barranco for removing the case to federal court:

> "There were **three different reasons** for the case to be moved to **federal court:** the **Family and Medical Leave Act (FMLA),** as I had given advance notice before any action was taken against me; the **Americans with Disabilities Act (ADA),** since taking a day off for health reasons is more than reasonable; and finally, **FTC v. Wyndham** [Multi-State Jurisdictional], which provides clear precedent for security and compliance issues."

II Denied Reasonable Accommodations & Obstructing Evidence

In District ECF 16-7, Ryan Dillon-Capps emailed defendant Barranco's chambers on June 26, 2024, requesting a copy of the hearing transcript from earlier that same day, stating he was struggling to remember what had been said. (p.14). The following morning, around 7:30 AM, the email was forwarded to the Digital Recording Office, and Sharon L. Elligson responded to Mr. Dillon-Capps, stating that an audio link would cost $25.00, and that the transcript would cost approximately $300.00. (p.13)

On June 28, 2024, Mr. Dillon-Capps emailed defendant Brennen, writing: "My wife said you asked for [a] transcript during court yesterday. Do you have a

transcript of any of the last two hearings? Could you email them to me?" Brennen subsequently provided the June 27 transcript. (p.44).

On July 1, 2024, Mr. Dillon-Capps followed up with Brennen, writing: "Thank you for the 27th. I show in the filings that there is one for the 26th. Do you have the one from the 26th?" At that time, Mr. Dillon-Capps did not have access to view or download the contents of the court record—he could only see an entry indicating that the June 26 transcript had been docketed.

In response, Brennen wrote: "The filings also show that you now owe Ohana $12,500 in fines. Have you paid any of that? I think I can get authority to provide the transcript that Ohana paid for if you provide me the password for administrative control of Ohana's GoDaddy account, which Ohana also paid for." (p.45). Brennen had requested the June 26 transcript on the same day of the hearing. Before Ryan Dillon-Capps was granted access to view the court record, the transcripts were removed from the state court docket and were never re-entered. Miles & Stockbridge P.C. withheld the June 26 transcript until September 30 (p.65).

See also District ECF 16-3, at 23-28 (ADA Coordinator emails; 30-32 (Caroline Dillon-Capps June 29, 2024, state court affidavit); 29 & 33 (defendant Meyer denying all meaning full accommodations under form the ADA form);

District ECF 16-6, at 14 (email to Judge Barranco chambers requesting transcripts as ADA accommodation).

III ADA Reasonable Accommodations Letter

In District ECF 16-3, at 22, Ryan Dillon-Capps (f/k/a 'Wagner') November 23, 2013, healthcare provider letter says "[Ryan Dillon-Capps] needs reasonable accommodations under the ADA or the Rehabilitation Act of 1990 and its subsequent 2008 amendment".

IV Expert Eye-Witness Affidavit

In District ECF 7-1, Caroline Dillon-Capps, a licensed clinical social worker (LCSW-C), submitted an expert eyewitness affidavit describing the severity of Ryan Dillon-Capps's mental and physical condition. She explained that "among the symptoms observed, several align with malignant catatonia, which is recognized as a medical emergency requiring immediate intervention." During severe panic attacks—which she noted can "last for hours"—he becomes "unresponsive to external stimuli" and displays "psychomotor inhibition, dissociation, freezing, body rigidity, and erratic breathing patterns."

She further observed episodes resembling "delirium and acute disorientation," during which he "displays repetitive speech patterns and circular reasoning." Caroline also noted that Ryan has exhibited "signs of excoriation (skin picking), which we have documented in photographs" (see District ECF 16-7, at

11–16). According to her, "these symptoms strongly suggest a trauma-based response requiring urgent and critical intervention." She warned that delays in care could "lead to significant complications, including more frequent episodes" and "intensified experiences of depersonalization, derealization, and other dissociative phenomena." Without timely treatment, she stated, she "fear[s] losing [her] husband to this overwhelming situation," emphasizing that "he needs medical intervention" or "his condition may become increasingly resistant to treatment, potentially necessitating long-term therapy or inpatient care and heightening the risk of severe, life-threatening consequences."

V Statute

A Family and Medical Leave (FMLA)

29 U.S.C.A. § 2611(4)(A)Employer: In general the term "employer"—
(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;
(ii) includes— (I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and (II) any successor in interest of an employer;
(iii) includes any "public agency", as defined in section 203(x) of this title;

29 U.S.C.A. § 203(d) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

29 U.S.C.A. § 203(x) "Public agency": means the Government of the United States; the government of a State or political subdivision thereof; any agency of the United States (including the United States Postal Service and Postal Regulatory Commission), a State, or a political subdivision of a State; or any interstate governmental agency.

29 U.S.C.A. § 203 (c) "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States.

29 U.S.C.A. § 2611(8) Person: The term "person" has the same meaning given such term in section 203(a) of this title.

29 U.S.C.A. § 203(a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

29 U.S.C.A. § 2611(1) Commerce The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (1) and (3) of section 142 of this title.

29 U.S.C.A. § 142 When used in this chapter--
(1) The term "industry affecting commerce" means any industry or activity in commerce or in which a labor dispute would burden or obstruct commerce or tend to burden or obstruct commerce or the free flow of commerce.
(3) The terms "commerce", "labor disputes", "employer", "employee", "labor organization", "representative", "person", and "supervisor" shall have the same meaning as when used in subchapter II of this chapter.

29 U.S.C.A. § 2611(2) Eligible employee
(A) In general The term "eligible employee" means an employee who has been employed--
(i) for at least 12 months by the employer with respect to whom leave is requested under section 2612 of this title; and
(ii) for at least 1,250 hours of service with such employer during the previous 12-month period.
(B) Exclusions: The term "eligible employee" does not include--
(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.
(C) Determination: For purposes of determining whether an employee meets the hours of service requirement specified in subparagraph (A)(ii), the legal standards established under section 207 of this title shall apply.

29 U.S.C.A. § 203
(e)(1) the term "employee" means any individual employed by an employer.

(g) "Employ" includes to suffer or permit to work.

29 U.S.C.A. § 2611(3) Employ; employee; State The terms "employ", "employee", and "State" have the same meanings given such terms in subsections (c), (e), and (g) of section 203 of this title.

29 U.S.C.A. § 2611 (5) The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan", as defined in section 1002(3) of this title.

29 U.S.C.A. § 1002(3) The term "employee benefit plan" or "plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan.

29 U.S.C.A. § 2612(2) Substitution of paid leave (B) Serious health condition An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (D) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection, except that nothing in this subchapter shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

29 U.S.C.A. § 2612 In general (1) Entitlement to leave Subject to section 2613 of this title an eligible employee shall be entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following: (D) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee. (b) leave under subparagraph (D) of subsection (a)(1) may be taken intermittently or on a reduced leave schedule when medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.

29 U.S.C.A. § 2611(11) Serious health condition The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves--**(B)** continuing treatment by a health care provider.

29 U.S.C.A. § 2611(6)The term "health care provider" means--**(B)** any other person determined by the Secretary to be capable of providing health care services.

29 U.S.C.A. § 2613(a) In General An employer may require that a request for leave under subparagraph (D) of paragraph (1) of section 2612(a) of this title be supported by a certification issued by the health care provider of the eligible employee. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) Sufficient certification Certification provided under subsection (a) shall be sufficient if it states-- **(1)** the date on which the serious health condition commenced; **(2)** the probable duration of the condition;**(3)** the appropriate medical facts within the knowledge of the health care provider regarding the condition; **(B)** for purposes of leave under section 2612(a)(1)(D) of this title, a statement that the employee is unable to perform the functions of the position of the employee; **(6)** in the case of certification for intermittent leave, or leave on a reduced leave schedule, under section 2612(a)(1)(D) of this title, a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule;

29 U.S.C.A. § 2614(a) Restoration to position (1) In general Except as provided in subsection (b), any eligible employee who takes leave under section 2612 of this title for the intended purpose of the leave shall be entitled, on return from such leave-- **(A)** to be restored by the employer to the position of employment held by the employee when the leave commenced; or **(B)** to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. **(2) Loss of benefits** The taking of leave under section 2612 of this title shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. **(3) Limitations** Nothing in this section shall be construed to entitle any restored employee to--**(A)** the accrual of any seniority or employment benefits during any period of leave; or **(B)** any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave. **(4) Certification** As a condition of restoration under paragraph (1) for an employee who has taken leave under section 2612(a)(1)(D) of this title, the employer may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of such employees.

29 U.S.C.A. § 2614(b) Exemption concerning certain highly compensated employees Denial of restoration An employer may deny restoration under subsection (a) to any eligible employee described in

paragraph (2) if-- **(A)** such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer; **(B)** the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; **(2) Affected employees** An eligible employee described in paragraph (1) is a salaried eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.(c) Maintenance of health benefits (1) Coverage. Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 2612 of this title, the employer shall maintain coverage under any "group health plan" (as defined in section 5000(b)(1) of Title 26) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave. (2) Failure to return from leave The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave under section 2612 of this title if-- (A) the employee fails to return from leave under section 2612 of this title after the period of leave to which the employee is entitled has expired; and (B) the employee fails to return to work for a reason other than--(i) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subparagraph (D) of section 2612(a)(1) of this title; or (ii) other circumstances beyond the control of the employee.

26 U.S.C.A. § 5000(b)(1) Group health plan.--The term "group health plan" means a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

29 U.S.C.A. § 2615(a) Interference with rights

(1) Exercise of rights: It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this subchapter.

(2) Discrimination: It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this subchapter.

(b) Interference with proceedings or inquiries: It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual--
(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this subchapter;
(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this subchapter; or
(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this subchapter.

29 U.S.C.A. § 2617(a) Civil action by employees
(1) Liability: Any employer who violates section 2615 of this title shall be liable to any eligible employee affected--
(A) for damages equal to--
(i) the amount of--
(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or
(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee;
(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and
(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 2615 of this title proves to the satisfaction of the court that the act or omission which violated section 2615 of this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 2615 of this title, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and
(B) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.
(2) Right of action: An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of--
(A) the employees; or
(B) the employees and other employees similarly situated.
(3) Fees and costs

The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.
29 U.S.C.A. § 2651 (b) State and local laws Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State or local law that provides greater family or medical leave rights than the rights established under this Act or any amendment made by this Act.

B ADA

42 U.S.C.A. § 12101 **(1)** physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination; **(3)** discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;
42 U.S.C.A. § 12202 A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in1 Federal or State court of competent jurisdiction for a violation of this chapter. In any action against a State for a violation of the requirements of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.
42 U.S.C. § 12132 "[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation or denied the benefits of the services, programs or activities of a public entity"

VI Waiver of Eleventh Amendment Immunity

A Jurisprudence of Eleventh Amendment Immunity

Eleventh Amendment Immunity "is a personal privilege which [the State of Maryland] may waive at [its] pleasure". See Clark v. Barnard, 108 U.S. 436, 447 (1883). The current view of Eleventh Amendment and then ultimately Sovereign Immunity is about barring suits, and this case represents eligible statutory claims

and multiple waivers. This is a question for adverse litigation because the question has moved past the bar to suit.

See William A. Fletcher, A Historical Interpretation of the Eleventh Amendment: A Narrow Construction of an Affirmative Grant of Jurisdiction Rather Than A Prohibition Against Jurisdiction, 35 Stan. L. Rev. 1033, 1038–39 (1983); John J. Gibbons, The Eleventh Amendment and State Sovereign Immunity: A Reinterpretation, 83 Colum. L. Rev. 1889, 1891 (1983); and Gil Seinfeld, Waiver-in-Litigation: Eleventh Amendment Immunity and the Voluntariness Question, 63 Ohio St. L.J. 871, 930 (2002)

B Federal Jurisdiction Waiver on June 26, 2024

On June 26, 2024, Ryan Dillon-Capps attempted to present oral arguments in the Circuit Court contesting both subject-matter and equity jurisdiction. During the hearing, Judge Michael S. Barranco interrupted and made two notable statements: (1) “The Court has jurisdiction over the [state plaintiff claim], so that’s not an argument, I’m just telling you right now”; and (2) “You can go to federal court and file a [...] private cause of action for violation of the FMLA.” Although the reference was framed around the FMLA, these statements came in direct response to repeated jurisdictional objections, including arguments based on the employer’s undisputed FMLA interference. See District ECF 1-0, at 4 (quoting District ECF 16-0, at 159–160).

Neither Ryan Dillon-Capps nor the employer, attorney, or judge defendants treated any portion of the hearing as asserting a counterclaim or third-party claim. All parties understood that Ryan Dillon-Capps was raising jurisdictional challenges. During the hearing, Judge Michael S. Barranco explicitly told Dillon-Capps that "if he contends that [the employer defendants] were violating the law," then he should pursue his claim "administratively or by law," further stating that he was "not making any such finding" because he "[didn't] even need to hear about [it]." Barranco directed Dillon-Capps to "go down to federal court and file [...] a private cause of action," and concluded that such issues were "not a defense to the claims here." See District ECF 23-11, at 56.

The statements made by Barranco make clear that he was denying jurisdictional objections to the Circuit Court's authority and explicitly stated that he was not adjudicating the merits of the claims referenced in those objections.

The attorney and judge defendants likewise concluded that the motions seeking sanctions, injunctive, declaratory, and equitable relief were not counterclaims or third-party claims against the employer, attorney, judge, or clerk defendants. In the state court filing titled *Opposition to Defendant's Motion to*

Strike Notice of Voluntary Dismissal[3] (District ECF 16-15, at 143), the state plaintiff argued:

(1) "Dillon-Capps has never filed an Answer to the Complaint";
(2) under Maryland Rule 2-506(a), Ohana retained the right to voluntarily dismiss the action without leave of court at any time before an answer is filed and in the absence of a counterclaim or third-party claim; and
(3) none of Dillon-Capps's filings qualified as such claims. The plaintiff further requested that all outstanding motions be deemed moot and denied. Although the court did not strike the motion, it proceeded to grant the requested relief by denying nearly all remaining filings as moot or denied—many with explicit statements that the denial was based, in whole or in part, on the voluntary dismissal which resulted in the state case being closed. The remaining filings were simply ignored without ruling.

There is no dismissal or ruling on any of Ryan Dillon-Capps's claims because the state court concluded that none had been filed, and it granted the employer's voluntary dismissal without prejudice. Judge Barranco received multiple jurisdictional challenges tied to federal violations and explicitly directed Dillon-Capps to pursue those claims in federal court—thereby voluntarily invoking federal jurisdiction for their adjudication. This case does exactly that.

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[3] Ryan Dillon-Capps citing the wrong cases for arguments occurred twice, the first was in the Motion to Strike and then another filing repeated the same wrong citation. Opposing counsel quickly identified the error and used it to oppose the motion to strike, and Ryan Dillon-Capps acknowledged the error and provided replacement cases that supported the argument even better. The other filing was opposed similarly. See District ECF 16-15, at 148-150. Ryan Dillon-Capps did not have previous access to Westlaw, and this is the first filing to benefit from it.

The Supreme Court has "consistently found waiver when a state attorney general, authorized to bring a case in federal court, has voluntarily invoked that court's jurisdiction. More importantly, in large part the rule governing voluntary invocations of federal jurisdiction has rested upon the inconsistency and unfairness that a contrary rule would create". Lapides v. Bd. of Regents of Univ. Sys. of Georgia, 535 U.S. 613, 614 (2002).

Lapides does not rest on a singular set of circumstances but rather addresses a specific scenario within a broader principle. The Supreme Court held that, in the context of the case, a state attorney general's voluntary invocation of federal jurisdiction constitutes a waiver of Eleventh Amendment immunity. The Court reasoned that "it would seem anomalous or inconsistent for a State both (1) to invoke federal jurisdiction, thereby contending that the 'Judicial power of the United States' extends to the case at hand, and (2) to claim Eleventh Amendment immunity, thereby denying that the 'Judicial power of the United States' extends to the case at hand". Lapides v. Bd. of Regents of Univ. Sys. of Georgia, 535 U.S. 613, 619 (2002).

It is immaterial whether the judge personally possessed the authority to waive immunity. As a state-licensed attorney and sitting Circuit Court judge presiding over a hearing in the Circuit Court for Baltimore County, he acts as an instrument of the State of Maryland. The Supreme Court affirmed this principle in

Lapides, which compared multiple cases and cited with approval the holding that "removal waives immunity regardless of attorney general's state-law waiver authority." *Lapides v. Bd. of Regents of Univ. Sys. of Ga.*, 535 U.S. 613, 618 (2002) (citing *McLaughlin v. Bd. of Trustees of State Colleges of Colo.*, 215 F.3d 1168, 1171 (10th Cir. 2000)).

The Supreme Court establishes binding precedent through case-specific adjudications that crystallize into *stare decisis*. In *Lapides*, the Court's holding is not merely a reflection of that case's unique facts, but a precedent grounded in broader constitutional principles. Specifically, the Court made clear that "an interpretation of the Eleventh Amendment that finds waiver in the litigation context rests upon the Amendment's presumed recognition of the judicial need to avoid inconsistency, anomaly, and unfairness, and not upon a State's actual preference or desire, which might, after all, favor selective use of 'immunity' to achieve litigation advantages." *Lapides v. Bd. of Regents of Univ. Sys. of Georgia*, 535 U.S. 613, 620 (2002).

This case exemplifies the very concerns addressed in *Lapides*, and it is plainly evident that Judge Barranco voluntarily invoked federal jurisdiction to adjudicate claims that directly challenged the jurisdiction of the state court. As the District Court itself acknowledged as "constitutional claims that are inextricably

intertwined with a state court decision" (quotations omitted). (District ECF 18-0, at 5).

However, the decision at issue is not an appeal of the employer's voluntarily dismissed state action—which, under Maryland law, "vitiates and annuls all prior proceedings and orders in a case"—but rather the action of a sitting judge of the Circuit Court for Baltimore County who voluntarily invoked federal jurisdiction to adjudicate claims that he independently extracted from jurisdictional objections raised against the state proceedings themselves. In doing so, the judge simultaneously violated fundamental constitutional protections that are now "inextricably intertwined" with the voided state court proceedings, including: (1) the right to petition the government for redress; (2) the right to an impartial tribunal; (3) the right to equal protection under the law; and (4) the right to due process.

C Federal Jurisdiction Waiver on February 20, 2025

District ECF Series 41 contains February 20, 2025, communication from a State of Maryland attorney indicating that the State has deferred its own internal process in favor of the ongoing federal proceedings. This deferral constitutes a waiver of the State's process and an express invocation of federal adjudication, thereby operating as a waiver of Eleventh Amendment immunity. In doing so, the attorney effectively acknowledges that the allegations against the attorney

defendants have merit and lends significant weight to the § 1986 claims, which, notably, appear to be undisputed (See arguments concerning DeGonia II).

The Eleventh Amendment "does not automatically destroy original jurisdiction. Rather, it grants the State a legal power to assert a sovereign immunity defense should it choose to do so. The State can waive the defense." Wisconsin Dep't of Corr. v. Schacht, 524 U.S. 381, 389 (1998). As the Supreme Court noted in *Lapides*, "[a] benign motive ... cannot make the critical difference[…] Motives are difficult to evaluate, while jurisdictional rules should be clear". *Lapides v. Bd. of Regents of Univ. Sys. of Georgia*, 535 U.S. 613, 614 (2002).

This second waiver of Eleventh Amendment immunity occurred nearly two months after December 27, 2024, filing in District Court and explicitly referenced the federal proceedings as the basis for invoking jurisdiction, thereby reaffirming the State's voluntary submission to federal adjudication. District ECF series 41.

VII Fourteenth Amendment Abrogation of Sovereign Immunity

In Fitzpatrick v. Bitzer, 427 U.S. 445, 456 (1976), the Supreme Court held: "The Eleventh Amendment, and the principle of state sovereignty which it embodies, are necessarily limited by the enforcement provisions of §5 of the Fourteenth Amendment" (citations removed).

A ADA Title II Abrogates Sovereign Immunity

In Tennessee v. Lane, 541 U.S. 509 (2004), the Supreme Court held:

(1) **Id., at 517:** "Title II, §§ 12131–12134, prohibits any public entity from discriminating against "qualified" persons with disabilities in the provision or operation of public services, programs, or activities. The Act defines the term "public entity" to include state and local governments, as well as their agencies and instrumentalities. § 12131(1). Persons with disabilities are "qualified" if they, "with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, mee[t] the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity." § 12131(2). Title II's enforcement provision incorporates by reference § 505 of the Rehabilitation Act of 1973, 92 Stat. 2982, as added, 29 U.S.C. § 794a, which authorizes private citizens to bring suits for money damages. 42 U.S.C. § 12133."

(2) **Id., 522–23:** Title II seeks to enforce irrational disability discrimination, but also "seeks to enforce a variety of other basic constitutional guarantees" Those include rights "protected by the Due Process Clause of the Fourteenth Amendment". Including the "right of access to the Courts" and "meaningful opportunity to be heard" by removing obstacles to their full participation in judicial proceedings.

(3) **Id., 532:** "Duty to accommodate is perfectly consistent with the well-established due process principle that, "within the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard" in its courts

(4) **Id., 533:** "Title II's affirmative obligation to accommodate persons with disabilities in the administration of justice cannot be said to be "so out of proportion to a supposed remedial or preventive object that it cannot be understood as responsive to, or designed to prevent, unconstitutional behavior." It is, rather, a reasonable prophylactic measure, reasonably targeted to a legitimate end." (citations removed)

(5) **Id., 533-534: "**Title II, as it applies to the class of cases implicating the fundamental right of access to the courts, constitutes a valid exercise of

Congress' § 5 authority to enforce the guarantees of the Fourteenth Amendment."

B FMLA Abrogates Sovereign Immunity

In Nevada Dep't of Hum. Res. v. Hibbs, 538 U.S. 721, 726,(2003), the Supreme Court held:

(1) **Id., 726:** "Congress may [] abrogate [Eleventh Amendment] immunity in federal court if it makes its intention to abrogate unmistakably clear in the language of the statute and acts pursuant to a valid exercise of its power under § 5 of the Fourteenth Amendment. The clarity of Congress' intent [in the Family and Medical Leave Act of 1993] is not fairly debatable. The Act enables employees to seek damages "against any employer (including a public agency) in any Federal or State court of competent jurisdiction," 29 U.S.C. § 2617(a)(2), and Congress has defined "public agency" to include both "the government of a State or political subdivision thereof" and "any agency of ... a State, or a political subdivision of a State". (citations removed)

(2) **Id., 735:** "States' record of unconstitutional participation in, and fostering of, gender-based discrimination in the administration of leave benefits is weighty enough to justify the enactment of prophylactic § 5 legislation".

C Summary ADA and FMLA

The events that led Ryan Dillon-Capps to take FMLA leave were inextricably linked to the gender-based discrimination he experienced from Josh Gerber. The employer and attorney defendants filed the state court pleading asserting that Ryan Dillon-Capps's gender was a material fact. Similarly, the District Court's ruling denying the temporary restraining order and preliminary injunction also treated Ryan Dillon-Capps's gender as a material fact. Defendant

Barranco and the attorney defendants used discriminatory language in their filings—language that Ryan Dillon-Capps directly addressed and condemned as both gender and disability discrimination. However, at no point did Ryan Dillon-Capps assert that the use of gendered pronouns was itself an issue; rather it was their attacks on Ryan Dillon-Capps communication style.

In Price Waterhouse v. Hopkins, 490 U.S. 228 (1989), the Supreme Court addressed similar conduct where Ann Hopkins was told she needed to "talk more femininely"(Id., 235). The Court found such remarks to be evidence of impermissible sex stereotyping under Title VII. There is no legitimate basis for instructing a person to "talk more femininely," nor is there any legitimate justification for treating an individual's communication style or gender identity as a material fact in employment or judicial decision-making. Yet, both the District Court and Richard Hartman raised Ryan Dillon-Capps's gender—veiled through references to pronoun usage—as a material fact. This conduct reflects the very essence of gender-based discrimination: when characteristics associated with a person's gender become determinative factors in the decision-maker's process.

During the June 26–27 hearing, Defendant Barranco repeatedly critiqued Ryan Dillon-Capps's communication style and directly linked those critiques to his conclusions—conclusions that stand in irreconcilable contradiction to the proceedings, the evidence, and the objective facts. At no point during the state

proceedings was there any question about Ryan Dillon-Capps rights being violated, and the state court's actions deprived Ryan Dillon-Capps of his Fourteenth Amendment rights of due process and meaningful opportunity to be heard, and his right for reasonable accommodations under the ADA. Additionally, the state court, as both a public agency and as an agent of the employer under the FMLA, acted in the interest of the employer in violating Ryan Dillon-Capps FMLA leave rights.

D Excessive Fines

The Supreme Court held that the Fourteenth Amendment incorporates the Eighth Amendment protections against excessive fines, and the incorporated Bill of Rights guarantees are "enforced against States under the Fourteenth Amendment according to the same standards that protect personal rights against federal encroachment". Timbs v. Indiana, 586 U.S. 146, 150–51 (2019).

VIII Standard of Review

We review the Rule 12(b)(1) dismissal of a claim in a complaint for lack of subject matter jurisdiction de novo. Field v. Berman, 526 F. App'x 287, 291 (4th Cir. 2013)(citing Pitt Cnty. v. Hotels.com, L.P., 553 F.3d 308, 311 (4th Cir.2009)).

[Issue 5] Denial of Court Appointed Counsel

In District ECF 2, Ryan Dillon-Capps requested to proceed in forma pauperis, and attached the requisite IFP form with additional supporting information in Exhibit 106 (p.1). The motion also requested appointment of IFP counsel because "This case's extraordinary complexity, involving systemic

misconduct, procedural irregularities, and significant financial and procedural barriers, necessitates the immediate appointment of IFP counsel" (pp.2-3).

In District ECF 18-0, the District Court granted Ryan Dillon-Capps's motion to proceed in forma pauperis (pp. 2, 21), but "otherwise denied" the remainder of the motion without addressing the request for the appointment of counsel or applying the Whisenant standard (pp. 2, 21). The Court dismissed some of the claims and defendants with prejudice, while directing Ryan Dillon-Capps to file an amended complaint excluding the dismissed portions (pp. 16, 21) and expressly made "no finding as to the viability of any remaining claims" because "the Court is unable to tease apart the remaining claims against the remaining defendants" (p. 16). The District Court's ruling also determined the "complaint suffers from a number of deficiencies" (p. 3), and repeatedly expressed uncertainty—using language such as "can piece together" (p. 3), "appears" (pp. 3, 12, 13), "appear to stem" (p. 11), "unclear" (p. 12), "difficult to discern" (p. 18), and "unable to tease apart" (p. 16).

The Notice of Appeal (District ECF 36-0) was immediately followed by the Appeal Transmittal Sheet (District ECF 37-0), which affirmed IFP status on appeal.

This Court's Whisenant standard requires district courts to determine: (1) whether the plaintiff "has a colorable claim"; and (2) whether the case presents

"exceptional circumstances." This Court has clarified that a claim is colorable when "the plaintiff asserts a claim that is not frivolous," and that exceptional circumstances are present when either: (a) the legal or factual issues are objectively complex or difficult; or (b) the plaintiff is subjectively "ill-equipped" to present the claims, based on the skill required and the plaintiff's own abilities.

A failure to make these required assessments constitutes legal error, and a failure to appoint counsel for an indigent plaintiff in the presence of exceptional circumstances amounts to an abuse of discretion. Jenkins v. Woodard, 109 F.4th 242, 247-48, 251 (4th Cir. 2024); Whisenant v. Yuam, 739 F.2d 160, 163 (4th Cir. 1984)

The District Court's rulings demonstrate the court determined that: (1) this case is not frivolous; and (2) Ryan Dillon-Capps is an indigent plaintiff who is ill equipped to present the claims. The District Court failed to apply this Court's standard and grant counsel.

IX Standard of Review

This Court reviews abuse of discretion legal conclusions de novo, and its factual findings for clear error. Moses Enterprises, LLC v. Lexington Ins. Co., 66 F.4th 523, 526 (4th Cir. 2023).

[Issue 6] Denial of Conditional Permissive Joinders

The identified plaintiff joinders are (1) Darren Koritzka; (2) Caroline Dillon-Capps; (3) Jordan Chisholm; and (4) MXT3, LLC.

Ryan Dillon-Capps requested all joinders be allowed to benefit from court appointed counsel, and to allow Ryan Dillon-Capps not to be divested from his own litigation completely or from MXT3, LLC litigation either. See District ECF 5-2; 2-0, at 3 ¶ 7-8.

Dillon-Capps acknowledges that ¶ 8 could be misinterpreted. "MXT3" has served as a general identifier for various ventures, while MXT3, LLC was registered in Maryland in 2023 as a placeholder for a forthcoming business initiative. The venture was intended to launch in 2024 as a separately registered entity, representing over a decade of planning, with initial funding channeled through MXT3, LLC. Investor introductions were in progress, coordinated by a business associate. As a result of the defendants' actions, the seed capital was lost, investor access was severed, and MXT3, LLC has since entered financial default. See District ECF 16-7, at 52-65, for additional information on MXT3.

From Case No. 1:24-CV-0192-SAG: In Chrisholm ECF 22-0, the District Court dismissed the case without prejudice on November 18, 2024, and granted Chisholm until January 17, 2025—60 days from the date of dismissal—to file a motion for leave to amend along with a proposed amended complaint.

On January 8, 2025, the District Court denied the request for Chisholm's conditional permissive joinder, stating that: (1) the case had been closed as of November 18; (2) pro se litigants may not represent others in federal court; and (3) Chisholm did not appear to know Ryan Dillon-Capps or be aware of the request. See District ECF 18-0, at 18–19. See also Informal Brief: Appendix C – Jordan Chrisholm.

This Court has held that Rule 20 (1) gives courts wide discretion concerning the permissive joinder of parties; and (2) purpose is to (a) promote trial convenience, (b) expedite the final determination of disputes, and (c) prevent multiple lawsuits. District courts have discretion to deny when (1) Rule 20 will not foster the objectives of the rule, and (2) will result in prejudice, expense, or delay. Aleman v. Chugach Support Servs., Inc., 485 F.3d 206, 218 (4th Cir. 2007) (citing *Saval v. BL, Ltd.,* 710 F.2d 1027, 1031 (4th Cir.1983) (quoting *Mosley v. General Motors Corp.,* 497 F.2d 1330, 1332 (8th Cir.1974)); 7 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 1652 (3d ed.2001)).

Darren Koritzka, Caroline Dillon-Capps, and MXT3, LLC all share: (1) a common set of underlying events; (2) overlapping causes of action; and (3) the same defendants named in this case. Jordan Chisholm also shares the same employer defendant, the same causes of action, and a timeline that overlaps with

the events at issue—satisfying both this Court's standard and the objectives of Rule 20.

The District Court's ruling: (1) prejudiced Jordan Chisholm, who still had time remaining to amend his complaint; (2) delayed final determination and relief for all proposed joinders; (3) has already increased the litigation costs in this case; and (4) compels the filing of multiple lawsuits, which will require duplicative discovery, depositions, and court proceedings.

The District Court made no mention of Koritzka, Dillon-Capps, or MXT3, LLC. Furthermore, its ruling on Chisholm fails to reflect this Court's permissive joinder standard, either in substance or in language. The District Court should have applied the proper standard and granted conditional permissive joinder, subject to each individual's acceptance or declination.

See District ECF 16-8, at 20, for a list of cases involving the employer in the Circuit Court that stood out to Ryan Dillon-Capps. Two notable examples from that list include:

Daniels, Shantel Denise, a cancer survivor, was sued by the employer over a matter involving approximately $300. After she lost the lawsuit and Ohana obtained what it wanted from her—which was not the $300—the company proceeded to publicly celebrate her recovery from cancer.

Barry Tiedeman had collected a series of emails which, when viewed in context, appear to have been adverse to Ohana. These emails were subsequently deleted from his account, and there were only three people who could have done it. Upon discovering the deletion, he confronted Human Resources—two of those three individuals—and was summarily terminated. Everyone was told a stated pretext; however, if that pretext were true, two other employees would have been fired that same year for doing the exact same thing.

X Standard of Review

This Court reviews abuse of discretion legal conclusions de novo, and its factual findings for clear error. Moses Enterprises, LLC v. Lexington Ins. Co., 66 F.4th 523, 526 (4th Cir. 2023).

[Issue 7] Judicial and Quasi-Judicial Immunity and Conspiracy

In District ECF 18-0, at 10-11, After the District Court determined that it lacked subject matter jurisdiction it performed a merit-based evaluation regarding the state court injunction: “While the Norris-La Guardia Act’s applicability here is otherwise doubtful as the underlying injunction does not concern organized labor, it plainly does not apply to the state court that issued the rulings”.

I Labor Dispute

In District ECF 16-0, the evidentiary record includes the following documents related to Darren Koritzka:

(3) an involuntary leave letter dated June 13, 2024 (pp. 15, 27–29);
(4) a termination letter dated August 2, 2024 (pp. 146–147);
(5) termination notice and related severance communications (pp. 144–145); and
(6) a severance offer (pp. 148–156).

The severance agreement cites multiple federal statutes that also appear in the counts set forth in the complaint (District ECF 1-7), including, within the waiver and release of rights at § 4:

(1) the Family and Medical Leave Act of 1993 ("FMLA");
(2) the Fair Labor Standards Act ("FLSA"); and
(3) National Labor Relations Board or other federal, state, or local government agencies (pp. 149–150).

Following the involuntary leave of IT Coordinator Darren Koritzka at approximately 2:20 PM, text message records show that Ryan Dillon-Capps immediately responded to Richard Hartman's retaliatory conduct and expressed concern for the safety of Mareann Piñera (pp. 30–31), as well as for himself and his wife. In the hours that followed, Dillon-Capps sought assistance through multiple communication channels, including:

(1) direct messages to Victor and Lynne Brick individually (pp. 32–33);
(2) a group chat with Director of Member Services Karen Cepress and Director of Northeast Operations Allyson Ratliff (pp. 34–38);
(3) a group chat with Victor and Lynne Brick and Justin Drummond (pp. 39–41); and
(4) direct messages with Justin Drummond (pp. 45–65).

The final two text messages from Justin Drummond directed Ryan Dillon-Capps to stop texting and wait (pp. 56, 60). Hours later, Richard Hartman issued a suspension notice to Ryan Dillon-Capps (p. 158). In response, Dillon-Capps texted Drummond at 8:51 PM, stating, "please tell me you have spoken to Rich and suspended him" (p. 64), followed by, "We are [filing] for a protective order against Rich" at 9:09 PM (p. 64). Minutes before 10:00 PM, Drummond confirmed that the suspension was, in fact, real.

The fraudulent lawsuit was filed the next day, on June 14, 2024, at 12:18 PM, under the pretext that Ryan Dillon-Capps had engaged in a "repeated refusal to comply with Ohana's directives" and sought injunctive relief to "require [Ryan Dillon-Capps] to [comply with Ohana's directives]." See District ECF 23-1, at 7–8. The pleading reflected a rushed effort focused on omitting any mention of Darren Koritzka and the labor dispute which resulted in the plethora of other errors. Clearly attempting to fabricate a pretext that would contradict a protective/peace order that focused entirely on the labor dispute and rushed because the first to file is presumed to be more creditable. See Appendix E – Fraudulent Lawsuit.

In District ECF 16-14, at 20, Ryan Dillon-Capps email to Robert Brennen on June 18 says: (1) "there have been two formal written request for [Ohana's Legal Counsel] information"; (2) "when not targeting [Ryan Dillon-Capps], they go after

Darren, Ann, and the help desk; (3) "[Ryan Dillon] would greatly appreciate anything [Ohana's Legal Counsel] could do to help us negotiate [an] end to [the labor dispute]; (4) "the only condition that is not acceptable is that [Darren, Ann, and the Help Desk] is left un protected"; and (5) "it has been clearly documented in writing that [Glenn Norris & Richard Hartman] are also targeting Ann, Darren, and [the Help Desk]".

A Beyond Reasonable Dispute

Omitting Ohana's responsive filings, the employer and attorney defendants submitted the following:

(1) the original June 14 filing, docketed as District ECF 23-1 through 23-7 and 23-9;
(2) a June 20 Petition to Show Cause for Constructive Civil Contempt;
(3) a June 25 affidavit from Defendant Randall J. Romes;
(4) a July 3 affidavit from Defendant Daniel J. Levett;
(5) a June 25 Petition to Show Cause for Constructive Civil Contempt Seeking Incarceration, later voluntarily withdrawn;
(6) a July 23 Entry of Appearance for Jessica Duvall;
(7) an August 20 second affidavit from Richard Hartman, attaching a Military Record of Service exhibit filed under the wrong name;
(8) an August 20 Petition for Default, granted and subsequently vacated; and
(9) an October 24 Notice of Voluntary Withdrawal, granted and docketed November 6.
(10) Notably absent is a motion seeking a scheduling conference in closed chambers with a judge defendant—the only filing submitted by the state plaintiff that was denied—but the opposition to that motion is reflected on the record.

Ryan Dillon-Capps docketed filings on approximately 50 occasions, totaling around 200 submissions and including thousands of pages of supporting exhibits and affidavits. The state court granted all but one of Ohana's filings, while Dillon-Capps was denied all but two—one of which was later ruled moot. See District ECF 16-5 (Rulings), at 30 (granting motion to vacate default) and 39 (granting hearing, later deemed moot). Ryan Dillon-Capps successfully defended himself and the state action is voided.

See also Exhibit 108, parts 1-3, filed in the District Court as District ECF 16-9 (82 pages- sanctions); 16-10 (329 pages-Memo for Mandatory hearing of Adjudicated Facts); 16-11 (109 pages-factual allegations and legal citations supporting allegations of claims – filed as a reply to employers opposition to expedited discovery).

These are objective facts and factual conclusions that are beyond reasonable dispute:

(1) Ryan Dillon-Capps is
   (a) the prevailing party in the state court proceedings, and
   (b) the only party with materially relevant supporting evidence;
(2) The state court proceedings
   (a) started nine months ago, and
   (b) are now vitiated;
(3) The allegations against the attorneys have been
   (a) investigated by the Office of the Bar Counsel, and
   (b) found to have merit by the Office of the Bar Counsel;
(4) The employer has affirmed that the FMLA interference is not disputed, and

(5) After months of state court litigation, the employer, attorney, judge, and clerk defendants have been provided with
   (a) information on what the allegations against them are,
   (b) opportunities to produce contradictory evidence,
   (c) opportunities to resolve issues,
   (d) notice for injunctions, evidentiary hearings, and that Ryan Dillon-Capps is ready to seek judgement as a matter of law, and
(6) Both state and district court ruling are irreconcilable contradictions of fact and law.

Ryan Dillon-Capps doesn't assert procedural proficiency, and the District Court has stated "[he] has not provided the procedural prerequisites". However, the Supreme Court has held "[t]he Constitution deals with substance, and not shadows. In matters affecting basic constitutional guaranties, this Court will look to substance, not form, and will not suffer their abridgement by indirection". American Communications Ass'n, CIO v. Douds, 1948 WL 47107, at *84 (U.S., 2006). Ryan Dillon-Capps respectfully requests that this Court's decision be driven by the case's substance.

B Maryland Anti-Injunction Act

Enacted in 1935, The Maryland Anti-Injunction Act was modeled after the Norris-LaGuardia Act, designed to prevent courts from issuing injunctions in labor disputes, and enacted in direct response to the overuse of injunctive relief—particularly ex parte orders—which were seen as tools that "unduly hamper[] the

labor movements" of the 1930s. The Act recognized that ex parte injunctions, by their nature, "necessarily alter[] the status quo in a labor dispute."

See Dist. 1199E, Nat. Union of Hosp. & Health Care Emp., Div. of R.W.D.S.U., AFL-CIO v. Johns Hopkins Hosp., 293 Md. 343, 345 (1982) (citations omitted).

The Maryland Anti-Injunction Act Statute, in relevant parts:

> **Md. Code Ann., Lab. & Empl. § 4-307(West):** A court does not have jurisdiction to grant injunctive relief that specifically or generally:
>
> (1) prohibits a person from ceasing or refusing to perform work or to remain in a relation of employment, regardless of a promise to do the work or to remain in the relation;
> (4) prohibits a person from helping, by lawful means, another person to bring or defend against an action in a court of any state or the United States.
>
> **Md. Code Ann., Lab. & Empl. § 4-310 (West):** A case shall be held to involve or grow out of a labor dispute when the case involves:
>
> (1) persons who are engaged in a single industry, trade, craft, or occupation, employees of the same employer, or members of the same or an affiliated organization of employees or employers, regardless of whether the dispute is between:
> [i] 1 or more employees or associations of employees and 1 or more employers or associations of employers.

C Clearly Lacked Jurisdiction

The employer's pleading was filed as injunctive relief, seeking injunctive relief and ancillary costs related to litigation. Maryland and federal courts reject this position. In Tidewater Exp. Lines, Inc. v. Freight Drivers & Helpers Loc. Union No. 557, 230 Md. 450, 456 (1963), the Court held: "We take the view that

the only relief asked which would appropriately support the jurisdiction of equity was the praying of an injunction. Since the court clearly lacked jurisdiction and power to grant this relief, the bill was, in effect, an effort to obtain damages for breach of contract. The fact that a declaration that the contract had been breached was asked would not, of itself, give jurisdiction to equity." See also Johnson v. Johnson, 199 Md. 329, 339, 86 A.2d 520, 524 (1952) (no jurisdiction can survive as to matters purely ancillary to that object)

II Maryland Unclean Hands Doctrine

District ECF 38-1, at 3–15, establishes that Glenn Norris and Richard Hartman's proffered pretext directly conflicted with Ohana's contractual obligations under its Franchise Disclosure Document, which mandated PCI compliance. Their justification was rendered unlawful by Glenn Norris's intentional withholding of required compliance information. The alleged justification centered on Ryan Brooks, who was not a party to the state court litigation. This pretext constitutes an overt attempt to: (1) commit multi-state intentional breaches of contract under the Franchise Disclosure Document's PCI compliance provisions; (2) violate multi-state consumer protection laws related to the safeguarding of protected consumer data; and (3) engage in deceptive and unfair trade practices by intentionally breaching PCI compliance obligations.

Justin Drummond requested Global Administrator access, despite having no legitimate business need for such elevated permissions as President of the company. In response, Ryan Dillon-Capps proposed a "break-fix" workaround account for which he would serve as custodian. This proposal was presented to Drummond on June 7, and he accepted. However, on June 10 and 11, Drummond evaded implementation of the agreement, instead misleading Dillon-Capps by indicating that he would follow through the following week. This conduct constitutes: (4) Breach of Accord, based on the June 7 agreement; and (5) Equitable Estoppel, as Drummond's evasive behavior and misrepresentations induced reasonable reliance to Dillon-Capps's detriment.

After Darren Koritzka was placed on involuntary leave by Richard Hartman, (6) Justin Drummond engaged in equitable estoppel by misleading Ryan Dillon-Capps into believing that the matter was being addressed and that someone from HEA would follow up. At the same time, Daniel Levett submitted a sworn affidavit in July claiming continuous involvement throughout the events in question. (7) Levett either committed perjury by misrepresenting his involvement or engaged in estoppel by silence by failing to respond to multiple emails offering him access—communications that, if he were involved as claimed, would have required action or clarification.

Maryland has applied the unclean hands doctrine to "refuse recognition and relief from the court to those guilty of unlawful or inequitable conduct pertaining to the matter in which relief is sought" to "protect[] the integrity of the court and the judicial process by denying relief to those persons whose very presence before a court is the result of some fraud or inequity" Hicks v. Gilbert, 135 Md. App. 394, 400, 762 A.2d 986, 989–90 (2000)

These seven examples invoke Maryland's Unclean Hands Doctrine, which bars a party from obtaining equitable relief when acting inequitably. In District ECF 40-1, at 22–24, 68 perjured material statements from the June 14 pleading are itemized—limited to only three lies. The Unclean Hands Doctrine became Ryan Dillon-Capps's primary defense in the state court proceeding, ultimately resulting in a successful defense. The unclean hands doctrine is typically a defense which prevents relief, and in Maryland without relief the court lacked jurisdiction.

III Maryland's Standing, Ripeness, and Mootness

"We are called upon in this case, seminally, to address justiciability, which has been defined as, '[t]he quality, state, or condition of being appropriate or suitable for adjudication by a court.' Pizza di Joey, LLC v. Mayor of Baltimore, 470 Md. 308, 373, 235 A.3d 873, 910 (2020) (citing Black's Law Dictionary 997 (10th ed. 2014)).

When a court believes a litigant's claim is somehow unfit for judicial determination, it dismisses the claim under the rubric of justiciability.' The rationale for the doctrine is that 'addressing non-justiciable issues would place courts in the position of rendering purely advisory opinions, a long-forbidden practice in this State.' Pizza di Joey, LLC v. Mayor of Baltimore, 470 Md. 308, 373, 235 A.3d 873, 910 (2020) (citing *State Center, LLC*, 438 Md. at 591, 92 A.3d at 483–84 (internal quotation marks omitted); John A. Lynch, Jr. & Richard W. Bourne, Modern Maryland Civil Procedure 2–3 (2d ed. 2004, 2014 supp.))

A Controversy

"A court may grant a declaratory judgment or decree in a civil case, if it will serve to terminate the uncertainty or controversy giving rise to the proceedings, and if ... [a]n actual controversy exists between contending parties". Md. Code, Cts. & Jud. Proc. § 3-409(a)(1) (1973, 2013 Repl. Vol.):

"[T]he existence of a justiciable controversy is an absolute prerequisite to the maintenance of a declaratory judgment action.". Hatt v. Anderson, 297 Md. 42, 45, 464 A.2d 1076, 1078 (1983).

The lawsuit was built on a fabricated pretext and supported by perjured material statements, filed entirely in the absence of any actual controversy. By mid-July, even Ohana effectively conceded as much by withdrawing its second Petition for Show Cause, which had sought incarceration.

After Ryan Dillon-Capps requested court-appointed counsel, Robert Brennen extended a single opportunity to demonstrate compliance—on June 17, at 6:26 AM—demanding a response to a verification code expected between 8:00 and 8:30 AM. Dillon-Capps waited silently for the verification code and then immediately sent it to Robert Brennen. This act dismantled the employer and attorney defendants' effort to manufacture a refusal and have Dillon-Capps "jailed without access to [his] cellphone and other devices until [he is] ready to comply." See District ECF 16-0, at 140–41.

The material relevance of the phone and "other devices" is indirectly discussed in the Count III information under "Fraudulent Lawsuit". The phone and "other devices" are a pretext to uncover whether Ryan Dillon-Capps possessed evidence of misconduct, particularly those connected to financial crimes. See Appendix E – Fraudulent Lawsuit for more information connected to state court's Count III.

Proceeding in a Case without Controversy:

(1) **July 17, 2024** – Ohana withdraws the second Show Cause Petition, signaling that the controversy was no longer live or justiciable;
(2) **August 20, 2024** – 34 days later, Ohana files for default judgment, prematurely, as preliminary motions had automatically extended the time to answer;
(3) **August 20, 2024** – Ryan Dillon-Capps files an opposition to the default judgment**;**

(4) **September 20, 2024** – Dillon-Capps files a motion to vacate the default judgment;

(5) **October 10, 2024** – While Robinson Jr. was away, Judge Finifter grants the "third request for administrative judge hearing" and orders the Clerk to docket the "Motion for Urgent Hearing to Address Violation of Constitutional Rights and Rule 1-201," filed October 8, to the motions judge for ruling. (District ECF 16-5, at 39);

(6) **October 16, 2024** – The Court vacates the default judgment. The order says "granted," but the only relief granted was the vacatur. (District ECF 16-5, at 29);

(7) **October 18, 2024** – Opposition to the default judgment is ruled moot. (District ECF 16-5, at 30);

(8) **October 18, 2024** – Ohana threatens to pursue collection of the $2,500-per-day fine. (Filing absent from December clone of state court records);

(9) **October 22–23, 2024** – With Ohana having filed no supporting evidence, Dillon-Capps moves to compel production or face sanctions at the hearing granted by Judge Finifter**;**

(10) **October 24, 2024** – Ohana files a Notice of Voluntary Dismissal;

(11) **October 25, 2024** – Dillon-Capps files a Motion to Strike the notice; opposition is filed on October 30;

(12) **October 30, 2024** – The previously granted hearing is ruled moot: "plaintiff has filed a voluntary dismissal of case." (District ECF 16-5, at 53); and

(13) **November 6, 2024** – The Court grants the voluntary dismissal without prejudice, vitiating the entire action. (District ECF 16-5, at 55).

B Standing

"Standing "refers to whether the plaintiff has shown that he or she is entitled to invoke the judicial process in a particular instance" *State Center, LLC v. Lexington Charles Ltd. P'ship*, 438 Md. 451, 502 (2014).

The House Bill included with the pleading confirms that Count III was filed without standing. The claim for breach of the duty of loyalty fails due to the email thread showing that the employer first violated its own reciprocal obligation. The breach of contract claim relied on an employment agreement that appears to have been tampered with—omitting key pages from the middle of a digital document. Each of the underlying claims suffers from critical prima facie deficiencies, resulting in an absence of standing and, consequently, a failure to invoke the court's jurisdiction. See District ECF 23-1 to 23-6.

Ripeness: "[A] claim for declaratory relief lacks ripeness if it involves a request that the court declare the rights of parties upon a state of facts which has not yet arisen, or upon a matter which is future, contingent and uncertain." Md. Code Ann., Cts. & Jud. Proc. § 3-409(a)(1). See also *State Center, LLC v. Lexington Charles Ltd. P'ship*, 438 Md. 451, 591 (2014).

Ohana's pleading lacked ripeness because it was premised on speculative harm—alleging that Ryan Dillon-Capps might, at some future point, engage in wrongful conduct—without any factual basis to support that assertion. All objective evidence contradicted this theory. A claim that rests solely on hypothetical future injury is not ripe for adjudication, and as such fails to invoke the court's subject-matter jurisdiction. District ECF Series 23-1 to 23-6.

C Mootness

The purpose of the Declaratory Judgments Act is not to decide theoretical questions or questions that may never arise, or questions which have become moot, or merely abstract questions. Md. Code Ann., Cts. & Jud. Proc. § 3-409(a)(1).

As reflected in District ECF 16-1, two distinct periods demonstrate rulings made in the absence of jurisdiction under Maryland's adoption of the mootness doctrine: August 20 to October 10, and after October 24 (or later may be argued November 6). During these timeframes, the state court acknowledged it lacked jurisdiction by correctly issuing moot rulings but simultaneously denied other motions—an act beyond its authority. Once jurisdiction is lost due to mootness, any further substantive rulings, including denials, are ultra vires and legally void. See also District ECF 16-1, at 28-64 (Nov 8 ledger); District ECF 16-1, at 65-104 (Dec. 15 ledger); Undocketed Exhibit 162 (manual record match source).

Exhibit 162 exists in a paper form that a manual matching of records has been performed to identify relevant records for adverse litigation; Matching events and document files with Tylertech eFiling emails and odyssey file & serve receipts. See also Appendix B - AGC v Pierre; Borkowski v. Baltimore County, Maryland, Complaint, No. 1:18-cv-2809, 2018 WL 4443253, at *21 (D. Md. filed Sept. 10, 2018) (referencing four cases in the Circuit Court for Baltimore County noting procedural irregularities in Borkowski's cases between 2019 and 2021).

IV Non-Judicial Acts

Here are two notable examples of specific acts that are also non-judicial: (1) fabrication of the replacement Letter to Judge Truffer and adding it to the court record; and (2) Robinson Jr meeting with Bernstein to form the conspiracy and conferring with Stringer and Mayer afterwards.

V Jurisdiction is Judicial Power and Authority

U.S. Constitution, Article VI, Clause 2 — The Supremacy Clause: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby…"

Jurisdictional Authority: "Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause."—Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 94 (1998) (quoting Ex parte McCardle, 74 U.S. (7 Wall.) 506, 514 (1869)).

Judicial Immunity and Its Limits: "Judges are not protected if they act in the clear absence of all jurisdiction over the subject matter or when they engage in nonjudicial acts."—Gibson v. Goldston, 85 F.4th 218, 223 (4th Cir. 2023) (citing Bradley v. Fisher, 80 U.S. (13 Wall.) 335 (1872); Stump v. Sparkman, 435 U.S. 349, 360 (1978)).

VI Federal Court Jurisdiction & Venue

The District Court has subject matter jurisdiction under 28 U.S.C. § 1331 and supplemental jurisdiction under 28 U.S.C. § 1367. The complaint (District ECF 1-0, at 10) was filed on December 27, 2024, and designated under Nature of Suit Code 751, Family and Medical Leave Act (FMLA), in the civil cover sheet (District ECF 1-1).

In District ECF 1-0, at 10, the Complaint states: "Venue is proper under 28 U.S.C. § 1391(b)(2), as a substantial part of the events giving rise to these claims occurred in the Circuit Court for Baltimore County (40 I Bosley Ave, Towson, MD 21204), as a labor dispute where Ohana Growth Partners, LLC (212 W Padonia Rd, Timonium, MD 21093) and Miles & Stockbridge, P.C. (100 Light St, Baltimore, MD 21201) [filed the state civil action]".

VII 42 U.S.C § 1983

From District ECF 16-5, at 55: Defendant Stringer granted the employer's Notice of Voluntary Dismissal, and his ruling was docketed on November 6, 2024. This vitiated the state action and rendered injunctive and declaratory relief unavailable.

42 U.S.C. §1983: "...shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress... judicial officer…injunctive relief shall not be granted unless a… declaratory relief was unavailable".

In District ECF 18-0, the District Court:

(1) Dismissed the judge defendants on the grounds that judges are immune from liability in civil actions, including those brought under 42 U.S.C. § 1983 (pp. 9–10);

(2) Denied injunctive relief under § 1983 on the grounds that "Plaintiff has not pointed the Court to any authority (and the Court seriously doubts any exists)" (p. 17);

(3) Cited "ECF 1-10, at 9 ¶ 6" in connection with the State of Maryland without acknowledging that the same page cited Pulliam v. Allen, 466 U.S. 522 (1984) (p. 14);

(a) The memorandum of law in opposition to immunity (District ECF 1-10, at 3, 9–10, 13) does cite Pulliam—albeit imprecisely—and presents supporting factual allegations throughout the December 27, 2024 filing. See Pulliam, 466 U.S. at 536–43 (suit for prospective injunctive relief); id. at 543–44 (suit for attorney's fees authorized by statute);

(b) In District ECF 1-7, attorney fees: 42 U.S.C. § 1988: "Recovery of reasonable attorney's fees for prevailing parties in civil rights cases under Section 1983" (p.40).

(c) In District ECF 3-3, the injunctive relief to maintain the status quo: "Remove access" and "preserving all records" to "prevent spoliation of evidence" (pp.2-3);

(4) Cited "ECF 1-7" and acknowledged that it contains counts and sub-counts presented as "causes of action" (pp. 3–4).

In District ECF 1-7, the declarative relief includes:

(1) "Declaration that termination was pretextual and violated the FMLA" (p.11);

(2) "Judicial declaration affirming the Plaintiff's First Amendment rights and condemning retaliatory judicial or employer actions" (p.26);

(3) "Declaration affirming the Plaintiff's Fifth Amendment rights and condemning violations such as denial of notice or pre-deprivation hearings" (p.29);

(4) "Declaration affirming the Plaintiff's Sixth Amendment rights and condemning violations, such as denial of counsel and cross-examination opportunities" (p.32);
(5) "Declaration that $2,500 daily fines and punitive measures imposed by judicial actors violated the Plaintiff's Eighth Amendment protections" (p.34);
(6) "Judicial declaration affirming the Plaintiff's right to FMLA leave and prohibiting further interference or retaliatory actions" (p.36);
(7) "Judicial declaration prohibiting the use of coercive measures to compel labor, including punitive fines or threats of imprisonment" (p.38);
(8) "Declaration that the Defendants' actions violated the Plaintiff's Fourteenth Amendment rights to due process and equal protection" (p.40); and
(9) "Declaration that the plaintiff's rights to access courts, due process, and equal protection were violated" (p.60).

VIII 42 U.S.C. §§ 1985 and 1986

In District ECF 18-0, the District Court (1) stated that Ryan Dillon-Capps "alleges both federal and state conspiracy claims against all the defendants"; (2) conducted a merit-based evaluation of civil RICO claims (pp. 14–15); (3) evaluated what the Complaint "appears to allege [as] a conspiracy violation of 42 U.S.C. § 1985 and 18 U.S.C. § 241," concluding that "18 U.S.C. § 241 is a federal criminal statute that does not create a private right of action" (p. 15); (4) conducted a merit-based evaluation of "a civil conspiracy claim [in Maryland]," concluding that Maryland courts have "held consistently that civil conspiracy is not a separate tort capable of independently sustaining an award of damages in the absence of other tortious injury to the plaintiff'" (p. 15); and (5) dismissed conspiracy claims alleging that "former employer, state court judges and staff, opposing counsel, and

professional ethics bodies" conspired against Ryan Dillon-Capps, "resulting in adverse rulings in the state case", concluding that the "complaint and all of its attachments" "do not plausibly rise to the level of asserting a conspiracy claim under any of the federal statutes or state common law doctrines asserted" (p. 16).

The Court's dismissal conflates the distinct legal theories alleged and fails to reconcile its own recognition of the conspiracy allegations with its assertion that no actionable claims had been clearly stated.

Ryan Dillon-Capps brings to this Court's attention the following:

(1) District ECF 1-0 names Bernstein and DeGonia II in connection with events supporting the § 1985, § 1986, and other claims, particularly around paragraphs 59 and 80;
(2) District ECF 1-5, the appendix describing the parties, contains detailed statements regarding Bernstein (at 20–21) and DeGonia II (at 21–22), with both defendants also referenced in other sections;
(3) District ECF 1-6 contains a timeline of events which includes detailed statements about Bernstein and DeGonia involvement in the coverup;
(4) District ECF 1-7, the appendix describing the counts, contains detailed statements regarding Bernstein and DeGonia II throughout, including their involvement in the § 1985 claim (at 63–66) and the § 1986 claim (at 67–68); and
(5) District ECF 16-6 contains communications sent by Ryan Dillon-Capps to various state actors who are not named as defendants, as well as to Bernstein and DeGonia II, for the shared purpose of seeking intervention to stop the civil rights violations occurring in the state court proceedings.

The complaint does not allege that the Office of the Bar Counsel failed to investigate, it alleges that they failed to stop a conspiracy to interfere with civil

rights under 42 U.S.C § 1985, and when Ryan Dillon-Capps emailed the Office of Bar Counsel additional information it resulted in Judges Robinson Jr., Stringer, Mayer, and Clerk Ensor's altering their behavior.

The methodology used by Ryan Dillon-Capps to identify Bernstein and the Office of Bar Counsel also excluded other state actors who were not named as defendants and resulted in concluding that the Office of Bar Counsel's involvement was supporting Robinson, Stringer, Mayer, and Ensor misconduct. DaGonia II was named because of (1) Ms. Lawless account of the Bar Counsel procedures during the oral arguments in AGC v Pierre (See Appendix B – AGC v Pierre); (2) the evidence provided to the District Court; and (3) Maryland Rules which all supported the conclusion that DaGonia II must have been involved.

These individuals are not named due to their affiliation with professional oversight bodies; they are named because their direct involvement produced a clear, repeatable pattern of influence to Stringer, Mayer, and Robinson Jr efforts to "resolve" outstanding motions related to sanctions, disqualification, criminal investigations, injunctions, declaratory relief, mandatory adjudication hearings, and more. The Notice of Voluntary Dismissal was filed on October 24, granted November 2 and docketed November 6. They continued ruling into December while repeating "moot/denied case is dismissed. There is no factual basis", and

while they were ruling other parts of the record changed too with changing being made throughout the remainder of 2024.

It is neither reasonable nor legally sufficient to assume the misconduct has ceased or will cease absent an injunction. See Appendix J – Civil Rights Conspiracy; See also District ECF 1-6 (timeline); 1-5 (parties); 1-7 (counts); 16-5 (rulings); and 16-6, at 28-33 (communications).

A Bar Counsel & Office of Bar Counsel

Maryland Rule 19-703(a), "Appointment. Subject to the supervision and approval, if required, of the Commission". Maryland Rule 703(b), "Powers and Duties. Subject to the supervision and approval, if required, of the Commission, Bar Counsel has the powers and duties to": "(1) investigate professional misconduct or incapacity on the part of an attorney"; and "(8) initiate, intervene in, and prosecute actions to enjoin the unauthorized practice of law".

Maryland Rule 19-711(b)(1)-(2) "Bar Counsel shall make an inquiry concerning every complaint that is not facially frivolous, unfounded, or duplicative" and "If Bar Counsel concludes that a complaint is without merit, does not allege facts which, if true, would demonstrate either professional misconduct or incapacity, or is duplicative, Bar Counsel shall decline the complaint and notify the complainant".

Maryland Rule 19-711(b)(6) "If Bar Counsel concludes that a civil [] action involving material allegations against the attorney substantially similar or related to those alleged in the complaint is pending in any court of record in the United States… Bar Counsel, with the approval of the Commission, may defer action on the complaint pending a determination of those allegations in the pending action []. Bar Counsel shall notify the complainant of that decision".

Maryland Rules are clear that the Bar Counsel

(6) has powers and duties pursuant to their appointment;
(7) has a duty to investigate attorney misconduct;
(8) is required to make an inquiry into every complaint that is not frivolous;
(9) is required to decline complaints that lack merit and notify the complainant that it has been declined; and
(10) has discretionary power to defer action on the complaint, with approval of the Commission, when the material allegations are substantially similar or related to the allegations of the complaint and are now involved in a Civil Action in court of record in the United States.

The Office of Bar Counsel acknowledged the complaint, immediately found it to have merit, and has conducted an ongoing investigation that continues to validate the allegations. These allegations concern a fraudulent case in which the attorney defendants conspired with the judge defendants. In direct contradiction, Bernstein summarily concluded the opposite without investigation—an irreconcilable contradiction. Furthermore, despite the Bar Counsel's findings, Ryan Dillon-Capps continues to suffer ongoing civil rights violations stemming from the

same conspirators' conduct. The claims brought under 42 U.S.C. §§ 1983, 1985, and 1986 are supported by the documented actions and inactions of DaGonia II and Bernstein. The District Court's determination to the contrary is factually and legally irreconcilable. See District ECF 16-6, at 34–42; District ECF Series 41.

IX Standard of Relief

We review the Rule 12(b)(1) dismissal of a claim in a complaint for lack of subject matter jurisdiction de novo. Field v. Berman, 526 F. App'x 287, 291 (4th Cir. 2013)(citing Pitt Cnty. v. Hotels.com, L.P., 553 F.3d 308, 311 (4th Cir.2009)).

CONCLUSION & RELIEF

I Structural Defects and Reversable Error

A Structural Defects

In *United States v. Gonzalez-Lopez*, 548 U.S. 140, 148, 150, 159 (2006), the Supreme Court held that structural defects defy analysis under "harmless-error" standards because their consequences are necessarily unquantifiable and indeterminate. The touchstone of structural error is fundamental unfairness and unreliability. Automatic reversal is "strong medicine" that should be reserved for constitutional errors that "always" or "necessarily" produce such unfairness.

B Reversable Error

In the context of criminal sentencing, this Court has determined that a District Court's (1) explanation is inadequate, where the same statements could have been made in support of a different sentence; (2) failure to acknowledge or

address non-frivolous arguments is procedurally unreasonable; and (3) must make some "individualized assessment" to justify the sentence imposed and rejection of argument for higher or lower sentence. Under Appellate Review, this Court looks to determine if the District Court (1) understood the defendant's arguments; (2) had reasons for rejecting those arguments; and (3) can demonstrate that the error was harmless (did not have a substantial and injurious effect or influence on the result). The District Court fails to avoid reversal for non-constitutional and non-structural errors if it fails to meet the burden of persuasion and is reversable error and abuse of discretion. United States v. Blue, 877 F.3d 513, 519 (4th Cir. 2017); United States v. Lynn, 592 F.3d 572, 584–85 (4th Cir. 2010); See also Rita v. United States, 551 U.S. 338, 338–40, 127 S. Ct. 2456, 2457–59, 168 L. Ed. 2d 203 (2007)

II Issue 1: Procedural Due Process and Irreconcilable Contradictions

It is plausible for a federal court to conduct a limited review of an original filing to determine whether it has jurisdiction and to issue summons when warranted. However, under this Court's standards and the applicable statutory requirements, the District Court could not properly conclude that it lacked jurisdiction in this case. The underlying state action is void, and no form of preclusion, whether claim or issue preclusion, can apply. The claims and requested relief meet both the statutory and constitutional requirements for bringing suit

against the named defendants, and personal jurisdiction is properly established under federal and local rules.

Ryan Dillon-Capps cannot adequately convey the difficulty of being both the victim of these events and the individual required to relive and reconstruct them as a pro se litigant. The state court record already contained months of detailed factual statements, legal citations, supporting evidence, formal notices, and hundreds of pages documenting sanctionable conduct and tortious violations. The structure and form of the original federal filing reflected, in every meaningful way, a reasonable accommodation.

The defendants have no substantive basis upon which to present a defense and have relied exclusively on procedural abuse for more than nine months. Whether the District Court's reproduction of elements from the state court proceedings was intentional or inadvertent is immaterial to the defendants. Confronted with the prospect of civil accountability, potentially resulting in class action litigation and criminal charges, the defendants will undoubtedly attempt to exploit the District Court's rulings to cast their conduct in a more favorable light.

In addition to requesting complete docketing of the December 27, 2024, filing, Mr. Dillon-Capps respectfully asks this Court to recognize that the framework of the District Court proceedings was fundamentally marred by structural errors and subject to automatic reversal.

III Issue 2: Rooker Feldman - Complete Absence of Jurisdiction

Ryan Dillon-Capps worked approximately 3,000 hours, against unimaginable odds, to secure his position as the prevailing party in a vitiated state action. The District Court, however, acted in the complete absence of subject matter jurisdiction. Mr. Dillon-Capps respectfully requests that this Court declare the District Court's actions void ab initio and subject to automatic reversal, find that the Rooker-Feldman doctrine does not apply to his case, and hold that the District Court lacked jurisdiction to overturn the rulings of the state court.

IV Issue 3: Non-Judicial Ultra Vire Acts

The District Court's rulings occurred after it had already determined that it lacked subject matter jurisdiction under the Rooker-Feldman doctrine, rendering those actions, by definition, non-judicial ultra vires acts. At a minimum, all denials should be reversed, and all dismissals modified from "with prejudice" to "without prejudice." However, the proceedings were conducted in violation of procedural due process and were fundamentally marred by structural errors, resulting in an additional three months of irreparable harm, including the permanent loss of a vehicle. At the end of April, Caroline Dillon-Capps' lease will expire, leaving them without transportation and no viable means of securing a replacement vehicle due to the complete destruction of Ryan Dillon-Capps's creditworthiness. Ryan Dillon-Capps respectfully requests that this Court declare the District Court's actions to be non-judicial ultra vires acts, void ab initio, and subject to automatic reversal.

V Issue 4: Dismissal of Maryland and De Facto Dismissal of Claims

The District Court's dismissal of the State of Maryland was based on a claim that does not apply to the entity, while simultaneously dismissing applicable claims and legal arguments without addressing them. This occurred after the District Court concluded it lacked subject matter jurisdiction under the Rooker-Feldman doctrine and amid substantial procedural inconsistencies. At a minimum, this should have resulted in a dismissal without prejudice, as the Court declared it lacked jurisdiction. However, because the dismissal was directed at an inapplicable claim and failed to engage with the relevant ones, Ryan Dillon-Capps respectfully requests that this Court reverse the dismissal of the State of Maryland.

VI Issue 5: Denial of Court Appointed Counsel

The District Court denied the request for court-appointed counsel without applying the correct legal standard. At a minimum, this constitutes an abuse of discretion and is a reversible error. However, under the standard established by this Court, the appointment of counsel was warranted. Ryan Dillon-Capps respectfully requests that this Court grant the appointment of counsel in accordance with applicable precedent.

VII Issue 6: Denial of Conditional Permissive Joinders

The District Court denied all joinders without considering approximately 75% of the joinder motions and failed to apply the applicable legal standard to the single joinder it did address. At a minimum, this constitutes an abuse of discretion

and is a reversible error. However, under the correct standard for permissive joinder, the motions should have been granted. Ryan Dillon-Capps respectfully requests that this Court grant the conditional permissive joinders and permit the joined parties to similarly benefit from appointed counsel.

VIII Issue 7: Judicial and Quasi-Judicial Immunity and Conspiracy

The District Court misrepresented the claims and arguments, and its conclusions were both factually and legally erroneous. At a minimum, the dismissal should have been without prejudice, as the Court explicitly declared it lacked jurisdiction. Yet the dismissals contradicted the evidence, contained irreconcilable inconsistencies, improperly rejected the labor dispute when applying the federal Anti-Injunction Act, and dismissed DaGonia II, Bernstein, and Ensor without addressing any of Ryan Dillon-Capps's legal arguments. Accordingly, Mr. Dillon-Capps respectfully requests that this Court reverse the dismissals as to the judges, clerk, DaGonia II, Bernstein, and the conspiracy claims.

IX Request for Remand to a Different District Court

Respectfully, the District Court's actions are both irreconcilable and unconstitutional, and the similarities between the state and federal court proceedings raise serious concerns about impartiality. The District Court has inadvertently demonstrated a clear understanding of the case yet issued rulings that are in direct contradiction to that understanding.

Accordingly, Ryan Dillon-Capps respectfully requests that this Court

(1) Remand the matter to a District Court outside the State of Maryland and beyond the active or reputational influence of the defendants. In this case, remand to a district court outside of Maryland is appropriate to safeguard the administration of justice and to preserve public confidence in the judiciary.
(2) Restore procedural due process and expedite the review of all the previously denied motions;
(3) Grant leaves to amend the complaint with court appointed counsel;
(4) Grant any further relief as this Court deems necessary;

A Reassignment

In United States v. Lentz, 383 F.3d 191, 221–22 (4th Cir. 2004), this Court held "is appropriate in unusual circumstances where both for the judge's sake and the appearance of justice an assignment to a different judge is salutary and in the public interest, especially as it minimizes even a suspicion of partiality", and considered: (1) whether the original judge would reasonably be expected upon remand to have substantial difficulty in putting out of his or her mind previously expressed views or findings determined to be erroneous or based on evidence that must be rejected; (2) whether reassignment is advisable to preserve the appearance of justice, and (3) whether reassignment would entail waste and duplication out of proportion to any gain in preserving the appearance of fairness.

A "fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases." In re Murchison, 349 U.S. 133, 136 (1955). A favorable or unfavorable predisposition can also

deserve to be characterized as "bias" or "prejudice" because, even though it springs from the facts adduced or the events occurring at trial, it is so extreme as to display clear inability to render fair judgment. Liteky v. United States, 510 U.S. 540, 551(1994).

ORAL ARGUMENTS

Ryan Dillon-Capps submits oral arguments would aid the Court in this case.

RESPECTFULLY SUBMITTED

April 16, 2025

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